

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 12 March, 1931.

New South Wales.



ANNO VICESIMO PRIMO

GEORGII V REGIS.

Act No. , 1931.

An Act to provide for the regulation of the conditions of industries in certain particulars by means of industrial conciliation and arbitration; to establish and define the powers, jurisdiction, and procedure of an industrial commission, conciliation committees, and certain other tribunals; to ~~amend the Supreme Court and Circuit Courts Act, 1900, and certain other Acts;~~ to repeal the Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1926, and certain other Acts; and for purposes connected therewith.

(As amended and agreed to in Select Committee.)

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BE

NOTE.—The words to be *omitted* are ruled through; those to be *inserted* are printed in black letter.

Industrial Conciliation and Arbitration.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Industrial Conciliation and Arbitration Act, 1931." Short title.
- 10 2. This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement.
3. This Act is divided into Parts as follows:— Division into Parts.
 - PART I.—PRELIMINARY—ss. 1-6.
 - 15 PART II.—INDUSTRIAL UNIONS—ss. 7-12.
 - PART III.—THE INDUSTRIAL COMMISSION and the COMMITTEES and Boards—ss. 13-18.
 - PART IV.—JURISDICTION OF COMMITTEES AND OF THE COMMISSION—ss. 19-39.
 - 20 PART V.—PROCEDURE OF COMMITTEES—ss. 40-48.
 - PART VI.—BREACHES OF AWARDS AND OTHER OFFENCES—ss. 49-53.
 - PART VII.—TRADE UNIONS—s. 54.
 - 25 PART VIII.—GENERAL AND SUPPLEMENTAL—ss. 55-79.
 - PART IX.—THE ORGANIZATION OF THE LABOUR MARKET—ss. 80-85.
 - PART X.—REGULATIONS—ss. 86-87.
- 30 4. (1) The Acts mentioned in Schedule One to this Act are, to the extent therein expressed, hereby repealed. Repeals and savings.
 - (2) All awards, orders, determinations, industrial agreements, living wage declarations, and permits made, filed,

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filed, or issued under the authority of any Act hereby repealed and in force at the commencement of this Act shall, until rescinded, revoked, or cancelled under this Act, continue in force for the respective periods fixed by
5 such awards, orders, determinations, industrial agreements, declarations, or permits, and shall be deemed to have been made, filed, and issued under this Act.

(3) All summonses issued at such commencement under the Acts repealed by this Act shall continue in
10 force, and shall be heard and determined as if they had been issued under this Act.

(4) All matters pending before the Industrial Commission of New South Wales and conciliation committees at the commencement of this Act shall be heard
15 and determined respectively by the Industrial Commission of New South Wales constituted by this Act and the conciliation committees established or deemed to have been established by or under this Act.

(5) The registrar, industrial magistrates, and
20 inspectors appointed under the repealed Acts and holding office at the commencement of this Act shall be deemed to have been appointed hereunder.

(6) All regulations made under the repealed Acts and in force at the commencement of this Act shall,
25 to the extent to which they are not inconsistent with this Act, continue in force as if made under this Act until amended or repealed by regulations made under this Act.

(7) The registry of the Industrial Commission
30 established under the Acts repealed by this Act shall be the registry of the Industrial Commission constituted by this Act, and the industrial registrar shall have such duties with respect to the commission and the conciliation committees established by this Act as may be
35 prescribed.

(8) From and after the commencement of this Act the powers and duties conferred upon the New South Wales Board of Trade by the Monopolies Act, 1923, or any other Act, shall be exercised by the
40 Industrial Commission of New South Wales constituted by this Act.

(9)

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(9) Where in any Act, or in any regulation, or in any form or document used after the commencement of this Act, reference is made to the provisions of any Act repealed by this Act, such reference shall be deemed to be to the corresponding provisions (if any) of this Act.

Definitions.

5. In this Act, unless the context otherwise indicates:—

10 “Apprentice” means an employee under twenty-one years of age who is serving a period of training under an indenture or other written contract for the purpose of rendering him fit to be a qualified worker in an industry.

15 “Award” means award made or deemed to have been made under this Act, and includes a variation of such award.

“Board” means industrial board constituted under this Act, or deemed to have been constituted under this Act.

20 “Calling” means craft or other occupation.

“Commission” means the Industrial Commission of New South Wales established by this Act, or deemed to have been established under this Act.

25 “~~Commissioner~~” means ~~the Industrial Commissioner appointed under this Act.~~

“Committee” means a conciliation committee established or deemed to have been established under this Act.

30 “Employee” means person employed in any industry, whether on salary or wages or piece-work rates, or as member of a butty gang, and shall include an outworker, an insurance agent, canvasser, or collector, and a commercial traveller.

35 “Employee” shall also include any person other than the employer who does any work of a similar nature to the work done by an employee, but shall not include a member of a family in the employment of a parent.

40

The fact that a person—

(a) is working under a contract for labour only, or substantially for labour only;

or

(b)

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- (b) is working with any tools or other
implements of production or trade which
have been leased or hired to him; or
(c) is working with any vehicle which has
been leased or hired to him and which
is used by him in the delivery of goods
or conveyance of passengers for hire or
reward,

shall not in itself prevent such person being
held to be an employee.

Where any person (hereinafter referred to as
the principal) in the course of or for the
purposes of his trade or business, advertises
or signifies in any way whatever that he
will accept sleepers, piles, poles, girders, logs,
or other timber supplied to him or his agent
or any person on his behalf, and any person
(hereinafter referred to as the contractor)
has in pursuance thereof supplied to such
principal, agent, or other person on his
behalf any of such sleepers, piles, poles,
girders, logs, or other timber, such con-
tractor, whilst engaged in falling, cutting,
sawing, obtaining, preparing, or doing
any work whatever in connection with any
sleepers, piles, poles, girders, logs, or other
timber supplied to or intended to be supplied
to such principal, agent, or other person, or
whilst engaged in delivering the same to such
principal, agent, or other person shall, for the
purposes of this Act, be deemed to be an
employee in the employ of such principal,
agent, or other person.

Where a person who is or who claims to be a
member of a firm or partnership which is re-
quired to be registered under the Registration of
Firms Act, 1902, and is not so registered, is
working in an industry which is carried on or
conducted by such firm or partnership he shall
for the purposes of this Act be deemed to be an
employee, whether other persons are employed
by such firm or partnership or not.

"Employee"

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“Employee” means person employed in any industry, whether on salary or wages or piece-work rates, or as member of a butty gang, but shall not include a member of a family in the employment of a parent, and the fact that a person is working under a contract for labour only, or substantially for labour only, or as lessee of any tools or other implements of production, or any vehicle used in the delivery of goods, shall not in itself prevent such person being held to be an employee. Provided that domestic workers employed otherwise than for the purposes of the employer’s trade or business, and workers employed in rural industries, that is to say—

- (a) upon farms, orchards, vineyards, or agricultural or pastoral holdings in connection with dairying, poultry farming, or bee farming, or the sowing, raising, harvesting, or treating of grain, fodder, fruit, or other farm produce, or the management, rearing, or grazing of horses, cattle, sheep, or other live stock, or the shearing or crutching of sheep, or the classing, scouring, sorting, or pressing of wool, upon any farm or station, or at other farm or station work; or
- (b) in or in connection with the formation, tending, protection, or regeneration of forests; or
- (c) in flower or vegetable market gardens or nurseries; or
- (d) at clearing, fencing, trenching, draining, or otherwise preparing land for any of the abovementioned purposes,

shall not, for the purposes of this Act, be deemed to be employees.

“Employees of the Crown” includes employees of any person or corporation employing persons on behalf of the Government of the State.

“Employer”

“Employer” means person, firm, company, or corporation engaging or employing employees, whether on behalf of himself or itself or any other person, or on behalf of the Government of the State, and, without limiting the generality of the above definition, includes the Crown (except as to any employees employed under the Police Regulation Act, 1899, or any statute passed in substitution for or amendment of the same), the Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Sydney Harbour Trust Commissioners, the Metropolitan Water, Sewerage, and Drainage Board, the Hunter District Water Supply and Sewerage Board, the Main Roads Board of New South Wales, the Water Conservation and Irrigation Commission, the Commissioners of the Government Savings Bank of New South Wales, the Metropolitan Meat Industry Board, the Board of Trustees of the Australian Museum, the Board of Fire Commissioners of New South Wales, the Hospital Commission, and any council of a municipality or shire, and includes for the purpose of establishing a committee, a director, manager, or superintendent of an employer as aforesaid.

30 “Employer” means person, firm, company, or
corporation employing persons working in any
industry, whether on behalf of himself or itself
or any other person, or on behalf of the
Government of the State, and includes the
35 Crown (except as to any employees employed
under the Police Regulation Act, 1899, or any
statute passed in substitution for or amend-
ment of the same), the Chief Commissioner for
Railways and Tramways, the Sydney Harbour
Trust Commissioners, the Metropolitan Board
40 of Water Supply and Sewerage, the Hunter
District Water Supply and Sewerage Board,
and

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and any council of a municipality or shire, and includes for the purpose of constituting a board, a director, manager, or superintendent of an employer as aforesaid.

5 “Improver” means an employee under twenty-two years of age who is serving for the purpose of rendering him fit to be a qualified worker in any industry or special section of an industry.

10 “Industrial agreement” means industrial agreement made and filed, or deemed to have been made and filed, under this Act.

“Industrial magistrate” means industrial magistrate appointed, or deemed to have been appointed, under this Act.

15 “Industrial matters” means matters or things affecting or relating to work done or to be done, or the product of such work, or the privileges, rights, or duties of employers or employees, or of persons who intend or propose to be employers
20 or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and shall include any matter which may be the subject of any agreement between employer
25 and employee; and, without limiting the ordinary meaning of the above definition, includes also all or any matters relating to—

(a) the work, wages, allowances, or remuneration of any persons employed or to be
30 employed in any industry, or the piece-work, contract, or other prices paid or to be paid therein, in respect of such employment, and whether employees shall be granted payment for absence from
35 work due to sickness or accident, or annual leave or holidays upon full pay, and whether and under what conditions employees may board and lodge with their employers, and whether monetary
40 allowance shall be made by employers in respect of standing back or waiting time;

(b)

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- (b) any claim that equal pay shall be granted for the sexes ;
- 5 (c) the hours of employment, sex, age, qualifications, or status of employees, and the mode, terms, and conditions of employment, including the question whether persons of either sex shall be disqualified from employment in an industry or division of an industry ;
- 10 (d) the employment of children or young persons, or of any persons or class of persons in an industry, or the right to dismiss or to refuse to employ or reinstate in employment any particular persons or class of persons therein ;
- 15 (e) any claim that absolute preference of employment shall be given to financial members of industrial unions of employees ;
- 20 (f) the times to be regarded as overtime, including any claim to restrict work before or after certain hours, or on certain days whether such work is done by an employer, employee, or other person ;
- 25 (g) the health of employees and industrial hygiene, including any claim to have protective appliances, clothing, hot or cold water, and sanitary and bathing accommodation provided for the use of employees, and the fixing of standards of
- 30 normal temperatures and atmospheric purity in working places above or below ground, and the prescribing of shorter hours, higher wages, or other conditions in respect of persons employed
- 35 under abnormal conditions or in abnormal working places, and the determination of what are abnormal conditions and abnormal working places ;
- 40 (h) any matter whatsoever which in the opinion of the commission or committee has been, is, or may be a cause or contributory cause of a dispute ;

(i)

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- 5 (i) fixing the proportionate number of women to men, of juvenile workers to adult workers, of unskilled or semi-skilled workers to skilled workers, and of apprentices to adult workers in any industry or calling;
- 10 (j) any shop, factory, or industry dispute, or any matter which may be a contributory cause of such dispute, including the control in any industry of methods of management affecting employment;
- (k) any established custom or usage of any industry, either general or in any particular locality;
- 15 (l) the interpretation of an industrial agreement or award;
- (m) the engagement of labour at or through the office of an industrial union of employees;
- 20 (n) the lighting by natural or artificial means of any workroom or factory, including the power, intensity, distribution, situation, shading, and maintenance of lighting to meet the requirements of work done in, and preserve the sight of employees in any industry or division of an industry;
- 25 (o) the ventilation by any means whatsoever of any workroom or factory, including the erection and maintenance of any structure, device, or appurtenance in connection therewith, to meet the requirements of work done in, and preserve the health and well-being of employees in any industry or division of an industry;
- 30 (p) the cleaning by any means whatsoever of any workroom or factory, including cleaning by suction or by any mechanical device to meet the requirements of and preserve the health and well-being of employees in any industry or division of an industry;
- 40

(4)

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(q) any other matter which the commission or a committee may determine to be an industrial matter.

5 “Industrial matters” means matters or things
affecting or relating to work done or to be done,
or the privileges, or rights, or duties of em-
ployers or employees in any industry, not
10 involving questions which are or may be the
subject of proceedings for an indictable offence,
nor questions or matters relating to the right
to refuse to employ or continue in employment
or to promote or disrate or reinstate in employ-
ment any particular person or class of persons
15 in any industry: and, without limiting the
ordinary meaning of the above definition,
includes all or any matters relating to—

(a) the wages, allowances, or remuneration
of any persons employed or to be em-
20 ployed in any industry, or the piece-
work, contract, or other prices paid or
to be paid therein in respect of such
employment, and the question whether
piece-work or contract work or any
25 other system of payment by results shall
be exclusively prescribed in and for
an industry or calling, and whether
monetary allowance shall be made
by employers in respect of standing
back or waiting time;

30 (b) the hours of employment, sex, age,
qualification, or status of employees,
and the mode, terms, and conditions of
employment;

35 (c) the employment of children or young
persons, or of any persons or class of
persons in any industry; but not so as
to give preference of employment to
members of industrial unions, except in
40 accordance with the provisions of section
nineteen of this Act.

(d)

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- (d) any established custom or usage of any industry, either general or in any particular locality ;
- 5 (e) the interpretation of an industrial agreement or award ;
- (f) any shop, factory, craft, or industry dispute or any matter which may be a contributory cause of such a dispute.
- 10 "Industrial union" means industrial union registered, or deemed to have been registered, as an industrial union under this Act.
- 15 "Industry" means craft, occupation, or calling **carried on for profit** in which persons of either sex are employed for hire or reward, and unless otherwise indicated by the context or any provisions of this Act any division of an industry or combination, arrangement, or grouping of industries.
- 20 Without in any way limiting the above definition, the term "industry" includes domestic service.
- "Justice" means justice of the peace, and includes a magistrate.
- 25 "Magistrate" means stipendiary or police magistrate.
- 30 "Managerial position" means the position of an employee who is principally engaged in the direction and control of other employees, but does not include the position of a shopwalker, ganger, or foreman stevedore.
- "Metropolitan District Court" means district court of the metropolitan district, holden at Sydney.
- "Prescribed" means prescribed by this Act or by regulations made thereunder.
- 35 "Registrar" means industrial registrar appointed or deemed to have been appointed, under this Act.

"Trade

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“Trade union” means trade union registered under The Trade Union Act, 1881, and includes a branch so registered.

6. (1) The Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, is amended by omitting sections eleven and thirteen. Operation of Acts relating to hours.

(2) The Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, shall not apply to employees who are employed in rural industries, that is to say—

(a) upon farms, orchards, vineyards, or agricultural or pastoral holdings in connection with dairying, poultry farming, or bee farming, or the sowing, raising, harvesting, or treating of grain, fodder, fruit, or other farm produce, or the management, rearing, or grazing of horses, cattle, sheep, or other live-stock, or the shearing or crutching of sheep, or the classing, scouring, sorting, or pressing of wool, upon any farm or station, or at other farm or station work;

(b) in flower or vegetable market gardens or nurseries; or

(c) at fencing, trenching, draining, or otherwise preparing land for any of the abovementioned purposes, or at clearing land for such purposes where the timber is not to be marketed or sold.

(3) The Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, shall not apply to employees in domestic service who are so employed otherwise than for the purposes of the employer's trade or business.

(4) In the construction of the Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930,—

(a) a reference to the “Principal” Act shall be construed as a reference to this Act;

(b)

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- (b) a reference to the "court" shall be construed as a reference to the commission;
- (c) a reference to a "board" shall be construed as a reference to a committee.

5

PART II.

INDUSTRIAL UNIONS.

- 7. The registrar may, on application made as herein-
after provided, register under this Act as an industrial union of employers any association of persons, or
10 association of incorporated companies, which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees.
- 15 Such application shall be made as prescribed.

- 7. The registrar may, on application made as herein-
after provided, register under this Act as an industrial union of employers any person or association of persons, or any incorporated company, or association of incor-
20 porated companies, who or which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees.

- 25 Such application shall be made as prescribed, and, if made by an association or company, shall be signed by a majority in number of the governing body thereof.

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8. (1) The registration of the industrial unions specified in Schedule Two to this Act is hereby cancelled. Cancellation of registration of certain industrial unions.

(2) Every industrial union other than the industrial unions specified in Schedule Two to this Act, whose registration under the Acts repealed by this Act is in force at the commencement of this Act, shall, unless and until such registration is cancelled be deemed to be an industrial union for the purposes of this Act, and to have been registered under this Act. Saving of registration in other cases.

8. Any person or body whose registration under the Act No. 59, 1901, as an industrial union is at the commencement of this Act in force, and any trade union registered under section nine of the Industrial Disputes Act, 1908, whose registration under that Act is at the said commencement in force, shall, unless and until such registration is cancelled, be deemed to be an industrial union.

9. (1) The registrar may, on application made as hereinafter provided, register under this Act as an industrial union of employees any trade union of employees. On such registration the trade union shall be an industrial union until such registration is duly cancelled. Industrial union of employees.

(2) Such application shall be made in writing as prescribed by the committee of management of the trade union, and shall be signed by a majority in number of the members of such committee. Notice of any such application shall be published as prescribed.

30 The registrar may require such proof as he thinks necessary of the authority of the said members to make the said application.

(3) Any such application may be refused by the registrar if he is of opinion that the organisation applying is not a bona-fide trade union, or if registered under this Act would not be a bona-fide industrial union, or to the extent to which in his opinion the interests under this Act of persons represented by the applicant union may be protected by a previously registered industrial union.

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(4) The registrar shall fix a day for considering any objections on the above ground to the granting of the application, and shall notify the same as prescribed.

(5) No branch shall be registered unless it is a bona-fide branch of sufficient importance to be registered separately.

(6) When any trade union registered as an industrial union has changed its name, or when two or more trade unions all of which are registered as industrial unions have amalgamated, the registrar may upon application in the prescribed manner by any industrial union or industrial unions, and upon the production of the prescribed particulars, record any such change of name or amalgamation in the register of industrial unions. Any such record shall be deemed to be a registration of the applicant union or unions in such changed name or as so amalgamated as the case may be: Provided that any such change of name or amalgamation shall not affect any rights of any such union or unions: Provided also that the registrar may at his discretion, upon such application, require the applicant union or unions to follow the procedure hereinbefore set out in respect of applications for the registration of industrial unions.

(7) Any decision of the registrar under this section in respect of an objection taken as aforesaid, or on refusal of registration, shall be subject to appeal to the Commission as prescribed.

(8) Where the Commission is satisfied that an industrial union has ceased to exist or has had its registration as a trade union cancelled under the Trade Union Act of 1881, it may cancel the registration of such industrial union and order the removal of its name from the Register of Industrial Unions.

9. (1) The registrar may, on application made as hereinafter provided, register under this Act any trade union of employees. On such registration the trade union shall be an industrial union until such registration is duly cancelled.

(2) Such application shall be made in writing as prescribed by the committee of management of the trade union, and shall be signed by a majority in number of the members of such committee. Notice of any such application shall be published as prescribed.

The

Industrial Conciliation and Arbitration.

The registrar may require such proof as he thinks necessary of the authority of the said members to make the said application.

(3) Any such application may be refused by the
5 registrar if he is of opinion that the organisation
applying is not a bona-fide trade union, or if registered
under this Act would not be a bona-fide industrial
union, or to the extent to which in his opinion the
10 interests under this Act of persons represented by the
applicant union may be protected by a previously
registered industrial union which has not since the
passing of the Industrial Arbitration (Amendment)
Act, 1918, taken part in, aided, or abetted an illegal
strike :

15 Provided that any application for registration as an
industrial union, made by a trade union, all of whose
members are employees of the Crown, shall not be
refused upon the ground only that the interests of the
employees represented by the applicant union may be
20 protected by a previously registered industrial union.

(4) The registrar shall fix a day for considering
any objections on the above ground to the granting of
the application, and shall notify the same as prescribed.

(5) No branch shall be registered, unless it is a
25 bona-fide branch of sufficient importance to be regis-
tered separately.

(6) When any trade union registered as an
industrial union has changed its name, or when two
or more trade unions, all of which are registered as
30 industrial unions, have amalgamated, the registrar
may, upon application in the prescribed manner by
any industrial union or industrial unions, and upon
the production of the prescribed particulars, record
any such change of name or amalgamation in the
35 register of industrial unions. Any such record shall
be deemed to be a re-registration of the applicant
union or unions in such changed name or as so amal-
gamated as the case may be : Provided that any such
change of name or amalgamation shall not affect any
40 rights or liabilities of any such union or unions :
Provided also that the registrar may at his discretion,
upon any such application, require the applicant union

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or unions to follow the procedure hereinbefore set out in respect of applications for the registration of industrial unions.

(7) Any decision of the registrar under this section in respect of an objection taken as aforesaid, or on refusal of registration, shall be subject to appeal to the commission as prescribed.

(8) The commission may for any reasons which appear to it to be good cancel the registration of any industrial union, provided that, save where otherwise mentioned in this Act, such cancellation shall not relieve the industrial union or any member thereof from the obligation of any award or industrial agreement, or order of the commission or a committee, or from any penalty or liability incurred prior to such cancellation.

(9) Where the commission is satisfied that an industrial union has ceased to exist it may order the removal of its name from the Register of Industrial Unions.

(10) The commission may cancel the registration of any industrial union if proof is given to its satisfaction that a majority in number of the members of the union, by secret ballot taken as prescribed, require such cancellation.

(11) Provided that such power of cancellation shall not be exercised while any award or any industrial agreement relating to members of any such union whether made under the repealed Acts or this Act is in force.

10. (1) An officer of an industrial union of employees may, by notice in writing signed by him, require an employer to terminate the employment of any employee specified in the notice who, by the nature of his occupation or employment, is of the class of which the industrial union is constituted, and who is not a member of such union or of any other union specified in the award covering his occupation or calling.

Notice to employer to terminate employment in certain cases.

The notice may be served on the employer either personally or by post.

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If at the expiration of three days after the service of the notice such employee has not become a member of the industrial union the employer shall forthwith terminate the employment of such employee.

5 An employer who fails to comply with the provisions of this subsection shall be liable to a penalty of five pounds and to an additional penalty of five pounds for each day during which such failure continues.

10 (2) An officer of an industrial union of employees may at any time by notice in writing signed by him require an employer to terminate the employment of any employee specified in the notice who—

15 (a) has at any time after the first day of January, one thousand nine hundred and seventeen, and before the commencement of this Act, been engaged or retained in such employment during the period of any cessation of work of other employees in the industry on account of an industrial dispute; and

20 (b) has not subsequently become a member of the union.

The notice may be served on the employer either personally or by post.

25 Any employer who fails to comply with the terms of such notice within seven days after the service upon him of the notice shall be liable to a penalty of five pounds, and to an additional penalty of five pounds for each day during which such failure continues.

30 **10. Any industrial union of employees may make an agreement in writing with an employer or any other industrial union relating to any industrial matter.**

Any such agreement if made for a term specified therein not exceeding five years from the making thereof, and if filed at the office of the registrar, shall be an industrial agreement within the meaning of this Act, and shall be binding on the parties, and on all persons for the time being members of such unions, but may be rescinded or varied in writing by the parties. Any variation of any such agreement, if filed as aforesaid, shall be binding as part of the agreement.

Any such industrial agreement may be enforced under this Act.

Industrial Conciliation and Arbitration.

11. Any industrial union of employees may make an agreement in writing with an employer or any other industrial union relating to any industrial matter. Power to make industrial agreements.

Any such agreement, if made for a term specified therein not exceeding five years from the making thereof, and, if filed at the office of the registrar, shall be an industrial agreement within the meaning of this Act, and shall be binding on the parties and on all persons for the time being members of such unions, but cf. Act No. 17, 1912, s. 11.

Any variation of any such agreement, if filed as aforesaid, shall be binding as part of the agreement.

Any such industrial agreement may be enforced under this Act.

11. If after the commencement of this Act any trade union of employees, not being an industrial union, enters into and executes in the manner prescribed by the rules of such union any agreement relating to any industrial matters with an employer or an industrial union of employers, either party to such agreement may file the same in the office of the registrar. Any such agreement, if made for a term specified therein not exceeding five years from the making thereof, shall, in so far as it relates to industrial matters, be binding on the parties, and on all persons for the time being members of such unions, and shall be enforceable in the same manner as an industrial agreement made under this Act. Such agreements may be rescinded or varied by the parties, and any such variation if filed as aforesaid shall be binding as part of the agreement.

Whenever a declaration as to the living wage shall be made under this Act during the currency of any industrial agreement, the registrar may (subject to appeal to the commission) upon the application of any party to the industrial agreement vary the wage provisions contained in such agreement.

12. After the expiration of the term specified therein, an industrial agreement, together with any variation made thereto, whether such variation be made within or after the specified period, shall continue in force until a new agreement is made, or until notice of termination shall have been given in writing by a party thereto to the other party or parties and to the registrar. Continuance after expiry.

Industrial Conciliation and Arbitration.

PART III.

THE INDUSTRIAL COMMISSION ~~and the Committees,~~
Committees, and Boards.

Constitution of the Commission.

- 13.** (1) There shall be an Industrial Commission ^{Industrial} of New South Wales, which shall be constituted by an ^{Commissioner} Industrial Commissioner who shall be appointed from ^{of New} South Wales. ^{South Wales.} time to time by the Governor.
- (2) The Governor may appoint any person he thinks fit to be commissioner.
- 10** (3) The commissioner shall receive such salary and allowances as the Governor thinks fit.
- Such salary and allowances shall be charged upon and be payable out of the Consolidated Revenue Fund.
- 15** (4) The commissioner shall hold office for a period of five years.
- (5) The commissioner shall not be capable of accepting or holding any other office or any other place of profit within the State, except any such judicial office as may be conferred upon him by or under any **20** law of the State.
- (6) If the commissioner is prevented by any cause from attending to his duties as such the Governor may appoint some person to act temporarily for any period not exceeding three months as commissioner and **25** such person shall, while so acting, have all the powers of the commissioner.
- (7) On appointment the commissioner shall take the oath of allegiance and the judicial oath.
- This subsection extends to a person appointed to act **30** temporarily as commissioner.
- (8) If the person who at the commencement of this Act is President of the Industrial Commission constituted under the Industrial Arbitration (Amendment) Act, 1926, as amended by the Industrial Arbitration **35** (Amendment) Act, 1927, accepts office as commissioner under this Act, the provisions of this subsection shall, notwithstanding

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notwithstanding anything contained in subsections three, four, and five of this section, apply to him as such commissioner—

- 5 (a) The said commissioner shall be entitled to an annual salary of two thousand six hundred pounds, and such salary shall not be diminished during his continuance in the office of commissioner.
- 10 (b) The said commissioner shall have the same rank, title, status, and precedence as a puisne judge of the Supreme Court. He shall be entitled to a pension of one-third of his salary upon completion of the term of seven years from his appointment under this Act, or upon
- 15 his retirement from any other cause from the office of Industrial Commissioner, including resignation with the consent of the Governor-in-Council after serving three years in the last-named office: Provided always that if,
- 20 after the assignment of such pension to the said Industrial Commissioner he accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment
- 25 according as the salary or emoluments of such appointment are of greater or less amount than such pension.
- (c) Such salary and pension shall be charged upon and payable out of the Consolidated Revenue Fund.
- 30 (d) The said commissioner shall, notwithstanding anything contained in the Judges Retirement Act, 1918, or in any other Act, hold office for a period of seven years.
- 35 (e) Notwithstanding any provision to the contrary contained in the Supreme Court and Circuit Courts Act, 1900, or any other Act, the Governor may by commission under the Great Seal appoint the said commissioner to be a
- 40 judge of the Supreme Court for the period of seven years from the date of his appointment

as

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as commissioner under this Act, and if so appointed as aforesaid he shall hold office during good behaviour and may exercise and sit in any jurisdiction of the Supreme Court, and shall have in all respects and to all intents and purposes the rights, privileges, powers, and jurisdiction of a judge of the Supreme Court in addition to the rights, privileges, powers, and jurisdiction conferred by this Act: Provided that if so appointed the said Commissioner shall, upon retirement from the office of a judge of the Supreme Court, have the pension rights conferred on him by paragraph (b) of this subsection.

(9) The Industrial Commission of New South Wales, established and constituted under the Industrial Arbitration (Amendment) Act, 1927, is hereby dissolved.

The persons who, at the commencement of this Act are members of the Industrial Commission of New South Wales, dissolved by this Act, shall at such commencement cease to hold office, and such persons, other than the president of the said commission, shall not retain any rights, status, or privileges conferred by any of the Acts repealed by this Act.

13. (1) There shall be an Industrial Commission of New South Wales constituted by the appointment by the Governor of three members, one of whom shall be by his commission appointed president.

The commission shall be a superior court of record, and its seal shall be judicially noticed.

(2) A person to be qualified for appointment as a member shall be a puisne judge of the Supreme Court, a District Court judge, a barrister of not less than five years' standing, or a solicitor of not less than seven years' standing.

Each member shall, subject to this section, hold office during good behaviour, shall have the same rank, title, status, and precedence and the same salary, pension, and other rights as a puisne judge of the Supreme Court, and shall be removable from office in the same manner only as a judge of the Supreme Court is by law liable to be removed from his office.

Such

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Such salary and pension shall be charged upon and be payable out of the Consolidated Revenue Fund.

Each member shall retire on the day on which he attains the age of seventy years, unless he is granted
5 retiring leave, in which case he shall retire on the expiration of such leave.

A member of the commission shall not be capable of accepting or holding any other office or any other place of profit within the State, except any such judicial office
10 as may be conferred upon him by or under any law of the State.

(3) If a member of the commission is prevented by any cause from attending to his duties as such, the Governor may appoint some person qualified to be
15 appointed a member to act temporarily as a member of the commission, and such person shall, while so acting, have all the powers of a member of the commission.

(4) The three members of the commission
holding office immediately before the commencement
20 of this Act shall continue to hold such office in all respects as if they were appointed under this section. Present occupants of office.

The person who immediately before such commencement holds office as president shall continue to hold such office of president as if he were appointed under this
25 section. President.

(5) On appointment the members of the commission shall take the oath of allegiance and the judicial oath.

This subsection extends to a person appointed to act
30 temporarily as a member.

Constitution of the committees.

14. (1) Each committee established under the Acts
repealed by this Act and in existence at the commencement of this Act shall be deemed to have been established
35 under this Act. Conciliation committees.

(2) The members of each such committee other than the chairman shall, subject to this Act, continue in office:

Provided that a member shall not so continue in office
40 unless he was appointed upon the nomination of an industrial union which is registered or deemed to have been registered under this Act.

(3)

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(3) Where a vacancy occurs upon a committee by the operation of subsection two of this section the vacancy shall be filled in the same manner as if the committee were established under this Act.

5 (4) Conciliation committees shall, on the recommendation of the commission, be established by the Minister for any industry or division of any industry, or any combination, arrangement, or grouping of industries, as the Minister on the recommendation of the
10 commission may direct. cf. Act No. 81, 1916, s. 5 (a).

(5) The industry or division of any industry or the combination, arrangement, or grouping of industries, for which a committee has been established may be varied by the Minister on the recommendation of the commission, made upon application to it in the prescribed
15 manner, and the committee may thereupon exercise jurisdiction with respect to such industry or such division of any industry, or such combination, arrangement, or grouping of industries as so varied.

20 (6) The Governor may appoint a number of persons not exceeding ten to act as chairmen of conciliation committees.

Each person so appointed shall, unless he sooner resigns, hold office for a period of seven years and shall
25 receive such salary and allowances as the Governor may direct.

Such salary and allowances shall be charged upon and payable out of the Consolidated Revenue Fund. One of the chairmen so appointed shall in and by his appointment be the senior chairman.
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(7) Each committee shall consist of such an equal number of representatives of employers and employees respectively as are determined by the Minister and appointed upon nomination as prescribed, together
35 with a chairman. Deputy or alternate members shall be nominated and appointed as prescribed, and shall be competent to discharge the duties of the regular members.

(8) Where the nominations for appointment to
40 a committee exceed the number of representatives to be appointed, the Minister shall refer such nominations to the commission for a recommendation as to who should be appointed to the committee.

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(9) If within twenty-one days after nominations have been called for, the employers or employees have not made any nomination or have made an insufficient number of nominations, the Minister shall appoint such 5 and so many persons as may be necessary to represent the employers or employees on the committee.

(10) The commission shall allot a chairman for a committee.

(11) The members of a committee other than 10 the chairman shall not receive remuneration by way of salaries or fees, but all members may be reimbursed such fares and out-of-pocket expenses as are approved by the Minister.

(12) The Minister may at any time dissolve a 15 committee, and subject thereto a member of a committee shall, unless he sooner resigns his office, hold office until he is withdrawn from the committee in the manner prescribed by the person who or body which nominated him.

20 (13) A new committee may be established to take the place of a committee that has been dissolved or the members of which have resigned or have ceased to hold office.

(14) Where from any cause a member of a com- 25 mittee ceases to hold office, the Minister may appoint a duly nominated person to his office.

(15) Where a person is appointed to any vacancy on a committee, the committee may continue the hearing of and may determine any part heard case.

30 (16) Upon the allotment of a chairman and nominations of members having been called for, a committee shall be deemed to be established.

14. (1) The Minister may, in the manner prescribed, 35 establish conciliation committees for any industry or calling for which a board is constituted, or for any industry or calling for which for the purpose of establishing a committee the commission may recommend that a board be constituted. The Minister may appoint such number of persons as may be prescribed to act as 40 chairmen of conciliation committees and may fix their remuneration.

(2)

Industrial Conciliation and Arbitration.

(2) The commission may recommend to the Minister the combination, arrangement, or grouping of industries or callings pursuant to section seventeen of this Act for the purpose of establishing committees.

5 (3) Each committee shall consist of such an equal number of representatives of employers and employees respectively as are determined by the Minister and appointed upon nomination as prescribed, together
10 with a chairman. Deputy or alternate members shall be nominated and appointed as prescribed, and shall be competent to discharge the duties of the regular members.

(4) Where no employer or no employee in the industry can be found who is willing to act on the committee on behalf of the employers or employees as the
15 case may be, the Minister may appoint any person whom he considers to be acquainted with the working of the industry to represent the employers or employees on the committee.

20 (5) The commission may allot a chairman for a committee.

(6) The members of a committee other than the chairman shall not receive remuneration by way of salaries or fees, but all members may be reimbursed
25 such fares and out-of-pocket expenses as are approved of by the Minister.

(7) Each member of a committee shall, upon his appointment, take an oath not to disclose any matter or evidence before the committee or the commission
30 relating to—

trade secrets ;
the profits or losses or the receipts and outgoings of any employer ;
the books of an employer or witness produced
35 before the committee or the commission ; or
the financial position of any employer or of any witness ;

and if he violates his oath he shall be liable to a penalty not exceeding five hundred pounds, and, on conviction
40 of such offence, he shall cease to hold office.

(8)

Industrial Conciliation and Arbitration.

(8) The Minister may at any time dissolve a committee, and subject thereto, a member of a committee shall hold office until the expiration of three years from the date of his appointment, unless he sooner resigns his office.

(9) A new committee may be appointed to take the place of a committee that has been dissolved or the members of which have resigned or have ceased to hold office.

(10) Where from any cause a member of a committee ceases to hold office, the Minister may appoint a duly qualified person to his office for the residue of the period for which such member was appointed.

(11) Where a person is appointed to any vacancy on a committee, the committee as newly established may continue the hearing of and may determine any part heard case.

15. Where it appears to the commission that a question has arisen as to the right of employees in specified callings to do certain work in any industry to the exclusion of the employees in other callings, the commission may, on application made by an industrial union of employees, constitute a special committee to determine such question.

Such committee shall consist of a chairman and such number of other members as the commission fixes, but so that—

- (a) one-half in number of such other members shall be employers and the other half employees, each of whom has been or is actually and bona-fide engaged in one of the said callings;
- (b) such of the callings as the commission considers to be directly interested in the question shall be represented on the committee by an employer or employers, and by an employee or an equal number of employees.

The chairman and other members of any such committee shall be appointed by the commission.

The determination shall have effect as an award of a committee.

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15. Every appointment of a member of a committee shall be published in the Gazette, and a copy of a Gazette containing a notice of such appointment purporting to have been published in pursuance of this Act shall be conclusive evidence that the person named in such notice was legally appointed to the office named, and had power and jurisdiction to act in such office, and such appointment shall not be challenged for any cause. Gazette of appointments.

16. If any member of a committee, without reasonable excuse, neglects on two successive occasions to attend meetings of the committee duly convened, or to vote when present at any such meeting on any question duly submitted to the committee, he shall be liable to a penalty not exceeding five pounds, and the Minister may declare his office vacant, and thereupon such member shall cease to hold office. Failure of member to attend.

16. (1) Each committee established under the Acts repealed by this Act and in existence at the commencement of this Act shall be deemed to have been established under this Act. Conciliation committees.

(2) The members of each such committee other than the chairman shall, subject to this Act, continue in office.

17. Each member of a committee shall, upon his appointment, take an oath not to disclose any matter or evidence before the committee or the commission relating to— Oath to be taken by members.

trade secrets;
the profits or losses or the receipts and outgoings of any employer;
the books of an employer or witness produced before the committee or the commission; or
the financial position of any employer or of any witness;
and if he violates his oath he shall be liable to a penalty not exceeding five hundred pounds, and, on conviction of such offence, he shall cease to hold office.

Constitution of the boards.

17. (1) Industrial boards shall, on the recommendation of the commission be constituted by the Minister for any industry or division of any industry, or any combination, arrangement, or grouping of industries, as the Minister on the recommendation of the commission may direct. (2)

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(2) The Minister shall appoint a chairman who shall be recommended by the commission for any one or more of the boards which may be recommended for constitution. Such chairman shall preside over 5 and be a member of all such boards.

(3) The Minister shall appoint the other members of such boards who shall be recommended by the commission from persons nominated as prescribed by the employers and by the industrial unions 10 of employees concerned respectively, or where either employers or employees fail to so nominate from persons nominated by the Minister.

(4) On the chairman and members being appointed a board shall be deemed to be constituted.

15 (5) Each such board shall, besides its chairman, consist of two or four other members, as may be recommended by the commission. One-half in number of such other members shall be employers, and the other half employees, each of whom has been or is 20 actually and bona-fide engaged in one of the industries or callings so specified : Provided that where the employers or the employees in the industries or callings consist largely of females, members may be appointed who are not engaged in the industries or 25 callings : Provided also that where, in the opinion of the commission, no suitable employer or no suitable employee in the industry can be found who is willing to act on the board on behalf of the employers or employees, as the case may be, such commission may 30 recommend any person whom it considers to be acquainted with the working of the industry to represent the employers or employees on the board, and the Minister shall appoint such person.

Each board constituted under the Acts repealed by 35 this Act and in existence at the commencement of this Act shall be deemed to have been constituted under this Act.

18. Every appointment of a member of a com- 40 mittee shall be published in the Gazette, and a copy of a Gazette containing a notice of such appointment pur- porting to have been published in pursuance of this Act shall

Gazettal of
appoint-
ments.

Industrial Conciliation and Arbitration.

shall be conclusive evidence that the person named in such notice was legally appointed to the office named, and had power and jurisdiction to act in such office, and such appointment shall not be challenged for any cause.

5 **18.** (1) Where it appears to the commission that a question has arisen as to the right of employees in specified callings to do certain work in an industry to the exclusion of the employees in other callings, the commission may, on application made by any
10 such employees, constitute a special board to determine such question.

(2) Such board shall consist of a chairman and such number of other members as the commission fixes, but so that—

15 (a) one-half in number of such other members shall be employers and the other half employees, each of whom has been or is actually and bona-fide engaged in one of the said callings;

20 (b) such of the callings as the commission considers to be directly interested in the question shall be represented on the board by an employer or employers, and by an employee or an equal number of employees.

25 (3) The chairman and other members of any such board shall be appointed by the commission.

(4) The determination shall have effect as an award.

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PART IV.

JURISDICTION OF COMMITTEES AND OF THE COMMISSION.

19. (1) A committee shall have cognisance of and power to inquire into any industrial matter in the industry for which it is established and in respect thereof or on any reference or application to it, may in relation to such industry make an award or order—

Powers of
conciliation
committees.

- 10 (a) fixing the lowest prices for work done by employees, and the lowest rates of wages payable to employees, other than aged, or infirm, or slow workers :

15 Provided that no award shall be made for the payment of wages or remuneration in excess of fifteen pounds per week, or (where salaries are paid on an annual basis) any salary in excess of seven hundred and fifty pounds per annum :

20 Provided further that no award shall be made for the payment of wages or remuneration of persons occupying managerial positions unless such persons are exclusively employed by the Railway Commissioners of New South Wales, the Metropolitan Meat Industry Board, the Sydney Harbour Trust Commissioners, the Board of Water Supply and Sewerage, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, or the Hunter District Water Supply and Sewerage Board, or are employees of any city, shire, or municipal council ;

- 30 (b) fixing the number of hours and the times to be worked in order to entitle employees to the wages so fixed ;

35 (c) fixing the lowest rates for overtime and holidays and other special work, including allowances as compensation for overtime, for time lost due to sickness or accident, for holidays, or for other special work ; or prohibiting or restricting any person doing any specified work outside the specified hours ;

40

(d)

Industrial Conciliation and Arbitration.

- (d) fixing the number or proportionate number of apprentices and/or minors and the lowest prices and rates payable to them ;
- (e) determining any industrial matter ;
- 5 (f) **prescribing that as between members of any industrial union or unions of employees specified in the award and other persons offering or desiring service or employment at the same time, preference shall be given to such members other things being equal.**
- 10 (f) (g) rescinding or varying any award made in respect of any of the industries for which it has been constituted ;
- 15 (g) requiring that employers shall engage labour only at or through the office of an industrial union of employees ;
- 20 (h) declaring what deduction may be made from the wages of employees for board or residence or board and residence, and for any customary privileges or payments in kind conceded to such employees.

(2) Where an institution carried on wholly or partly for charitable purposes provides for the food, clothing, lodging, or maintenance of any of its employees, 25 or any of its inmates who are deemed to be employees, the committee in its award as to the wages of such employees or inmates, shall make due allowance therefor. The committee may exempt such institution from all or any terms of the award, where the food, clothing, lodging, 30 and maintenance provided by the institution, together with the money (if any) paid by the institution to such employees or inmates as wages, are at least equal in value to the value of the labour of such employees or inmates.

35 (3) **Notwithstanding anything elsewhere contained in this Act or any Act amending the same, neither the commission nor a conciliation committee shall have power to prescribe—**

- 40 (a) any form of preference of employment in excess of that set out in paragraph (f) of subsection one of this section ; nor

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(b) that any employee shall join any industrial or trade union whether as a condition of his employment or of the continuance of his employment in any industry or not ; nor

5 (c) that any engagement of labour shall be made only at the office of a union or through an official of a union.

20. (1) Notwithstanding the provisions of the Apprentices Act, 1901, the Apprentices (Amendment) Act, 1915, and this Act, and notwithstanding the effect of any custom of or against apprenticeship, a committee in respect of any industry for which it is established shall—

Powers in relation to apprentices and minors.

15 (a) determine whether apprenticeship shall be a condition of employment of minors ;

(b) prescribe the hours of employment, wages, and conditions of apprenticeship ;

20 (c) determine whether and to what extent there shall be a limitation of the number of apprentices indentured in any trade or calling ;

(d) determine to what extent technical education if procurable shall be obligatory upon apprentices and their masters ;

25 (e) co-operate with the Department of Education in encouraging young persons to attend technical, trade, and continuation schools during working or other hours ;

30 (f) protect the contracts and interests of apprentices and all workers of minor age who are learners, and ensure the attendance of apprentices and learners at technical or trade schools ;

35 (g) prescribe standard forms of apprenticeship for different trades and callings, and the manner in which and the persons by whom the making, carrying out, and transfer of indentures or other contracts of apprenticeship shall be supervised ;

(h) control and direct the conditions in all respects of apprenticeship in any industry ;

(i)

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(i) determine whether a contract of apprenticeship made before or after the commencement of this Act shall be cancelled or varied, and prescribe the conditions precedent to or consequential upon such cancellation or variation.

(2) The apprenticeship register established under the Acts repealed by this Act shall be continued by the industrial registrar.

21. (1) Upon the application of an industrial union of employees the commission or committee shall in writing authorise any officer of such union nominated by it to exercise in respect of an industry in which members of the union or persons in the same calling as such members are engaged the powers conferred by subsection two of this section.

Such powers shall be exercisable whether or not the industry is covered by an award or industrial agreement.

(2) An officer so authorised may at any time—

(a) inspect any premises of any employer upon which any such industry as aforesaid is carried on and any work being done therein;

(b) require the employer in such industry to produce for his examination and may examine and take copies of any time sheets and pay sheets of the employees in such industry;

(c) examine any employee in such industry either alone or in the presence of his employer on any matter relating to his employment or work;

(d) hold meetings of the employees on or adjacent to the premises of the employer during non-working time.

(3) An officer so authorised shall not have any authority under this Act to enter a private dwelling-house or the land used in connection therewith unless some manufacture or trade in which labour is employed is carried on therein, or unless he has reasonable ground for believing that such work is being carried on therein.

(4) If any person obstructs any officer so authorised in the exercise of his powers under this Act or fails when duly required as aforesaid to produce any

Authorised officers of union to have certain powers.

time

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time sheets or pay sheets, he shall be liable to a penalty not exceeding ten pounds for the first offence and twenty-five pounds for any subsequent offence.

21. Any officer of an industrial union of employees authorised in writing by the commission or committee shall have the right to enter any place or premises or any ship or vessel of any kind whatsoever, wherein members of such union or persons in the same calling as such members are engaged, for the purpose of conversing with or interviewing the employees in such place, premises, ship, or vessel :

Authorised officers of unions to have certain powers.

Provided that such officers shall not wilfully hamper or hinder the employees during their working time and may interview any employees or converse with them any lunch hour or non-working time.

Every person who hinders or obstructs any such officer in the exercise of any power conferred by this subsection, or who refuses entrance to such officer or unduly delays such officer in entrance during any time as aforesaid to any such place, premises, ship, or vessel, shall be liable to a penalty not exceeding fifty pounds.

22. (1) Notwithstanding anything to the contrary contained in this Act or in any other Act a committee shall on an application or reference to it in that behalf prescribe by award that absolute preference of employment shall be given to the financial members of the industrial union or unions specified in the award.

Preference to financial members.

The manner in which such preference shall operate shall be determined by the committee.

(2) A committee shall on application or reference to it in that behalf prescribe by award that an officer of an industrial union may at any time by notice in writing signed by him require an employer to terminate the employment of an employee who is not a financial member of the industrial union covering his trade or calling.

The notice may be served personally or by post. If at the expiration of three days after the service of the notice such employee has not become a financial member of the industrial union, the employer shall forthwith terminate the employment of such employee.

Am

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An employer who fails to comply with the provisions of this subsection shall be liable to a penalty of five pounds, and to an additional penalty of five pounds for each day during which such failure continues.

5 23 **22.** A committee shall upon an application for a new award, or the renewal of an award, and notwithstanding any previous inquiry under the repealed Acts, or this Act, review the conditions of the industry or calling, together with the wages payable in such industry or
10 calling if either party so apply. Power to review previous inquiries.

24 **23.** (1) A committee or the commission may institute any inquiry and avail itself of such expert medical or technical advice or assistance as may be thought necessary for the proper discharge of its powers and
15 duties. Committee or commission may have expert advice.

(2) Where an order or award made in respect of any industrial matter is inconsistent with any provisions relating to such industrial matter contained in any Act, the order or award shall prevail, and the provisions of
20 such Act shall to the extent of the inconsistency be suspended during the period in which such order or award is in force. Award to prevail over Acts.

25 **24.** (1) Where an award fixes minimum wages higher than the living wage for the time being in force, the amount of the excess of such minimum wages above the living wage shall be not less the same in the case of females doing the same class of work as males. Males and females doing same class of work.

(2) The commission or a committee shall not award rates of pay or other conditions of employment for
30 females doing the same class of work as males so as to result in females being employed in preference to males.

26. The commission or a committee shall not award any conditions nor fix rates of wages or other payments for employees of the Crown, including employees of the
35 Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Sydney Harbour Trust Commissioners, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South
40 Wales, the Commissioners of the Government Savings Bank Wages of Government employees.

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Bank of New South Wales, the Metropolitan Meat Industry Board, the Main Roads Board of New South Wales, the Hunter District Water Supply and Sewerage Board, the Board of Trustees of the Australian Museum, and the Hospital Commission, less favourable than the conditions granted or the wages paid or other payments made to other employees not employed by the Government or its departments doing substantially the same class of work, but the fact that employment is permanent or that additional privileges are allowed in the service of the Government or its departments shall not of itself be regarded as a substantial difference in the nature of the work.

27. (1) Any aged or infirm worker who may deem himself unable to earn the minimum wage prescribed by any award, may apply to any industrial union of employees which is a party to such award for a permit in writing to work for less than the wage so prescribed.

(2) Such union shall, subject to subsection four of this section, be the authority to determine whether and on what wages and conditions such permit shall be granted, and shall have power to revoke or cancel any permit whether granted under this Act or under any Act repealed by this Act.

(3) The union shall forthwith notify the chairman of the committee established for the industry in which such applicant desires to be employed of the grant of such permit and of the wages and conditions on which it has been granted, and the chairman shall thereupon issue a permit in terms of the union's determination.

(4) An appeal against any such determination of a union shall lie to the committee for the industry concerned, and upon such appeal the committee shall make such determination as it thinks just.

25. (1) Any aged, infirm, or slow worker who may deem himself unable to earn the minimum wage prescribed by any award, may apply to the registrar for a permit in writing to work for less than the wage so prescribed.

Permits for aged or infirm workers.

(2) The registrar shall be the tribunal to determine whether and on what conditions such permit shall be granted, and shall have power to revoke or cancel any permit.

(3)

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(3) The registrar shall forthwith notify the secretary of the industrial union of the trade or calling in which such applicant desires to be employed of the grant of such permit and of the conditions contained therein.

(4) The said union may at any time after such notice apply to the registrar in the manner prescribed for the cancellation of such permit.

(5) Any appeal against any such determination shall not lie from the registrar to the commission except on the ground that the trade or calling concerned is one in which no such permit should be granted.

(6) Any such permit for a period not exceeding three months may be issued by any inspector or other person appointed by the Minister.

28. Notwithstanding the provisions of any other Act, the commission or a conciliation committee shall have power to prescribe by award, the places at which and the times during which employers in any particular industry shall engage all the employees that they may require for carrying on their business.

29. Notwithstanding any provisions in the Factories and Shops Act, 1912, or in any other Act relating to the installation of protective appliances, the supplying of proper clothing, hot or cold water, sanitary or bathing accommodation for the use of employees, or the fixing of standards of normal temperatures and atmospheric purity in any working place, either above or below ground, or the provision for proper hygienic conditions, the commission or committee may prescribe by award what appliances shall be installed, or clothing supplied, what sanitary or bathing accommodation, or whether hot or cold water shall be provided for the use of employees, and may prescribe the standards of normal temperatures or atmospheric purity in any working place either above or below ground, and also prescribe the hours, wages, or other conditions of employment for any employee working under what in the opinion of the commission or committee are abnormal conditions or abnormal working places, and may determine what are abnormal conditions or abnormal working places.

Industrial Conciliation and Arbitration.

30 **26.** (1) Any award or order of a committee shall, after settlement by the registrar in manner prescribed by the regulations, be signed by the chairman. ^{Award or order.}

5 Upon any such settlement the registrar may submit any question of law to the commission who may give such direction as to it seems proper, or he may refer the matter back to the chairman of the committee for report or for further consideration by the committee.

10 The registrar shall publish the award or order, when signed, in the Gazette, and shall notify the parties in the prescribed manner.

(2) A committee may, in its discretion, determine that an award shall take effect from such day subsequent to the lodging of the application therefor 15 with the registrar as the committee may determine.

(3) From any order, determination, or award of a committee or upon any refusal of a committee to make an order or award an appeal shall lie in the prescribed manner, to the commission, on which appeal the commission may make such order or award as in its opinion the 20 committee should have made.

Upon any such appeal the commission shall have regard only to the records of the proceedings before such committee.

25 The pendency of an appeal shall not suspend the operation of an order or award appealed from unless the parties commission otherwise agree directs.

(4) If before or after any such order, determination, or award the parties agree to accept the unanimous 30 decision of the committee or to accept the decision of the chairman on any question left to him by the other members of the committee no appeal shall lie to the commission in respect of the decision.

(5) Where a committee fails to make an order 35 or award upon an application or makes an order or award which deals only partially with the application, the chairman shall refer the application or the remaining undetermined portion thereof as the case may be to the commission.

(6)

Industrial Conciliation and Arbitration.

(6) Where any question or application is referred to the commission under this section, members other than the chairman of the committee shall, if the commission so directs, sit with the commission, but as
5 assessors only, and without vote.

Any determination, order, or award made by the commission upon any such reference shall take effect from such day subsequent to the lodging with the industrial registrar of the application to the committee as the
10 commission may direct.

(7) The Crown may intervene in any proceedings before the commission or a committee or appeal from an award of a committee and make such representations as it thinks necessary in order to safeguard the public
15 interests.

(4 8) Subject to the right of appeal under this Act, and to such conditions and exemptions as the committee may, and is, hereby authorised to determine and direct, an award shall be binding on any or all persons engaged in
20 the industries or callings and within the locality, and for the period not greater than three years specified therein.

After the expiration of the period so specified, the award, together with any variation made thereto, whether such variation be made within or after the
25 specified period shall continue in force until rescinded by the commission or committee.

(5 9) Where the commission or a committee makes an award to take effect from some day prior to its publication in the Gazette, no employer shall be bound to pay
30 any wages fixed by such award until seven days after publication of the award as aforesaid, but the first payment of wages under any such award shall include all arrears which have accrued due from the date upon which the award is directed to take effect.

27. (1) No award or industrial agreement shall be made for a wage lower than the declared current living wage.
35

(2) Upon a declaration as to the living wage during the currency of any award or industrial agreement,
40 the terms of such award or industrial agreement affecting rates

Crown may intervene.

cf. Act No. 17, 1912, s. 29.

cf. Ibid. s. 25 (1).

No wage less than declared living wage.

cf. Ibid. s. 26A.

Industrial Conciliation and Arbitration.

rates of pay may ~~may~~ **shall** be varied to accord with such declaration by the registrar upon application to him as prescribed by any party whose appearance is recorded on the making of the award, and upon notice to the other parties
 5 whose names are so recorded, and a variation of the award or industrial agreement shall, upon publication in the Gazette, have effect as an award from the date of the declaration.

An appeal may be made in the manner prescribed
 10 to the commission against any determination of the registrar under this subsection.

(3) Neither subsection one nor subsection two of this section shall extend to an award or industrial agreement made in respect of any of the employees
 15 referred to in subsection two or subsection three of section six of this Act.

32. The commission or a committee in respect of the industry for which it is established shall by award prohibit the working of overtime except for emergency
 20 purposes or with the consent of the industrial union of employees named in the award.

This section shall not extend to the employees referred to in subsection two and subsection three of section six of this Act.

33. (1) The commission or a committee shall by award prohibit piece-work, contract work, bonus work, or any other system of payment by results unless the industrial union or unions of employees concerned in the industry covered by the award consents or consent
 30 thereto.

(2) Where it is provided by an award that piece-work shall be permitted, the subletting of such work to any other employee or person shall be prohibited by the award.

34. (1) The powers and functions of the commission shall include the following:—

(a) to inquire into and determine any industrial matter referred to it by the Minister;

(b)

Industrial Conciliation and Arbitration.

(b) not more frequently than once in every six months to determine after public inquiry a standard of living, and to declare what shall, for the purpose of this Act, be the living wage based upon such standard for adult male employees in the State.

The commission shall declare the amount of the living wage for adult female employees at such percentage of the living wage for adult male employees as it deems proper. cf. Act No. 40, 1929, s. 4.

A declaration of a living wage for adult male employees or of a living wage for adult female employees shall not be deemed to be completed nor shall it have any force or effect whatsoever for the purposes of this Act unless and until it is notified by the Governor by proclamation published in the Gazette.

The commission may declare what deductions may be made from such wages for board or residence, or board and residence, and for any customary privileges or payments in kind conceded to or made to such employees;

(c) to hear and determine appeals under this Act;

(d) to confer with any persons or industrial unions as to anything affecting the settlement of an industrial matter;

(e) to summon any person before the commission for the purpose of conference or of giving evidence. Such summons shall be signed as prescribed;

(f) to refer to the senior chairman for inquiry and report any matter not within the jurisdiction of a committee.

(2) The commission in the exercise of any of its powers under this Act shall have the powers conferred by the Royal Commissions Act, 1923, on a commissioner appointed under Division 1 of Part II of that Act and the said Act, section thirteen and Division 2 of Part II excepted, shall, mutatis mutandis, apply to any witness or person summoned by or appearing before the commission.

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3428. (1) The powers and functions of the commission shall include the following :—

Powers and
functions
of the
commission.

- 10 (a) to inquire into and determine any industrial matter referred to it by the Minister or under section twenty-six of this Act ;
- (b) not more frequently than once in every twelve months to determine after public inquiry a standard of living and to declare what shall for the purpose of this Act be the living wages based upon such standard for adult male and adult female employees in the State ;
- 15 (c) where under the provisions of this section the standard of living has been determined and living wages for the State or any defined area thereof for adult males and adult females based on such standard have been declared the living wages shall be adjusted quarterly in accordance with the rise or fall of the cost of maintaining such standard.

20 The rise or fall shall be ascertained by the Government Statistician from information collected by him and reduced to the form of index numbers in respect of the quarters commencing on the first days of January, April, July, and

25 October respectively.

The Government Statistician shall adjust the living wages by the application of the index numbers to the current living wages and shall publish the index numbers and the living wages so adjusted in the Government Gazette within

30 one month from the termination of each quarter.

Notwithstanding any other provisions of this subsection the Government Statistician shall

35 within one month from the commencement of this Act adjust the living wages in force at such commencement to accord with the variation in the cost of maintaining the standard last previously determined and shall forthwith publish in the Government Gazette the living

40 wages so adjusted. Upon

Industrial Conciliation and Arbitration.

Upon a declaration of the living wages or upon any adjustment thereof the declaration or adjustment shall come into operation from the date of the declaration or the date of the publication of the adjustment in the Government Gazette as the case may be.

The commission may declare what deductions may be made from such wages for board or residence, or board and residence, and for any customary privileges or payments in kind conceded to or made to such employees ;

(d) to hear and determine appeals under this Act. Members other than the chairman of a committee appealed from shall if the commission so directs sit with the commission, but as assessors only and without vote ;

(e) to confer with any persons or industrial unions as to anything affecting the settlement of an industrial matter ;

(f) to summon any person before the commission for the purpose of conference or of giving evidence. Such summons shall be signed as prescribed.

The commission may direct a committee or any chairman of a committee or the industrial registrar to inquire into any matter as to which it requires information for the purpose of the exercise of the jurisdiction of the commission.

The committee, chairman, or registrar shall inquire accordingly and report to the commission.

For the purpose of any such inquiry the committee, chairman, or registrar may summon any person, administer oaths, and take affidavits and examine parties and witnesses.

The provisions of section forty of this Act shall extend to any such inquiry.

Every person so summoned shall be bound to attend upon such summons and shall for disobedience thereto be liable to a penalty not exceeding fifty pounds.

Industrial Conciliation and Arbitration.

(2) At sittings of the commission all members shall be present, and any question shall be decided according to the decision of the majority :

Provided, however, that the commission may in any particular matter delegate any of its powers or functions to any one member. From any order or award made by such member an appeal shall lie to the commission, and on the appeal the commission may vary any such order or award in such manner as it thinks just.

10 29. The commission is further empowered to exercise the following functions and perform the following duties :—

Further powers and functions of the commission.

cf. Act No. 17, 1912, s. 82.

- 15 (a) to encourage and create councils for the purpose of encouraging the proper apprenticeship of all minors and provide for the welfare of juvenile labor ;
- 20 (b) to inquire and disseminate knowledge on all matters connected with industrial occupations with a view to improving the industrial relationship between employers and workers and to combat the evils of unemployment ;
- 25 (c) to collect and publish information relating to or affecting industrial conditions ;
- 30 (d) to propound schemes for welfare work, and report to the Governor on all matters relating to such work and to the insurance of employees against loss or injury caused by unemployment, sickness, or accident, or industrial diseases ;
- 35 (e) to report on any matter referred to it as to the prices of commodities, and as to whether or not monopolies or trade rings exist for the purpose of unfairly keeping up the prices of commodities ;
- 40 (f) to investigate and report on the existence of sweating in an industry ;
- (g) to report upon the productivity of industries, the number of employees in any industry, and the effect or probable effect of the regulation of the conditions of any industry upon such productivity ;

(h)

Industrial Conciliation and Arbitration.

- 5 (h) to consider and report upon the industrial efficiency of the community, the organization of the labour market and opportunities of employment, and all questions relating to unemployment;
- 10 (i) to collect and publish from time to time statistics of vital, social and industrial matters, and on labour employment and unemployment in specific industries, and on other prescribed matters;
- 15 (j) to encourage and assist in the establishment of hostels for women workers and workmen's clubs and libraries;
- (k) to report and advise on schemes for the better housing of the people;
- 20 (l) to conduct any investigation into the financial position, business transactions and/or working conditions of any employer or group of employers as the commission may deem necessary or desirable for the determination of any industrial matter;
- (m) to consider and report upon any other matter referred to it by the Minister.

25 **30.** (1) For the purpose of enabling the statistics referred to in this Act to be collected, all persons shall correctly and fully when required by the commission so to do fill up and supply in accordance with the instructions contained in or accompanying the prescribed form, the particulars specified in that form.

Collection of statistics.
cf. Act No. 17, 1912, ss. 84, 85.

30 (2) Every person shall to the best of his knowledge and belief answer all questions asked him by the commission, or by its duly authorised officers, necessary to obtain any information required for the purpose of any statistics authorised by this Act to be collected.

35 **31.** Upon the establishment of a committee, the commission shall not hear or determine any industrial matter or make an award relating to the industry for which the committee has been established, except pursuant to section ~~thirty~~ twenty-six of this Act, or unless
40 and until the commission shall have been satisfied that a committee has failed to result in an order or award.

Certain jurisdiction of committees exclusive.

Industrial Conciliation and Arbitration.

~~38~~**32.** Except as provided in section thirty-seven ~~one~~ of Commission to have powers of committee.
this Act, the commission, in addition to the jurisdiction
and powers conferred on it by this Act, shall have the
powers and may exercise the jurisdiction hereby con-
ferred on committees and the chairman thereof, and
on the industrial registrar and an industrial magistrate.

~~29~~**33.** In proceedings before the commission, if the Appearance by counsel.
matter is an industrial matter no party shall be repre-
sented by counsel or a solicitor except by the consent of
the commission ~~and of all parties~~, and in proceedings
before a committee, no party shall (except by consent
of the committee, and all the parties) be represented by
counsel or a solicitor.

PART V.

15 PROCEDURE OF COMMITTEES.

40. (1) Proceedings before a committee shall be commenced by—

- (a) reference to the committee by the commission or the Minister; or
- 20 (b) application to the committee by an industrial union of employers or of employees in the industries or callings for which the committee has been established.

(2) Any such application shall be in the form
25 and shall contain the particulars prescribed, and shall be signed by an officer of an industrial union whose members are employers or whose members are employees in any such industry or calling.

~~40~~**34.** (1) Sitings of a committee shall be convened by Commence-ment of proceedings.
30 the chairman **by notice to each member** whenever he thinks fit, or within three days of a request by the Minister, or by two members of the committee.

(2) Proceedings before a committee shall be commenced by—

- 35 (a) reference to the committee by the commission or the Minister; or
- (b) application to the committee by employers or employees in the industries or callings for which the committee has been constituted.

(2)

Industrial Conciliation and Arbitration.

(3) Any such application shall be in the form, and shall contain the particulars prescribed, and shall be signed by—

- 5 (a) an employer or employers of not less than twenty employees in any such industry or calling; or
- (b) an industrial union whose members are employers or whose members are employees in any such industry or calling.

10 **41.** A committee may make rules for the order and conduct of its business and proceedings.

4135. Subject to the regulations as to matters of procedure, a committee may make rules for the order and conduct of its business and proceedings. Rules.

15 **4236.** The chairman of a committee shall keep a record of the proceedings before such committee, which record shall be forwarded to the registrar with the committee's award, order, or determination. Record.

4337. In every case where an application or reference to a committee is made, it shall be the duty of the chairman to endeavour to bring the parties to an agreement with respect to the matters referred to in such application or reference, and to this end the committee shall, in such manner as it thinks fit, expeditiously and carefully inquire into such matters and anything affecting the merits thereof. Inquiry by committee. cf. Act No. 17, 1912, s. 32.

20 In the course of such inquiry, the chairman may make all such suggestions and do all such things as he deems right and proper for inducing the parties to come to a fair and amicable settlement of such matters.

30 **4438.** A committee, or any two or more members thereof authorised by the committee under the hand of its chairman, may enter and inspect any premises used in any industry to which a reference or application to the committee relates, and any work being carried on there. Inspection of premises.

40 If any person hinders or obstructs a committee or any member thereof in the exercise of the powers conferred by this section, or hinders or obstructs the commissioner in the exercise of like powers, he shall be liable to a penalty of ten pounds.

Industrial Conciliation and Arbitration.

45 **39.** A committee may confer with any persons or industrial unions as to anything affecting the settlement of an industrial matter and may summon any person before it for the purpose of conference or of giving
5 evidence. Such summons shall be signed by the chairman or by the registrar.

Persons
may be
summoned.

46 **40.** A committee may—

Conduct of
proceedings
and power as
to witnesses.

- (a) conduct its proceedings in public or private as it may think fit;
- 10 (b) adjourn the proceedings to any time or place;
- (c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as were
15 by section one hundred and seventy-four of the Parliamentary Electorates and Elections Act, 1912, conferred on a committee of elections and qualifications, and the provisions of the said section shall apply in respect of the proceedings of the committee: Provided that unless a
20 person raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed, no person shall be required without his consent to produce his books, or to give evidence with
25 regard to the trade secrets, profits, losses, receipts, and outgoings of his business.

Where a person raises such objection he shall produce the books used in connection with the carrying on of the industry in respect of which
30 the claim is made, and shall give evidence with regard to the profits, losses, receipts, and outgoings in connection with such industry, but he shall not be required to give evidence regarding
35 any trade secret. No such evidence shall be given without his consent except in the presence of the chairman and members of the committee alone, and no person shall inspect such books except the chairman, the members of the committee, and two accountants who may be
40 appointed by the committee, one nominated by the employers' representatives and the other by the employees' representatives on the committee. Such accountants shall, before acting

under

Industrial Conciliation and Arbitration.

under this paragraph, take the oath prescribed in respect of members of a committee by section seventeen of this Act;

- 5 (c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, conferred on a committee of elections and qualifications, and the provisions of the said section shall apply in respect of the proceedings of the committee: Provided that unless a person raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed, no person shall be required without his consent to produce his books, or to give evidence with regard to the trade secrets, profits, losses, receipts, and outgoings of his business, or his financial position.

10 Where a person raises such objection he may be required, on the order of the chairman, to produce the books used in connection with the carrying on of the industry in respect of which the claim is made, and to give evidence with regard to the profits, losses, receipts, and outgoings in connection with such industry, but he shall not be required to give evidence regarding any trade secret, or, saving as here-
15 inbefore provided, his financial position. No such evidence shall be given without his consent except in the presence of the members of the committee alone, and no person shall inspect such books except the chairman or an
20 accountant appointed by the board, who may report to the board whether or not his examination of such books supports the evidence so given, but shall not otherwise disclose the contents of such books. Such accountant shall, before acting under this paragraph, take the oath prescribed in respect of members of a committee by section fourteen of this Act;

(d)

Industrial Conciliation and Arbitration.

(d) admit or dispense with advocates and admit or call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not.

5 (d) **admit and call for such evidence as in good conscience it thinks to be the best available, whether strictly legal evidence or not.**

47**41.** (1) The chairman shall require any person, including a member of the committee, to give his evidence on oath, and may, on behalf of the committee, issue any summons requiring the attendance of witnesses; if any person so summoned does not attend, he shall be liable to a penalty not exceeding fifty pounds. Evidence to be on oath.

10 (2) Any question as to the admissibility of evidence shall be decided by the chairman alone, and his decision shall be final.

15 (3) Where during the hearing of any matter before a committee its jurisdiction is disputed, the chairman shall decide the question of jurisdiction subject to appeal to the commission, **or may submit it to the commission for decision.**

20 **42.** At any meeting of a committee—

Proceedings
at meetings.

(a) the chairman shall preside;

25 (b) each member except the chairman shall have one vote; and where the votes for and against any matter are equal, the chairman shall decide the question;

(b) **at meetings of a committee the opinion of the majority of the members, other than the chairman, shall prevail.**

30 Where such members are equally divided in opinion as to any question, they may agree to accept the decision of the chairman.

35 Save as aforesaid the chairman of the committee shall not take any part in the decisions of the committee and shall have no vote;

(c) any member of the committee may call, examine, or cross-examine witnesses.

Industrial Conciliation and Arbitration.

PART VI.

BREACHES OF AWARDS AND OTHER OFFENCES.

Payment of wages awarded.

4943. (1) Where an employer employs any person to ^{Recovery} do any work for which the price or rate has been fixed by ^{wages.} an award, or by an industrial agreement, whether made under this Act, or under any Act repealed by this Act, or by permit issued under section twenty-seven ~~five~~ of this Act, he shall be liable to pay in full in money to
 10 such person the price or rate so fixed without any deduction except such as may be authorised by any award or industrial agreement.

(2) Such person, ~~or an officer of any industrial union covering his trade or calling~~ may, within ~~six years~~
 15 ~~months~~ after such money has become due, apply in the manner prescribed to the registrar or to an industrial magistrate for an order directing the employer ~~or any successor, assignee, or transferee of the employer's business~~
 20 to pay the full amount of any balance due in respect of such price or rate. Such order may be so made notwithstanding any smaller payment or any express or implied agreement to the contrary, ~~or any written acknowledgment by such person that wages have been paid at the full price or rate, and notwithstanding the~~
 25 fact that a lesser amount is claimed by the complainant. The registrar or magistrate may make such order as to amount as he thinks just, and may award costs to either party, and assess the amount of such costs.

(3) Such person ~~or officer~~ may, within the said
 30 period of ~~six years~~, **months**, in lieu of applying for an order under the last preceding subsection, sue for any balance due as aforesaid in any district court or court of petty sessions: Provided that any person feeling himself aggrieved by a judgment or order of such court
 35 given or made under this subsection may appeal therefrom to the commission as prescribed.

Upon such appeal the commission may affirm, vary, or rescind the judgment or order appealed from and may
 make

Industrial Conciliation and Arbitration.

make such order as the court appealed from should have made, including an order as to costs of the judgment or order appealed from or of the appeal.

(4) Such person ~~ex-officer~~ may take any such proceedings, and may recover any such balance due, and costs, notwithstanding that the person may not be of full age either at the time of doing such work or at the time of taking such proceedings.

(5) Any person who enters into a contract with a contractor for the carrying out by the contractor of any work involving the payment of wages shall be liable for the payment of such wages.

(5) Any person who enters into a contract with a contractor for the carrying out by the contractor of any work involving the payment of wages shall be liable for the payment of such wages unless upon final payment made by him to the contractor in relation to the contract he receives a statement in writing signed by the contractor that no wages are due and owing by the contractor in respect of the work at the time of such payment. Any person who knowingly makes or signs a false statement that no wages are due or owing by him in respect of any work shall be liable to a penalty of one hundred pounds or to imprisonment for not more than six months.

Breach of award or industrial agreement.

50. (1) If any person commits a breach of an award or a breach of an industrial agreement, whether by contravening or failing to observe the same, or otherwise, he shall be liable upon conviction by the registrar or an industrial magistrate to pay a penalty not exceeding one hundred pounds. Penalty for breach of award.

Where such breach is a failure to pay the rate of wage fixed by award or industrial agreement, the penalty shall not be less than ten pounds for a first offence and not less than twenty-five pounds for a second or any subsequent offence; in the case of any breach of an award or industrial agreement other than with respect to wages the penalty shall not be less than two pounds for a first offence and not less than ten pounds for a second or any subsequent offence.

(2)

Industrial Conciliation and Arbitration.

(2) Where on making such order it appears that the breach complained of relates to the failure of the defendant to pay in full any wages (including wages for overtime) due to an employee at the price or rate fixed by the award or agreement, the registrar or magistrate shall, if the complainant so desires, also make such an order with respect to such wages as might have been made in proceedings taken under section forty-nine. Such order may be made without motion, and shall be a bar to proceedings under the said section in respect of such wages.

(3) Where an order is made under subsection one of this section against any person, and the registrar or magistrate is of opinion that the breach was committed by the wilful act or default of such person, he may on motion or without motion, and in addition to any order made, grant a writ of injunction to restrain such person from committing further or other breaches of the award or industrial agreement.

If any person disobeys such writ of injunction he shall be guilty of misdemeanour and shall be liable to imprisonment for any period not exceeding six months.

Such person may be committed for trial for such offence by any justice or justices acting under and in pursuance of the Justices Act, 1902, and any Acts amending the same.

44. (1) If any person commits a breach of an award or a breach of an industrial agreement, whether by contravening or failing to observe the same, or otherwise, the registrar or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds.

(2) Where on making such order it appears that the breach complained of relates to the failure of the defendant to pay in full any wages (including wages for overtime) due to an employee at the price or rate fixed by the award or agreement, the registrar or magistrate may also make such an order with respect to such wages as might have been made in proceedings taken under section forty-three. Such order may be made without motion, and shall be a bar to proceedings under the said section in respect of such wages.

(3)

Industrial Conciliation and Arbitration.

(3) Where an order is made under subsection one of this section against any person, and the registrar or magistrate is of opinion that the breach was committed by the wilful act or default of such person, he may
5 on motion or without motion, and in addition to any order made, grant a writ of injunction to restrain such person from committing further or other breaches of the award or industrial agreement.

If any person disobeys such writ of injunction he
10 shall be guilty of a misdemeanour and shall be liable to imprisonment for any period not exceeding six months.

Such person may be committed for trial for such offence by any justice or justices acting under and in pursuance of the Justices Act, 1902, and any Acts
15 amending the same, or by the court. For the purposes of such committal the court shall have the powers of a justice or justices under the said Acts.

(4) Proceedings for a breach of an award or an industrial agreement may be taken and prosecuted within
20 a period of six years months by the Minister, or an employer, or an officer of an industrial union concerned in the industry covered by such award or industrial agreement.

The costs of any such proceedings shall be paid by the
25 complainant if the order is not made, and by the defendant if the order is made. Such costs shall be according to a scale to be prescribed.

5145. If the secretary of an industrial union of employees or any person acting or purporting to act
30 on behalf of any such industrial union receives any money paid in respect of any act constituting a breach of an award or industrial agreement otherwise than in pursuance of the order or with the knowledge of the registrar or an industrial magistrate, he shall be
35 liable to a penalty not exceeding twenty pounds. Provided that no offence against the section shall be deemed to have been committed if the secretary or any such person within seven days of the receipt of such money reports the fact of such receipt to the registrar.

Secretary of
union receiv-
ing money for
breach of
award.

Unlawful

*Industrial Conciliation and Arbitration.**Unlawful dismissal.*

- 52.** If an employer dismisses an employee or injures him in his employment or alters his position to his prejudice by reason of the fact that the employee—
- (a) is an officer, delegate, shop steward, member of a shop committee, or representative of an industrial union or is a member of a conciliation committee; or
- (b) claims some benefit of an industrial agreement or an award to which he is entitled; or
- (c) has appeared as a witness, or has given evidence in a proceeding in relation to an industrial matter; or
- (d) after applying to his employer for leave without pay for the purpose, and after the employer has unreasonably refused leave, has absented himself from work through being engaged in other duties as a member of an industrial union in respect of any matter affecting the industry in which he is working or as a member of such a conciliation committee; or
- (e) has reported a breach or a suspected breach of an award made under this Act,
- the commission or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds.
- The commission or magistrate may further order that the employee be reimbursed the wages lost by him and the commission may also direct his reinstatement in his old position or in another position acceptable to the employee.
- In any proceeding for an offence against this section, if all the facts and circumstances constituting the offence, other than the reason for the defendant's action, are proved, it shall lie upon the defendant to prove that he was not actuated by the reason alleged in the charge.
- In a proceeding for an offence in respect of paragraph (d) of this section it shall not be necessary for the prosecution to prove among the facts and circumstances constituting the offence that the employer unreasonably refused leave.

Penalty for
unlawful
dismissal.

Industrial Conciliation and Arbitration.

A prosecution under this section may be taken before the commission or an industrial magistrate by the secretary of the industrial union concerned in the industry in which the employee alleged to have been so dismissed, injured, or prejudiced was employed: Provided always that if any party feels aggrieved by any decision of a magistrate, he may appeal in the prescribed manner to the commission.

In lieu of proceedings for a penalty for an offence under this section, such a secretary may apply to the committee established for the industry concerned for an award that the employee be reimbursed the wages lost by him and that he be reinstated in his old position.

46. If an employer dismisses an employee or injures him in his employment or alters his position to his prejudice by reason of the fact that the employee—

Penalty for
unlawful
dismissal.

- (a) is an officer, delegate, or member of a trade or industrial union or of a conciliation committee established under the Industrial Arbitration (Amendment) Act, 1926; or
- (b) claims some benefit of an industrial agreement or an award to which he is entitled; or
- (c) has appeared as a witness, or has given evidence in a proceeding in relation to an industrial matter; or
- (d) after applying to his employer for leave without pay for the purpose, and after the employer has unreasonably refused leave has absented himself from work through being engaged in other duties as a member of an industrial union in respect of any matter affecting the industry in which he is working or as a member of such a conciliation committee,

the court or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds.

The court or magistrate may further order that the employee be reimbursed the wages lost by him and the court may also direct his reinstatement in his old or a similar position.

In any proceeding for an offence against this section, if all the facts and circumstances constituting the offence, other

Industrial Conciliation and Arbitration.

other than the reason for the defendant's action, are proved, it shall lie upon the defendant to prove that he was not actuated by the reason alleged in the charge.

In a proceeding for an offence in respect of paragraph 5 (d) of this section it shall not be necessary for the prosecution to prove among the facts and circumstances constituting the offence that the employer unreasonably refused leave.

A prosecution under this section may be taken before 10 the court or an industrial magistrate by the secretary of the industrial union concerned in the industry in which the employee alleged to have been so dismissed, injured, or prejudiced was employed: Provided always that if any party feels aggrieved by any decision of a magistrate, 15 he may appeal in the prescribed manner to the court.

No prosecution for an offence under this section shall be commenced except by leave of the court.

53. An employer shall not terminate the employment of an employee who is also a delegate, shop steward, 20 member of a shop committee, or representative of an industrial union unless he shall have given seven days' notice thereof to the industrial union of which such employee is a member. The industrial union may within the time prescribed if it so desires refer the matter of 25 such termination of employment to the committee established for the industry in which the employee is working and the committee may make any award as to it seems just including an award that the employment of the employee shall not be terminated, or if terminated 30 that he be reinstated in his old position and reimbursed any wages lost by him.

Notice of
termination
of employ-
ment of shop
steward, &c.

If any employer contravenes the provisions of this section he shall be liable to a penalty of ten pounds.

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PART VII.

TRADE UNIONS.

54. (1) A trade union shall have power to apply and use the moneys and other property of the union for or in connection with any lawful object or purpose for the time being authorised by its rules, and without limiting the generality of this provision may—

Powers of
trade union
with regard
to its funds.

- 10 (a) acquire, purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with in the names of the trustees for the time being of such union any real or personal property (including shares in any registered company, whether registered in New South Wales or not), and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom;
- 15
- 20 (b) apply to the commission or to any district court or court of petty sessions having jurisdiction in the locality for and obtain an order directing the payment by any of its members of any fine, levy, penalty, call, or subscription in pursuance of the rules of the union;
- 25 (c) provide for the application of its money and property to the furtherance of political objects.

(2) The expression "political objects" in the last preceding subsection means the payments of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to Parliament or to any public office, before, during, or after the election in connection with his candidature or election; or the holding of any meeting or the distribution of any literature or document in support of any such candidate or prospective candidate; or the maintenance of any person who is a member of Parliament or who holds a public office; or the registration of electors, or the selection of a candidate for Parliament or any public office; or the holding

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holding of political meetings of any kind, or the distribution of political literature or political documents of any kind, or the maintenance and publication of a newspaper or the establishment, maintenance and use of
5 radio transmitting and/or receiving apparatus.

(3) The expression "public office" in the last preceding subsection means the office of member of any shire or municipal council, or The Municipal Council of Sydney, or of any public body which has power to raise
10 money, either directly or indirectly, by means of a rate.

5447. (1) Section seven of the Trade Union Act of 1881 is repealed.

(2) A trade union shall have power to apply and use the moneys and other property of the union for or
15 in connection with any lawful object or purpose for the time being authorised by its rules, and without limiting the generality of this provision may—

(a) acquire, purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with in the names of the
20 trustees for the time being of such union any real or personal property (including shares in any registered company, whether registered in New South Wales or not), and no purchaser, assignee, mortgagee, or tenant shall be bound
25 to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom ;

(b) subject to the provisions of the next succeeding subsection hereof apply to the court or to any
30 district court or court of petty sessions having jurisdiction in the locality for and obtain an order directing the payment by any of its members of any fine, levy, penalty, call, or subscription in pursuance of the rules of the union ;

(c) provide for the application of its money and property to the furtherance of political objects

so

Industrial Conciliation and Arbitration.

so long as rules of the union are in force providing—

- 5 (i) that any payments in the furtherance of such objects are to be made out of a separate fund ;
- (ii) that contribution to such separate fund shall not be a condition of admission to or membership of the said union ;
- 10 (iii) that a member who does not contribute to such separate fund shall not be excluded from any benefits of the union or placed under any disability or at any disadvantage as compared with other members of the union by reason of his failure to so contribute.
- 15

(3) The expression “ political objects ” in the last preceding subsection means the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to Par-

20 liament or to any public office, before, during, or after the election in connection with his candidature or election ; or the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate ; or the main-

25 tenance of any person who is a member of Parliament or who holds a public office ; or the registration of electors, or the selection of a candidate for Parliament or any public office ; or the holding of political meetings of any kind, or the distribution of political literature

30 or political documents of any kind, unless the main purpose of the meeting or of the distribution of the literature or documents is the furtherance of the objects set out in the definition of “ trade union ” in section thirty-one of the Trade Union Act of 1881, or the

35 maintenance and publication of a newspaper other than a non-political trade journal.

(4) The expression “ public office ” in the last preceding subsection means the office of member of any shire or municipal council, or the Municipal Council of

40 Sydney, or of any public body which has power to raise money, either directly or indirectly, by means of a rate.

The

Industrial Conciliation and Arbitration.

The provisions of the last preceding section shall apply to a union which is in whole or in part an association or combination of other unions, as if the individual members of the component unions were the members
5 of that union and not the unions.

If any member of a trade union alleges that he is aggrieved by a breach of any rule relating to any of the matters mentioned in subsection (2) (b) of this section, he may complain to the court, which court, after
10 giving the complainant and any representative of the union the opportunity of being heard, may, if it considers that such a breach has been committed, make such an order for remedying the breach as it thinks just under the circumstances, and any such order shall
15 be binding and conclusive on all parties without appeal.

PART VIII.

GENERAL AND SUPPLEMENTAL.

Fines and subscriptions payable to unions.

55. The registrar or an industrial magistrate may order the payment by any member of an industrial union
20 of any fine, levy, penalty, contribution, or subscription which has become payable in pursuance of the rules of the union during a period not exceeding six years prior to the commencement of the proceedings to obtain such order.

55 48. The registrar or an industrial magistrate may order the payment by any member of an industrial
union of any fine, levy, penalty, or subscription payable
in pursuance of the rules of the union. Fines and subscriptions payable to union.

30 *Enforcement of orders.*

56 49. (1) Where an order is made under sections ~~forty-nine, fifty, fifty-two, fifty-three, or fifty-five~~ **forty-three, forty-four, forty-six, forty-eight, or fifty** that any person shall pay the amount of any money due or any
35 penalty, such order shall have the effect of a judgment for the Enforcement of certain orders.

Industrial Conciliation and Arbitration.

the amount of such money or of such penalty in the district court or court of petty sessions named in such order or if no such court is so named in the metropolitan district court at the suit of the person or union
5 respectively against the person against whom such order has been made; and such amount may be recovered and such recovery may be enforced by process of such court as in pursuance of such judgment.

(2) Any property of a union, whether in the
10 hands of trustees or not, shall be available to answer any order made as aforesaid.

Appeal to commission.

5750. (1) From any order of the registrar, or any industrial or other magistrate or justices under this Act,
15 imposing a penalty or ordering the payment of any sum of money or any penalty, an appeal shall lie to the commission.

Appeal from
registrar or
magistrate.

On any such appeal the commission may either affirm the order appealed from or reverse the said order or
20 reduce the amount so ordered to be paid or the amount of the penalty; and, in any case, the commission may make such order as to the costs of the appeal, and of the proceedings before the registrar, magistrate, or justices, as it thinks just.

(2) The registrar or any industrial or other
25 magistrate, or justices, may on the application made by any party to any proceedings for the payment of money or a penalty under this Act state a case for the opinion of the commission, setting forth the facts and the
30 grounds for any order or conviction made by him or them.

(3) The provisions of the Justices Act, 1902, and any Act amending the same, which relate to appeals to a court of quarter sessions and to the stating of cases by
35 justices for the opinion of the Supreme Court, and the decision of any such court thereon, and the carrying out of such decision shall, mutatis mutandis, and subject to any regulations made under this Act, apply to and in relation to appeals to and cases stated for the opinion of the
the

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the commission under this section. The recognizance referred to in subsection one of section one hundred and two of the Justices Act, 1902, shall be entered into within eight days after the determination under 5 that subsection of the sum referred to therein.

(4) No other proceedings in the nature of an appeal from any such order or by prohibition shall be allowed.

Procedure and decisions of commission and committees.

10 58 **51.** The commission or a committee exercising the jurisdiction conferred by this Act shall be governed in its procedure and in its decisions by equity and good conscience, and shall not be bound to observe the rules of law governing the admissibility of evidence. Rules to govern commission and committees.

15 59 **52.** Where the commissioner is unable to attend at the time and on the day appointed for the hearing of any matter by the commission, the registrar, or, in his absence from the commission, the chief clerk shall adjourn the commission, and also adjourn the hearing of 20 any cases set down for that day to such day as he may deem convenient. Adjournment of commission

60 **53.** (1) Any decision of the commission shall be final, except on points of law and jurisdiction; no award, and no order or proceeding of the commission shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever. Decision of commission to be final.

30 (2) No writ of prohibition or certiorari shall lie in respect of any award, order, proceeding, or direction of the commission relating to any industrial matter or any other matter which on the face of the proceedings appears to be or to relate to an industrial matter.

35 (3) The validity of any proceeding or decision of the committee or of a chairman of a committee shall not be challenged except as provided by this Act.

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54. In any proceeding before the commission it may reserve its decision. Court reserving its decision.

Where a decision has been so reserved it may be given at any continuation or adjournment of the commission, or at any subsequent holding thereof, or the commissioner may draw up such decision in writing, and, having duly signed the same, forward it to the registrar. Whereupon the registrar shall notify the parties of his intention to proceed at some convenient time and place by him specified to read the same, and he shall read the same accordingly, and thereupon such decision shall be of the same force and effect as if given by the commission.

Evidence of award and its validity.

55. (1) Evidence of any award, industrial agreement, order, proclamation, notification, rule, or regulation made under the authority of this Act or any of the repealed Acts, may be given by the production of any document purporting to be a copy thereof and purporting to be printed by the Government Printer or by the authority of the Minister. Evidence and publication.

(2) All awards, industrial agreements, orders, proclamations or other notifications excepting rules or regulations required or directed by this Act to be published in the Gazette, may be published either in the Gazette or in the New South Wales Industrial Gazette.

Penalties and costs.

63. Any penalty imposed by or under this Act or the regulations may, except where otherwise provided, be recovered upon summary conviction before a stipendiary, police, or industrial magistrate, or any two justices in petty sessions. Recovery of penalties.

64. The amount of any penalty recovered under this Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund except when such penalty has been recovered upon the complaint or information of an officer of an industrial union when the amount of such penalty shall be paid to the union. Application of penalties.

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65. Except where otherwise in this Act provided the commissioner or the registrar, or any industrial or other magistrate or justices, may in any proceedings for a penalty or prosecution under this Act, and in any proceedings under section fifty-five or for a writ of injunction, make such order as to the payment of costs as may be thought just, and may assess the amount of such costs. Order for costs.

66. Where by any conviction or order made under this Act, it is adjudged that any fine or penalty, or any sum of money or costs shall be paid, the commissioner or the registrar or an industrial magistrate may, if the person or persons against whom such conviction or order is made does or do not pay in accordance with the terms of the conviction or order the amount thereby adjudged to be paid as ascertained thereby, by warrant in the manner prescribed commit such person or persons to prison there to be kept according to the terms of the conviction or order unless he or they sooner pays or pay such amount together with such further sum for the costs of enforcing such conviction or order including the costs and charges of conveying such person or persons to prison as to the commissioner or the registrar or the industrial magistrate may seem just and reasonable: Imprisonment for non-payment of fine, penalty, money, or costs.

67. Provided always that this section in the event of non-payment of the amount of such fine, penalty, sum of money or costs shall not in any way affect the provisions of section fifty-six of this Act, even though such person or persons shall have been committed to prison by warrant as aforesaid.

Penalties and costs.

56. (1) Any penalty imposed by or under this Act or the regulations may, except where otherwise provided, be recovered upon summary conviction before a stipendiary, police, or industrial magistrate, or any two justices in petty sessions. Recovery of penalty.

The amount of any penalty recovered under this Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund. Application of penalties.

(2) Except where otherwise in this Act provided, the court or the registrar, or any industrial or other magistrate or justices, may in any proceedings for a penalty Orders for costs.

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penalty or prosecution under this Act, and in any proceedings under section forty-eight or for a writ of injunction, make such order as to the payment of costs as may be thought just, and may assess the
5 amount of such costs.

(3) Every order for the payment of costs made by the court or the registrar or the industrial magistrate shall have the effect of and be deemed to be a judgment for such amount in the district court or court of petty
10 sessions named in the order, or if no such court is so named, then in the metropolitan district court, at the suit of the person in whose favour such order is made, against the person so ordered to pay costs.

Such amount may be recovered, and such recovery
15 may be enforced by process of such court as in pursuance of such judgment.

6757. Whosoever, before a committee or the commis- False state-
sion, wilfully makes on oath any false statement knowing ment.
ing the same to be false shall be guilty of perjury.

20 6858. Where any statement on oath has been made by Directing
a person in any proceeding before the commission com- prosecution
mittee or an industrial magistrate the commissioner or for perjury.
magistrate before whom the same was so made,
may, if reasonable cause appears for so doing, direct such
25 person to be prosecuted for perjury in respect thereof,

and may thereupon require him forthwith to enter into a recognizance, with one or more surety or sureties, to take his trial for that offence at the next, or nearest practicable, sitting of the
30 Supreme Court, or court of quarter sessions,

and may also require any persons then present to enter into recognizances to prosecute, and give evidence, respectively, against the accused, and may commit any person in default of his
35 entering into such recognizance.

The registrar, industrial magistrate, and inspectors.

6959. (1) The Governor may, subject to the Public Registrar.
Service Act, 1902, appoint an industrial registrar, who shall have the prescribed powers and duties.

(2)

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(2) The Governor may appoint any person to act as a deputy for the registrar appointed under this Act for a time not exceeding in any case thirty days while such registrar is absent from his duties for any cause, and every such deputy shall, while acting as such, have the same jurisdiction and powers, and perform the same duties as if he were the registrar.

(3) The commissioner may direct the registrar to inquire into any matter as to which he requires information for the purpose of the exercise of the jurisdiction of the commission in any matter not being proceedings for a penalty under this Act, and the registrar shall inquire accordingly, and report to the commission.

For the purpose of such inquiry and for the purpose of any matter which by this Act or the regulations is referred to him, the registrar may summon any person, administer oaths and take affidavits, and examine parties and witnesses.

Every person summoned by the registrar shall be bound to attend upon such summons, and shall, for disobedience thereto, be liable to a penalty not exceeding fifty pounds.

(4) For the purpose of hearing and determining any proceedings for a penalty or for the recovery of money under this Act, the registrar shall have the powers of two justices of the peace within any police district.

60. (1) The Governor may appoint as Chief Industrial Magistrate a person who shall have the qualifications of a police magistrate and who shall, throughout the State, have the jurisdiction and powers conferred by this Act on an industrial magistrate and in the exercise of such jurisdiction may do alone whatever might be done by two or more justices sitting in petty sessions.

Appointment
and powers
of industrial
magistrates.

The Chief Industrial Magistrate shall hold office during ability and good behaviour and shall be paid such salary and allowances as the Governor may determine. The Governor may remove such Chief Industrial Magistrate for inability or misbehaviour. Twenty-one days

Industrial Conciliation and Arbitration.

days at least before such removal the Chief Industrial Magistrate shall have notice of the intention to remove him and shall thereafter and before removal have the opportunity of being heard before the Governor-in-Council in his defence.

The Chief Industrial Magistrate shall have superannuation benefits and all other rights and privileges enjoyed by the Stipendiary Magistrates in the Metropolitan Police District.

- 10 (2) The Governor may also appoint industrial magistrates, who shall have the qualifications of a police magistrate, and who shall throughout the State have the jurisdiction and powers conferred by this Act on an industrial magistrate, and in the exercise of such jurisdiction may do alone whatever might be done by two or more justices sitting in petty sessions.

- (3) The Governor may appoint any person duly qualified as aforesaid to act as a deputy for any industrial magistrate appointed under this Act for a time not exceeding in any case thirty days while such magistrate is absent from his duties for any cause, and every such deputy shall, while acting as such, have the same jurisdiction and powers and perform the same duties as if he were an industrial magistrate.

- 25 ~~71~~**61.** If any person shall, during any proceeding before an industrial magistrate, be guilty of contempt, such person may be punished in a summary way by such industrial magistrate by fine not exceeding forty shillings, or by imprisonment for a period not exceeding fourteen days.

Contempt.
cf. Justices
Act, 1902,
s. 152.

- ~~72~~**62.** In proceedings before an industrial magistrate the applicant and defendant may appear, and each conduct his case by himself, or by his counsel or attorney, or by an industrial officer of any industrial union.

Appearance.

- 35 **73.** (1) The Minister may appoint inspectors who shall have the powers and duties prescribed.

Appointment
and powers
of inspectors.

Any

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Any such inspector may exercise the following powers and perform the following duties in respect of an industry as to which an award or an industrial agreement is in force :—

- 5 (a) he may at any time inspect any premises of any employer upon which any such industry as aforesaid is carried on, and any work being done therein ;
- 10 (b) he may at any time require the employer in such industry to produce for his examination, and may examine and take copies of any time-sheets and pay-sheets of the employees in such industry ;
- 15 (c) he may at any time examine any employee in such industry either alone or in the presence of his employer on any matter relating to his employment or work ;
- 20 (d) he may, on obtaining the authority of the Minister, institute proceedings for a penalty under section fifty.

An inspector shall report to the Minister all breaches of this Act, or of an award or industrial agreement which have come to his knowledge.

- 25 (2) No inspector shall have any authority under this Act to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein, or unless he has reasonable ground for believing that such work is being carried on therein.

- 30 (3) If any person obstructs any inspector in the exercise of his powers under this Act, or fails when duly required as aforesaid to produce any time-sheets or pay-sheets, he shall be liable to a penalty of ten pounds for the first offence and twenty-five pounds for any subsequent offence.

73 **63.** (1) The Governor may, subject to the Public Appointment and powers of inspectors. Service Act, 1902, appoint inspectors who shall have the powers and duties prescribed.

Any

Industrial Conciliation and Arbitration.

Any such inspector may exercise the following powers and perform the following duties in respect of an industry as to which an award or an industrial agreement is in force :—

- 5 (a) he may at any reasonable times inspect any premises of any employer upon which any such industry as aforesaid is carried on, and any work being done therein ;
- 10 (b) he may at any reasonable times require the employer in such industry to produce for his examination, and may examine, any time-sheets and pay-sheets of the employees in such industry ;
- 15 (c) he may at any reasonable times examine any employee in such industry as to the prices for piece-work and the rate of wages paid to him, and as to his hours of work as such employee ;
- 20 (d) he may, on obtaining the authority of the Minister, institute proceedings for a penalty under section fifty.

An inspector shall report to the Minister all breaches of this Act, or of an award or industrial agreement, which have come to his knowledge.

- (2) No inspector shall have any authority under this Act to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

Miscellaneous.

- 30 7464. (1) Every employer in an industry in respect of which an award or an industrial agreement is in force shall keep, or cause to be kept, from day to day at the place where his employees in such industry are working in the manner and to the effect prescribed, time-sheets and pay-sheets of such employees, correctly written up in ink in English. Such time and pay sheets shall be kept by the employer at such place for a period covering at least the preceding ~~twelve~~ six months.

Time-sheet
and pay-
sheets to be
kept.

If

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If he fails to carry out any of the requirements of this subsection he shall be liable to a penalty not exceeding ten pounds.

(2) A copy of any award or industrial agreement whether made under the repealed Acts or this Act shall be exhibited and kept exhibited by every employer carrying on an industry to which it relates, at the place where his employees in such industry are working so as to be legible by his employees. If such employer fails to carry out the provisions of this subsection he shall be liable to a penalty not exceeding ten pounds.

75. No person shall accept a premium from any person in respect of employment which is subject to an award made under this Act, and any person who accepts such a premium shall be liable to a penalty not exceeding ten pounds.

76. Whosoever publishes a newspaper which contains any advertisement in which a person offers or seeks employment at a wage lower than the wage fixed by any award or industrial agreement applicable to such employment, shall be liable to a penalty not exceeding ten pounds.

77. Every employer whose business or undertaking is subject to an award made under this Act shall in the manner prescribed register his name and trade name and address or any change in name, trade name or address with the registrar, and such register shall be open for inspection by any officer of an industrial union. For any contravention of this section an employer shall be liable to a penalty not exceeding five pounds.

78. (1) In any contract for the supply of musical entertainment the consideration for the contract shall not be less than a sum sufficient to pay to each person engaged in the supply of the musical performance the amount required by the provisions of any award for the time being in force to be paid to a person so engaged.

(2) Any person who offers, enters into, or is in any way concerned with a contract which does not comply with subsection one of this section or who knowingly

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knowingly engages or takes part in a musical performance in pursuance of a contract which does not comply with that subsection shall be guilty of an offence against this Act, and shall be liable to a penalty of 5 ten pounds.

79. In any proceeding for a penalty for an offence under any of the provisions of this Act, or for an order directing an employer to pay any balance due in respect of work for which the price or rate has been fixed by an award, or for the recovery of any moneys payable in pursuance of the rules of an industrial union, the averments contained in the information or complaint, excepting the averment as to the commission of the offence, or that such balance of moneys are due and payable, shall be deemed to be proved in the absence of proof to the contrary. Onus of proof.

65. Notwithstanding anything contained in this Act it shall not apply to domestic workers employed otherwise than for the purposes of the employer's trade or business or to workers employed in rural industries.

Industrial Conciliation and Arbitration.

PART IX.

THE ORGANIZATION OF THE LABOUR MARKET.

State labour exchanges.

8066. The Minister shall establish, maintain, and con- Establish-
 5 duct in the manner prescribed, in Sydney, and in such ment of
 other places as he thinks fit, free employment agencies, State labour
 which agencies shall be known as State labour ex- exchanges.
 changes.

All State labour exchanges established under any of
 10 the Acts repealed by this Act, and existing at the
 commencement of this Act shall be deemed to have
 been established under this Act.

8167. The functions of the State labour exchanges Functions.
 shall be to bring together intending employers and
 15 persons seeking employment; to make known the
 opportunities for employment and self-employment in
 the State; to encourage minors and others to undertake
 training in skilled employments; to provide industrial
 or agricultural training for vagrants and other persons
 20 unsuited for ordinary employments; and to carry out
 any other duties prescribed. For any of the above
 purposes a State labour exchange may co-operate with
 and assist any other labour exchange.

8268. (1) The Minister may authorise a State labour Advances
 25 exchange to make advances by way of loan towards to meet
 meeting the expenses of persons seeking to avail them- expenses of
 selves of opportunities of employment in localities travelling
 distant from those in which they find themselves. to work.

(2) When any such advance has been made, the
 30 Minister may order that the amount of such advance
 shall be a charge on any moneys which are then, or
 which may thereafter be due to the person to whom such
 advance is made from his then or future employer, for
 wages or in respect of work done. On the making of
 35 any such order, the employer for the time being of such
 person, or any employer who shall not have discharged
 his indebtedness to such person, shall on being notified
 of such order pay such moneys to the Minister, when
 and as they become due and payable, in satisfaction of
 40 the charge imposed by the order. (3)

Industrial Conciliation and Arbitration.

(3) Such order may be for the repayment of the amount of such advance, in one sum or by such instalments as the Minister may direct.

(4) No charge upon, or assignment of his wages, or moneys in respect of work done, or to be done, whenever or however made by any such person shall have any force whatever to defeat or affect any such order, and such order shall have effect as if no such charge or assignment existed.

10 **83** **69.** (1) Any person obtaining or attempting to obtain under false pretences, or by means of any other fraud or deceit, an advance by way of loan, under the last preceding section, shall be guilty of a misdemeanour. Penalty for obtaining loan by fraud. Penalty, ten pounds, or imprisonment not exceeding six

15 months. (2) If any person makes any wilfully false statement or false representation to any officer in superintendence of a State labour exchange, or to any person acting for or for the purposes of any such labour exchange, with intent to obtain employment or to procure labour in preference to others, he shall be guilty of a misdemeanour. Penalty ten pounds, or imprisonment not exceeding six months.

(3) If any person knowingly—
25 (a) sends, delivers, or causes to be sent or delivered to any officer any writing which purports to be signed or sent by any other person without such person's authority or in the name of any fictitious person; or
30 (b) makes, sends, or delivers any written communication which purports to be a communication from any Government department or any officer thereof, and which is not so in fact,

he shall be guilty of a misdemeanour. Penalty, ten
35 pounds, or imprisonment not exceeding six months.

84. A person shall not, after the passing of this Act, open, or carry on for profit any agency for procuring or assisting to procure employment or labour or any business having as one of its purposes the bringing together
40 of intending employers and persons seeking employment. Private employment agencies prohibited.

This

Industrial Conciliation and Arbitration.

This section shall not extend to any agency conducted by the Returned Sailors' and Soldiers' Imperial League of Australia, New South Wales branch, or by the Limbless Soldiers' Association of New South Wales.

5 **85.** Any person who contravenes or fails to carry out any provision of this Part of this Act shall, where no other penalty or punishment is provided, be liable on conviction to a penalty not exceeding fifty pounds, or imprisonment not exceeding three months.

10 **8570.** Any person who contravenes or fails to carry out any provision of this Part of this Act shall, where no other penalty or punishment is provided, be liable on conviction to a penalty not exceeding five pounds, or imprisonment not exceeding three months. Penalty for contravention of this Part.

15

PART X.

REGULATIONS.

8671. The Governor may amend or repeal any regulations made under any Act repealed by this Act and may make regulations for carrying out the provisions of this Act, and in particular, but without derogating from the generality of such powers—

- (a) prescribing the forms of references and applications to a committee and generally the forms to be used in carrying out this Act;
- 25 (b) prescribing the form of oath to be taken by members of committees;
- (c) regulating the exhibition by an employer of an award;
- 30 (d) prescribing the form and mode of service of notices of meetings of a committee, and regulating the convening of such meetings;
- (e) prescribing the giving of notice of inspection by a committee or its members of premises used in any industry, and prescribing the form and regulating the service of such notice;
- 35

(f)

Industrial Conciliation and Arbitration.

- (f) providing for the payment of expenses of witnesses and persons summoned by the registrar;
- 5 (g) regulating the procedure to be followed in proceedings before the commission and before the registrar and an industrial magistrate, and in enforcing judgments, convictions, and orders given and made under this Act;
- 10 (h) for the enforcement of orders for penalties and orders for attachments made under this Act;
- (i) prescribing the powers and duties of the registrar, and regulating the registration under this Act of industrial unions;
- 15 (j) imposing any penalty not exceeding twenty pounds for any breach of such regulations;
- (k) as to matters which by this Act may be prescribed.

8772. (1) The regulations shall—

- (a) be published in the Gazette;
- 20 (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is then sitting, and if not then within fourteen sitting days after the commencement of the next session.
- 25

Publication
of regula-
tions.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

SCHEDULES.

Industrial Conciliation and Arbitration.

SCHEDULES.

SCHEDULE ONE.

Reference to Act.	Short Title.	Extent of repeal
5 1912, No. 17	Industrial Arbitration Act, 1912...	The whole.
1916, No. 81	Industrial Arbitration (Amendment) Act, 1916.	The whole.
1918, No. 16	Industrial Arbitration (Amendment) Act, 1918.	The whole.
10 1918, No. 39	Industrial Arbitration (Further Amendment) Act, 1918.	The whole.
1919, No. 50	Industrial Arbitration (Amendment) Act, 1919.	The whole.
1920, No. 19	Industrial Arbitration (Amendment) Act, 1920.	The whole.
15 1922, No. 30	Industrial Arbitration (Amendment) Act, 1922.	The whole.
1923, No. 54	Monopolies Act, 1923	Section 3.
1926, No. 14	Industrial Arbitration (Amendment) Act, 1926.	The whole.
20 1927, No. 45	Industrial Arbitration (Amendment) Act, 1927.	The whole.
1929, No. 41	Industrial Arbitration (Amendment) Act, 1929.	The whole.
25 1929, No. 40	Industrial Arbitration (Living Wage) Amendment Act, 1929.	The whole.

SCHEDULE TWO.

	Government Railways Transport Staff Association.
	Government Tramways Electrical Branch Workers' Association.
30	Permanent and Casual Wharf Labourers' Union of Australia, New South Wales Branch.
	Railway Service Association.
	Schweppes Mineral Water Employees' Union.
	Elliott Brothers Ltd. Chemical Works Employees' Union.

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 12 March, 1931.

New South Wales.



ANNO VICESIMO PRIMO

GEORGII V REGIS.

Act No. , 1931.

An Act to provide for the regulation of the conditions of industries in certain particulars by means of industrial conciliation and arbitration; to establish and define the powers, jurisdiction, and procedure of an industrial commission, conciliation committees, and certain other tribunals; to amend the Supreme Court and Circuit Courts Act, 1900, and certain other Acts; to repeal the Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1926, and certain other Acts; and for purposes connected therewith.

Industrial Conciliation and Arbitration.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Industrial Conciliation and Arbitration Act, 1931." Short title.

2. This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement.

3. This Act is divided into Parts as follows :— Division into Parts.

PART I.—PRELIMINARY—ss. 1-6.

15 PART II.—INDUSTRIAL UNIONS—ss. 7-12.

PART III.—THE INDUSTRIAL COMMISSION AND THE COMMITTEES—ss. 13-18.

PART IV.—JURISDICTION OF COMMITTEES AND OF THE COMMISSION—ss. 19-39.

20 PART V.—PROCEDURE OF COMMITTEES—ss. 40-48.

PART VI.—BREACHES OF AWARDS AND OTHER OFFENCES—ss. 49-53.

PART VII.—TRADE UNIONS—s. 54.

25 PART VIII.—GENERAL AND SUPPLEMENTAL—ss. 55-79.

PART IX.—THE ORGANIZATION OF THE LABOUR MARKET—ss. 80-85.

PART X.—REGULATIONS—ss. 86-87.

30 **4.** (1) The Acts mentioned in Schedule One to this Act are, to the extent therein expressed, hereby repealed. Repeals and savings.

(2) All awards, orders, determinations, industrial agreements, living wage declarations, and permits made, filed,

Industrial Conciliation and Arbitration.

filed, or issued under the authority of any Act hereby repealed and in force at the commencement of this Act shall, until rescinded, revoked, or cancelled under this Act, continue in force for the respective periods fixed by 5 such awards, orders, determinations, industrial agreements, declarations, or permits, and shall be deemed to have been made, filed, and issued under this Act.

(3) All summonses issued at such commencement under the Acts repealed by this Act shall continue in 10 force, and shall be heard and determined as if they had been issued under this Act.

(4) All matters pending before the Industrial Commission of New South Wales and conciliation committees at the commencement of this Act shall be heard 15 and determined respectively by the Industrial Commission of New South Wales constituted by this Act and the conciliation committees established or deemed to have been established by or under this Act.

(5) The registrar, industrial magistrates, and 20 inspectors appointed under the repealed Acts and holding office at the commencement of this Act shall be deemed to have been appointed hereunder.

(6) All regulations made under the repealed Acts and in force at the commencement of this Act shall, 25 to the extent to which they are not inconsistent with this Act, continue in force as if made under this Act until amended or repealed by regulations made under this Act.

(7) The registry of the Industrial Commission 30 established under the Acts repealed by this Act shall be the registry of the Industrial Commission constituted by this Act, and the industrial registrar shall have such duties with respect to the commission and the conciliation committees established by this Act as may be 35 prescribed.

(8) From and after the commencement of this Act the powers and duties conferred upon the New South Wales Board of Trade by the Monopolies Act. 1923, or any other Act, shall be exercised by the 40 Industrial Commission of New South Wales constituted by this Act.

(9)

Industrial Conciliation and Arbitration.

(9) Where in any Act, or in any regulation, or in any form or document used after the commencement of this Act, reference is made to the provisions of any Act repealed by this Act, such reference shall be deemed to be to the corresponding provisions (if any) of this Act.

Definitions.

5. In this Act, unless the context otherwise indicates:—

10 “Apprentice” means an employee under twenty-one years of age who is serving a period of training under an indenture or other written contract for the purpose of rendering him fit to be a qualified worker in an industry.

15 “Award” means award made or deemed to have been made under this Act, and includes a variation of such award.

“Calling” means craft or other occupation.

“Commission” means the Industrial Commission of New South Wales established by this Act.

20 “Commissioner” means the Industrial Commissioner appointed under this Act.

“Committee” means a conciliation committee established or deemed to have been established under this Act.

25 “Employee” means person employed in any industry, whether on salary or wages or piece-work rates, or as member of a butty gang, and shall include an outworker, an insurance agent, canvasser, or collector, and a commercial traveller.

30 “Employee” shall also include any person other than the employer who does any work of a similar nature to the work done by an employee, but shall not include a member of a family in the employment of a parent.

35 The fact that a person—

(a) is working under a contract for labour only, or substantially for labour only; or

(b)

Industrial Conciliation and Arbitration.

(b) is working with any tools or other implements of production or trade which have been leased or hired to him ; or

(c) is working with any vehicle which has been leased or hired to him and which is used by him in the delivery of goods or conveyance of passengers for hire or reward,

shall not in itself prevent such person being held to be an employee.

Where any person (hereinafter referred to as the principal) in the course of or for the purposes of his trade or business, advertises or signifies in any way whatever that he will accept sleepers, piles, poles, girders, logs, or other timber supplied to him or his agent or any person on his behalf, and any person (hereinafter referred to as the contractor) has in pursuance thereof supplied to such principal, agent, or other person on his behalf any of such sleepers, piles, poles, girders, logs, or other timber, such contractor, whilst engaged in falling, cutting, sawing, obtaining, preparing, or doing any work whatever in connection with any sleepers, piles, poles, girders, logs, or other timber supplied to or intended to be supplied to such principal, agent, or other person, or whilst engaged in delivering the same to such principal, agent, or other person shall, for the purposes of this Act, be deemed to be an employee in the employ of such principal, agent, or other person.

Where a person who is or who claims to be a member of a firm or partnership which is required to be registered under the Registration of Firms Act, 1902, and is not so registered, is working in an industry which is carried on or conducted by such firm or partnership he shall for the purposes of this Act be deemed to be an employee, whether other persons are employed by such firm or partnership or not.

“ Employees

Industrial Conciliation and Arbitration.

“Employees of the Crown” includes employees of any person or corporation employing persons on behalf of the Government of the State.

5 “Employer” means person, firm, company, or corporation engaging or employing employees, whether on behalf of himself or itself or any other person, or on behalf of the Government of the State, and, without limiting the generality of the above definition, includes the Crown
10 (except as to any employees employed under the Police Regulation Act, 1899, or any statute passed in substitution for or amendment of the same), the Railway Commissioners for New South Wales, the Metropolitan
15 Transport Trust, the Newcastle and District Transport Trust, the Sydney Harbour Trust Commissioners, the Metropolitan Water, Sewerage, and Drainage Board, the Hunter
20 District Water Supply and Sewerage Board, the Main Roads Board of New South Wales, the Water Conservation and Irrigation Commission, the Commissioners of the Government Savings Bank of New South Wales, the
25 Metropolitan Meat Industry Board, the Board of Trustees of the Australian Museum, the Board of Fire Commissioners of New South Wales, the Hospital Commission, and any council of a municipality or shire, and includes for the purpose of establishing a committee,
30 a director, manager, or superintendent of an employer as aforesaid.

“Industrial agreement” means industrial agreement made and filed, or deemed to have been made and filed, under this Act.

35 “Industrial magistrate” means industrial magistrate appointed, or deemed to have been appointed, under this Act.

40 “Industrial matters” means matters or things affecting or relating to work done or to be done, or the product of such work, or the privileges, rights, or duties of employers or employees, or of persons

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- persons who intend or propose to be employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and shall include any matter which may be the subject of any agreement between employer and employee; and, without limiting the ordinary meaning of the above definition, includes also all or any matters relating to—
- 5
- 10 (a) the work, wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the piece-work, contract, or other prices paid or to be paid therein, in respect of such employment, and whether employees shall be granted payment for absence from work due to sickness or accident, or annual leave or holidays upon full pay, and whether and under what conditions employees may board and lodge with their employers, and whether monetary allowance shall be made by employers in respect of standing back or waiting time;
- 15
- 20 (b) any claim that equal pay shall be granted for the sexes;
- 25
- 30 (c) the hours of employment, sex, age, qualifications, or status of employees, and the mode, terms, and conditions of employment, including the question whether persons of either sex shall be disqualified from employment in an industry or division of an industry;
- 35 (d) the employment of children or young persons, or of any persons or class of persons in an industry, or the right to dismiss or to refuse to employ or reinstate in employment any particular persons or class of persons therein;
- 40 (e) any claim that absolute preference of employment shall be given to financial members of industrial unions of employees;
- (f)

Industrial Conciliation and Arbitration.

- 5 (f) the times to be regarded as overtime,
including any claim to restrict work
before or after certain hours, or on
certain days whether such work is done
by an employer, employee, or other person ;
- 10 (g) the health of employees and industrial
hygiene, including any claim to have
protective appliances, clothing, hot or
cold water, and sanitary and bathing
accommodation provided for the use of
employees, and the fixing of standards of
normal temperatures and atmospheric
purity in working places above or
below ground, and the prescribing of
15 shorter hours, higher wages, or other
conditions in respect of persons employed
under abnormal conditions or in abnormal
working places, and the determination
of what are abnormal conditions and
abnormal working places ;
- 20 (h) any matter whatsoever which in the
opinion of the commission or committee
has been, is, or may be a cause or con-
tributory cause of a dispute ;
- 25 (i) fixing the proportionate number of
women to men, of juvenile workers to
adult workers, of unskilled or semi-skilled
workers to skilled workers, and of appren-
tices to adult workers in any industry or
30 calling ;
- (j) any shop, factory, or industry dispute, or
any matter which may be a contributory
cause of such dispute, including the
control in any industry of methods of
management affecting employment ;
- 35 (k) any established custom or usage of any
industry, either general or in any parti-
cular locality ;
- 40 (l) the interpretation of an industrial agree-
ment or award ;
- (m)

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- (m) the engagement of labour at or through the office of an industrial union of employees ;
- 5 (n) the lighting by natural or artificial means of any workroom or factory, including the power, intensity, distribution, situation, shading, and maintenance of lighting to meet the requirements of work done in, and preserve the sight of employees in any industry or division of an industry ;
- 10 (o) the ventilation by any means whatsoever of any workroom or factory, including the erection and maintenance of any structure, device, or appurtenance in connection therewith, to meet the requirements of work done in, and preserve the health and well-being of employees in any industry or division of an industry ;
- 15 (p) the cleaning by any means whatsoever of any workroom or factory, including cleaning by suction or by any mechanical device to meet the requirements of and preserve the health and well-being of employees in any industry or division of an industry ;
- 20 (q) any other matter which the commission or a committee may determine to be an industrial matter.
- 25

30 "Industrial union" means industrial union registered, or deemed to have been registered, as an industrial union under this Act.

"Industry" means craft, occupation, or calling in which persons of either sex are employed for hire or reward, and unless otherwise indicated by the context or any provisions of this Act any division of an industry or combination, arrangement, or grouping of industries.

Without in any way limiting the above definition, the term "industry" includes domestic service.

"Justice"

Industrial Conciliation and Arbitration.

“Justice” means justice of the peace, and includes a magistrate.

“Magistrate” means stipendiary or police magistrate.

5 “Metropolitan District Court” means district court of the metropolitan district, holden at Sydney.

“Prescribed” means prescribed by this Act or by regulations made thereunder.

10 “Registrar” means industrial registrar appointed, or deemed to have been appointed, under this Act.

“Trade union” means trade union registered under The Trade Union Act, 1881, and includes a branch so registered.

15 **6.** (1) The Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, is amended by omitting sections eleven and thirteen. Operation of Acts relating to hours.

20 (2) The Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, shall not apply to employees who are employed in rural industries, that is to say—

25 (a) upon farms, orchards, vineyards, or agricultural or pastoral holdings in connection with dairying, poultry farming, or bee farming, or the sowing, raising, harvesting, or treating of grain, fodder, fruit, or other farm produce, or the management, rearing, or grazing of
30 horses, cattle, sheep, or other live-stock, or the shearing or crutching of sheep, or the classing, scouring, sorting, or pressing of wool, upon any farm or station, or at other farm or station work;

35 (b) in flower or vegetable market gardens or nurseries; or

(c) at fencing, trenching, draining, or otherwise preparing land for any of the abovementioned
40 purposes, or at clearing land for such purposes where the timber is not to be marketed or sold.

(3)

Industrial Conciliation and Arbitration.

(3) The Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, shall not apply to employees in domestic service
5 who are so employed otherwise than for the purposes of the employer's trade or business.

(4) In the construction of the Industrial Arbitration (Eight Hours) Amendment Act, 1930, as amended by the Industrial Arbitration (Eight Hours)
10 Further Amendment Act, 1930,—

- (a) a reference to the "Principal" Act shall be construed as a reference to this Act ;
- (b) a reference to the "court" shall be construed as a reference to the commission ;
- 15 (c) a reference to a "board" shall be construed as a reference to a committee.

PART II.

INDUSTRIAL UNIONS.

7. The registrar may, on application made as herein-
20 after provided, register under this Act as an industrial union of employers any association of persons, or association of incorporated companies, which has in the aggregate throughout the six months next preceding the date of the application for registration employed
25 on an average, taken per month, not less than fifty employees.

Such application shall be made as prescribed.

8. (1) The registration of the industrial unions specified in Schedule Two to this Act is hereby
30 cancelled.

(2) Every industrial union other than the industrial unions specified in Schedule Two to this Act, whose registration under the Acts repealed by this Act is in force at the commencement of this Act, shall, unless

Industrial union of employers.

Cancellation of registration of certain industrial unions.

Saving of registration in other cases.

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unless and until such registration is cancelled be deemed to be an industrial union for the purposes of this Act, and to have been registered under this Act.

9. (1) The registrar may, on application made as ^{Industrial union of employees.} hereinafter provided, register under this Act as an industrial union of employees any trade union of employees. On such registration the trade union shall be an industrial union until such registration is duly cancelled.

10 (2) Such application shall be made in writing as prescribed by the committee of management of the trade union, and shall be signed by a majority in number of the members of such committee. Notice of any such application shall be published as prescribed.

15 The registrar may require such proof as he thinks necessary of the authority of the said members to make the said application.

(3) Any such application may be refused by the registrar if he is of opinion that the organisation applying is not a bona-fide trade union, or if registered under this Act would not be a bona-fide industrial union, or to the extent to which in his opinion the interests under this Act of persons represented by the applicant union may be protected by a previously registered industrial union.

(4) The registrar shall fix a day for considering any objections on the above ground to the granting of the application, and shall notify the same as prescribed.

30 (5) No branch shall be registered unless it is a bona-fide branch of sufficient importance to be registered separately.

(6) When any trade union registered as an industrial union has changed its name, or when two or more trade unions all of which are registered as industrial unions have amalgamated, the registrar may upon application in the prescribed manner by any industrial union or industrial unions, and upon the production of the prescribed particulars, record any such change of name or amalgamation in the register of industrial unions. Any such record shall be deemed to be a registration of the applicant union or unions in such changed name or as

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so amalgamated as the case may be : Provided that any such change of name or amalgamation shall not affect any rights of any such union or unions : Provided also that the registrar may at his discretion, upon such application, require the applicant union or unions to follow the procedure hereinbefore set out in respect of applications for the registration of industrial unions.

(7) Any decision of the registrar under this section in respect of an objection taken as aforesaid, or on refusal of registration, shall be subject to appeal to the Commission as prescribed.

(8) Where the Commission is satisfied that an industrial union has ceased to exist or has had its registration as a trade union cancelled under the Trade Union Act of 1881, it may cancel the registration of such industrial union and order the removal of its name from the Register of Industrial Unions.

10. (1) An officer of an industrial union of employees may, by notice in writing signed by him, require an employer to terminate the employment of any employee specified in the notice who, by the nature of his occupation or employment, is of the class of which the industrial union is constituted, and who is not a member of such union or of any other union specified in the award covering his occupation or calling.

Notice to employer to terminate employment in certain cases.

The notice may be served on the employer either personally or by post.

If at the expiration of three days after the service of the notice such employee has not become a member of the industrial union the employer shall forthwith terminate the employment of such employee.

An employer who fails to comply with the provisions of this subsection shall be liable to a penalty of five pounds and to an additional penalty of five pounds for each day during which such failure continues.

(2) An officer of an industrial union of employees may at any time by notice in writing signed by him require an employer to terminate the employment of any employee specified in the notice who—

(a) has at any time after the first day of January, one thousand nine hundred and seventeen, and

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- and before the commencement of this Act,
been engaged or retained in such employment
during the period of any cessation of work of
other employees in the industry on account of
an industrial dispute; and
5 (b) has not subsequently become a member of the
union.

The notice may be served on the employer either
personally or by post.

- 10 Any employer who fails to comply with the terms of
such notice within seven days after the service upon
him of the notice shall be liable to a penalty of five
pounds, and to an additional penalty of five pounds for
each day during which such failure continues.

- 15 **11.** Any industrial union of employees may make
an agreement in writing with an employer or any other
industrial union relating to any industrial matter.

Power to
make
industrial
agreements.

- Any such agreement, if made for a term specified
therein not exceeding five years from the making
20 thereof, and, if filed at the office of the registrar, shall
be an industrial agreement within the meaning of this
Act, and shall be binding on the parties and on all
persons for the time being members of such unions, but
may be rescinded or varied in writing by the parties.
25 Any variation of any such agreement, if filed as afore-
said, shall be binding as part of the agreement.

cf. Act No.
17, 1912,
s. 11.

Any such industrial agreement may be enforced under
this Act.

- 30 **12.** After the expiration of the term specified
therein, an industrial agreement, together with any
variation made thereto, whether such variation be made
within or after the specified period, shall continue in
force until a new agreement is made, or until notice of
termination shall have been given in writing by a party
35 thereto to the other party or parties and to the registrar.

Continuance
after expiry.

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PART III.

THE INDUSTRIAL COMMISSION AND THE COMMITTEES.

Constitution of the Commission.

13. (1) There shall be an Industrial Commission of New South Wales, which shall be constituted by an Industrial Commissioner who shall be appointed from time to time by the Governor. Industrial Commissioner of New South Wales.

(2) The Governor may appoint any person he thinks fit to be commissioner.

10 (3) The commissioner shall receive such salary and allowances as the Governor thinks fit.

Such salary and allowances shall be charged upon and be payable out of the Consolidated Revenue Fund.

15 (4) The commissioner shall hold office for a period of five years.

(5) The commissioner shall not be capable of accepting or holding any other office or any other place of profit within the State, except any such judicial office as may be conferred upon him by or under any law of the State.

25 (6) If the commissioner is prevented by any cause from attending to his duties as such the Governor may appoint some person to act temporarily for any period not exceeding three months as commissioner and such person shall, while so acting, have all the powers of the commissioner.

(7) On appointment the commissioner shall take the oath of allegiance and the judicial oath.

30 This subsection extends to a person appointed to act temporarily as commissioner.

(8) If the person who at the commencement of this Act is President of the Industrial Commission constituted under the Industrial Arbitration (Amendment) Act, 1926, as amended by the Industrial Arbitration (Amendment) Act, 1927, accepts office as commissioner under this Act, the provisions of this subsection shall, notwithstanding

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notwithstanding anything contained in subsections three, four, and five of this section, apply to him as such commissioner—

- 5 (a) The said commissioner shall be entitled to an annual salary of two thousand six hundred pounds, and such salary shall not be diminished during his continuance in the office of commissioner.
- 10 (b) The said commissioner shall have the same rank, title, status, and precedence as a puisne judge of the Supreme Court. He shall be entitled to a pension of one-third of his salary upon completion of the term of seven years from his appointment under this Act, or upon
- 15 his retirement from any other cause from the office of Industrial Commissioner, including resignation with the consent of the Governor-in-Council after serving three years in the last-named office: Provided always that if,
- 20 after the assignment of such pension to the said Industrial Commissioner he accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment
- 25 according as the salary or emoluments of such appointment are of greater or less amount than such pension.
- (c) Such salary and pension shall be charged upon and payable out of the Consolidated Revenue Fund.
- 30 (d) The said commissioner shall, notwithstanding anything contained in the Judges Retirement Act, 1918, or in any other Act, hold office for a period of seven years.
- 35 (e) Notwithstanding any provision to the contrary contained in the Supreme Court and Circuit Courts Act, 1900, or any other Act, the Governor may by commission under the Great Seal appoint the said commissioner to be a
- 40 judge of the Supreme Court for the period of seven years from the date of his appointment

as

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as commissioner under this Act, and if so appointed as aforesaid he shall hold office during good behaviour and may exercise and sit in any jurisdiction of the Supreme Court, and shall have in all respects and to all intents and purposes the rights, privileges, powers, and jurisdiction of a judge of the Supreme Court in addition to the rights, privileges, powers, and jurisdiction conferred by this Act: Provided that if so appointed the said Commissioner shall, upon retirement from the office of a judge of the Supreme Court, have the pension rights conferred on him by paragraph (b) of this subsection.

(9) The Industrial Commission of New South Wales, established and constituted under the Industrial Arbitration (Amendment) Act, 1927, is hereby dissolved.

The persons who, at the commencement of this Act are members of the Industrial Commission of New South Wales, dissolved by this Act, shall at such commencement cease to hold office, and such persons, other than the president of the said commission, shall not retain any rights, status, or privileges conferred by any of the Acts repealed by this Act.

Constitution of the committees.

14. (1) Each committee established under the Acts repealed by this Act and in existence at the commencement of this Act shall be deemed to have been established under this Act.

(2) The members of each such committee other than the chairman shall, subject to this Act, continue in office:

Provided that a member shall not so continue in office unless he was appointed upon the nomination of an industrial union which is registered or deemed to have been registered under this Act.

(3) Where a vacancy occurs upon a committee by the operation of subsection two of this section the vacancy shall be filled in the same manner as if the committee were established under this Act.

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(4) Conciliation committees shall, on the recommendation of the commission, be established by the Minister for any industry or division of any industry, or any combination, arrangement, or grouping of industries, as the Minister on the recommendation of the commission may direct.

cf. Act No.
81, 1916, s. 5
(A)

(5) The industry or division of any industry or the combination, arrangement, or grouping of industries, for which a committee has been established may be varied by the Minister on the recommendation of the commission, made upon application to it in the prescribed manner, and the committee may thereupon exercise jurisdiction with respect to such industry or such division of any industry, or such combination, arrangement, or grouping of industries as so varied.

(6) The Governor may appoint a number of persons not exceeding ten to act as chairmen of conciliation committees.

Each person so appointed shall, unless he sooner resigns, hold office for a period of seven years and shall receive such salary and allowances as the Governor may direct.

Such salary and allowances shall be charged upon and payable out of the Consolidated Revenue Fund. One of the chairmen so appointed shall in and by his appointment be the senior chairman.

(7) Each committee shall consist of such an equal number of representatives of employers and employees respectively as are determined by the Minister and appointed upon nomination as prescribed, together with a chairman. Deputy or alternate members shall be nominated and appointed as prescribed, and shall be competent to discharge the duties of the regular members.

(8) Where the nominations for appointment to a committee exceed the number of representatives to be appointed, the Minister shall refer such nominations to the commission for a recommendation as to who should be appointed to the committee.

(9)

Industrial Conciliation and Arbitration.

(9) If within twenty-one days after nominations have been called for, the employers or employees have not made any nomination or have made an insufficient number of nominations, the Minister shall appoint such
5 and so many persons as may be necessary to represent the employers or employees on the committee.

(10) The commission shall allot a chairman for a committee.

(11) The members of a committee other than
10 the chairman shall not receive remuneration by way of salaries or fees, but all members may be reimbursed such fares and out-of-pocket expenses as are approved by the Minister.

(12) The Minister may at any time dissolve a
15 committee, and subject thereto a member of a committee shall, unless he sooner resigns his office, hold office until he is withdrawn from the committee in the manner prescribed by the person who or body which nominated him.

(13) A new committee may be established to take
20 the place of a committee that has been dissolved or the members of which have resigned or have ceased to hold office.

(14) Where from any cause a member of a com-
25 mittee ceases to hold office, the Minister may appoint a duly nominated person to his office.

(15) Where a person is appointed to any vacancy on a committee, the committee may continue the hearing of and may determine any part heard case.

(16) Upon the allotment of a chairman and
30 nominations of members having been called for, a committee shall be deemed to be established.

15. Where it appears to the commission that a
■ ■ question has arisen as to the right of employees in
35 specified callings to do certain work in any industry to the exclusion of the employees in other callings, the commission may, on application made by an industrial union of employees, constitute a special committee to determine such question.

Such

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Such committee shall consist of a chairman and such number of other members as the commission fixes, but so that—

- 5 (a) one-half in number of such other members shall be employers and the other half employees, each of whom has been or is actually and bona-fide engaged in one of the said callings;
- 10 (b) such of the callings as the commission considers to be directly interested in the question shall be represented on the committee by an employer or employers, and by an employee or an equal number of employees.

The chairman and other members of any such committee shall be appointed by the commission.

The determination shall have effect as an award of a committee.

- 16.** If any member of a committee, without reasonable excuse, neglects on two successive occasions to attend meetings of the committee duly convened, or to vote when present at any such meeting on any question duly submitted to the committee, he shall be liable to a penalty not exceeding five pounds, and the Minister may declare his office vacant, and thereupon such member shall cease to hold office.

Failure of member to attend.

17. Each member of a committee shall, upon his appointment, take an oath not to disclose any matter or evidence before the committee or the commission relating to—

Oath to be taken by members.

- 30 trade secrets ;
- the profits or losses or the receipts and outgoings of any employer ;
- the books of an employer or witness produced before the committee or the commission ; or
- 35 the financial position of any employer or of any witness ;

and if he violates his oath he shall be liable to a penalty not exceeding five hundred pounds, and, on conviction of such offence, he shall cease to hold office.

18.

Industrial Conciliation and Arbitration.

18. Every appointment of a member of a committee shall be published in the Gazette, and a copy of a Gazette containing a notice of such appointment purporting to have been published in pursuance of this Act shall be conclusive evidence that the person named in such notice was legally appointed to the office named, and had power and jurisdiction to act in such office, and such appointment shall not be challenged for any cause.

Gazettal of
appoint-
ments.

PART IV.

10 JURISDICTION OF COMMITTEES AND OF THE COMMISSION.

19. (1) A committee shall have cognisance of and power to inquire into any industrial matter in the industry for which it is established and in respect thereof or on any reference or application to it, may in relation to such industry make an award or order—

Powers of
conciliation
committees.

- (a) fixing the lowest prices for work done by employees, and the lowest rates of wages payable to employees, other than aged, or infirm, workers ;
- 20 (b) fixing the number of hours and the times to be worked in order to entitle employees to the wages so fixed ;
- 25 (c) fixing the lowest rates for overtime and holidays and other special work, including allowances as compensation for overtime, for time lost due to sickness or accident, for holidays, or for other special work, or prohibiting or restricting any person doing any specified work outside the specified hours ;
- 30 (d) fixing the number or proportionate number of apprentices and/or minors and the lowest prices and rates payable to them ;
- (e) determining any industrial matter ;

(f)

Industrial Conciliation and Arbitration.

- (f) rescinding or varying any award made in respect of any of the industries for which it has been constituted;
- 5 (g) requiring that employers shall engage labour only at or through the office of an industrial union of employees;
- 10 (h) declaring what deduction may be made from the wages of employees for board or residence or board and residence, and for any customary privileges or payments in kind conceded to such employees.

(2) Where an institution carried on wholly or partly for charitable purposes provides for the food, clothing, lodging, or maintenance of any of its employees, 15 or any of its inmates who are deemed to be employees, the committee in its award as to the wages of such employees or inmates, shall make due allowance therefor. The committee may exempt such institution from all or any terms of the award, where the food, clothing, lodging, 20 and maintenance provided by the institution, together with the money (if any) paid by the institution to such employees or inmates as wages, are at least equal in value to the value of the labour of such employees or inmates.

25 **20.** (1) Notwithstanding the provisions of the Apprentices Act, 1901, the Apprentices (Amendment) Act, 1915, and this Act, and notwithstanding the effect of any custom of or against apprenticeship, a committee in respect of any industry for which it is 30 established shall—

- (a) determine whether apprenticeship shall be a condition of employment of minors;
- (b) prescribe the hours of employment, wages, and conditions of apprenticeship;
- 35 (c) determine whether and to what extent there shall be a limitation of the number of apprentices indentured in any trade or calling;
- (d) determine to what extent technical education if procurable shall be obligatory upon apprentices and their masters;
- 40

(e)

Powers in
relation to
apprentices
and minors.

Industrial Conciliation and Arbitration.

- (e) co-operate with the Department of Education in encouraging young persons to attend technical, trade, and continuation schools during working or other hours ;
- 5 (f) protect the contracts and interests of apprentices and all workers of minor age who are learners, and ensure the attendance of apprentices and learners at technical or trade schools ;
- 10 (g) prescribe standard forms of apprenticeship for different trades and callings, and the manner in which and the persons by whom the making, carrying out, and transfer of indentures or other contracts of apprenticeship shall be supervised ;
- 15 (h) control and direct the conditions in all respects of apprenticeship in any industry ;
- (i) determine whether a contract of apprenticeship made before or after the commencement of this Act shall be cancelled or varied, and prescribe
- 20 the conditions precedent to or consequential upon such cancellation or variation.

(2) The apprenticeship register established under the Acts repealed by this Act shall be continued by the industrial registrar.

- 25 **21.** (1) Upon the application of an industrial union of employees the commission or committee shall in writing authorise any officer of such union nominated by it to exercise in respect of an industry in which members of the union or persons in the same calling as such
- 30 members are engaged the powers conferred by subsection two of this section.

Such powers shall be exercisable whether or not the industry is covered by an award or industrial agreement.

- (2) An officer so authorised may at any time—
- 35 (a) inspect any premises of any employer upon which any such industry as aforesaid is carried on and any work being done therein ;
- (b) require the employer in such industry to produce for his examination and may examine
- 40 and take copies of any time sheets and pay sheets of the employees in such industry ;

(c)

Authorised
officers of
union to
have
certain
powers.

Industrial Conciliation and Arbitration.

- (c) examine any employee in such industry either alone or in the presence of his employer on any matter relating to his employment or work ;
 5 (d) hold meetings of the employees on or adjacent to the premises of the employer during non-working time.

(3) An officer so authorised shall not have any authority under this Act to enter a private dwelling-house or the land used in connection therewith unless
 10 some manufacture or trade in which labour is employed is carried on therein, or unless he has reasonable ground for believing that such work is being carried on therein.

(4) If any person obstructs any officer so
 15 authorised in the exercise of his powers under this Act or fails when duly required as aforesaid to produce any time sheets or pay sheets, he shall be liable to a penalty not exceeding ten pounds for the first offence and twenty-five pounds for any subsequent offence.

20 **22.** (1) Notwithstanding anything to the contrary contained in this Act or in any other Act a committee shall on an application or reference to it in that behalf
 prescribe by award that absolute preference of employment shall be given to the financial members of the
 25 industrial union or unions specified in the award.

The manner in which such preference shall operate shall be determined by the committee.

(2) A committee shall on application or reference to it in that behalf prescribe by award that an
 30 officer of an industrial union may at any time by notice in writing signed by him require an employer to terminate the employment of an employee who is not a financial member of the industrial union covering his trade or calling.

35 The notice may be served personally or by post. If at the expiration of three days after the service of the notice such employee has not become a financial member of the industrial union, the employer shall forthwith terminate the employment of such employee.

An

Industrial Conciliation and Arbitration.

An employer who fails to comply with the provisions of this subsection shall be liable to a penalty of five pounds, and to an additional penalty of five pounds for each day during which such failure continues.

- 5 **23.** A committee shall upon an application for a new award, or the renewal of an award, and notwithstanding any previous inquiry under the repealed Acts, or this Act, review the conditions of the industry or calling, together with the wages payable in such industry or
10 calling if either party so apply.

- 24.** (1) A committee or the commission may institute any inquiry and avail itself of such expert medical or technical advice or assistance as may be thought necessary for the proper discharge of its powers and
15 duties.

- (2) Where an order or award made in respect of any industrial matter is inconsistent with any provisions relating to such industrial matter contained in any Act, the order or award shall prevail, and the provisions of
20 such Act shall to the extent of the inconsistency be suspended during the period in which such order or award is in force.

- 25.** (1) Where an award fixes minimum wages higher than the living wage for the time being in force, the amount of the excess of such minimum wages above
25 the living wage shall be not less in the case of females doing the same class of work as males.

- (2) The commission or a committee shall not award rates of pay or other conditions of employment for
30 females doing the same class of work as males so as to result in females being employed in preference to males.

- 26.** The commission or a committee shall not award any conditions nor fix rates of wages or other payments for employees of the Crown, including employees of the
35 Railway Commissioners for New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, the Sydney Harbour Trust Commissioners, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South
40 Wales, the Commissioners of the Government Savings Bank

Power to
review
previous
inquiries.

Committee or
commission
may have
expert
advice.

Award to
prevail over
Acts.

Males and
females doing
same class of
work.

Wages of
Government
employees.

Industrial Conciliation and Arbitration.

Bank of New South Wales, the Metropolitan Meat Industry Board, the Main Roads Board of New South Wales, the Hunter District Water Supply and Sewerage Board, the Board of Trustees of the Australian Museum, and the Hospital Commission, less favourable than the conditions granted or the wages paid or other payments made to other employees not employed by the Government or its departments doing substantially the same class of work, but the fact that employment is permanent or that additional privileges are allowed in the service of the Government or its departments shall not of itself be regarded as a substantial difference in the nature of the work.

27. (1) Any aged or infirm worker who may deem himself unable to earn the minimum wage prescribed by any award, may apply to any industrial union of employees which is a party to such award for a permit in writing to work for less than the wage so prescribed. Permits for aged or infirm workers.

(2) Such union shall, subject to subsection four of this section, be the authority to determine whether and on what wages and conditions such permit shall be granted, and shall have power to revoke or cancel any permit whether granted under this Act or under any Act repealed by this Act.

(3) The union shall forthwith notify the chairman of the committee established for the industry in which such applicant desires to be employed of the grant of such permit and of the wages and conditions on which it has been granted, and the chairman shall thereupon issue a permit in terms of the union's determination.

(4) An appeal against any such determination of a union shall lie to the committee for the industry concerned, and upon such appeal the committee shall make such determination as it thinks just.

28. Notwithstanding the provisions of any other Act, the commission or a conciliation committee shall have power to prescribe by award, the places at which and the times during which employers in any particular industry shall engage all the employees that they may require for carrying on their business. Engagement of employees.

Industrial Conciliation and Arbitration.

29. Notwithstanding any provisions in the Factories and Shops Act, 1912, or in any other Act relating to the installation of protective appliances, the supplying of proper clothing, hot or cold water, sanitary or bathing accommodation for the use of employees, or the fixing of standards of normal temperatures and atmospheric purity in any working place, either above or below ground, or the provision for proper hygienic conditions, the commission or committee may prescribe by award what appliances shall be installed, or clothing supplied, what sanitary or bathing accommodation, or whether hot or cold water shall be provided for the use of employees, and may prescribe the standards of normal temperatures or atmospheric purity in any working place either above or below ground, and also prescribe the hours, wages, or other conditions of employment for any employee working under what in the opinion of the commission or committee are abnormal conditions or abnormal working places, and may determine what are

30. (1) Any award or order of a committee shall, after settlement by the registrar in manner prescribed by the regulations, be signed by the chairman.

The registrar shall publish the award or order, when signed, in the Gazette, and shall notify the parties in the prescribed manner.

(2) A committee may, in its discretion, determine that an award shall take effect from such day subsequent to the lodging of the application therefor with the registrar as the committee may determine.

(3) From any order, determination, or award of a committee or upon any refusal of a committee to make an order or award an appeal shall lie in the prescribed manner, to the commission, on which appeal the commission may make such order or award as in its opinion the committee should have made.

Upon any such appeal the commission shall have regard only to the records of the proceedings before such committee.

The

Industrial Conciliation and Arbitration.

The pendency of an appeal shall not suspend the operation of an order or award appealed from unless the parties otherwise agree.

- (4) Subject to the right of appeal under this Act, ^{cf. Act No. 17, 1912, s. 29.}
 5 and to such conditions and exemptions as the committee may, and is, hereby authorised to determine and direct, an award shall be binding on any or all persons engaged in the industries or callings and within the locality, and for the period not greater than three years specified therein.
- 10 After the expiration of the period so specified, the award, together with any variation made thereto, whether such variation be made within or after the specified period shall continue in force until rescinded by the commission or committee.
- 15 (5) Where the commission or a committee makes ^{cf. Ibid. s. 25 (1).} an award to take effect from some day prior to its publication in the Gazette, no employer shall be bound to pay any wages fixed by such award until seven days after publication of the award as aforesaid, but the first pay-
 20 ment of wages under any such award shall include all arrears which have accrued due from the date upon which the award is directed to take effect.

31. (1) No award or industrial agreement shall be made for a wage lower than the declared current living ^{No wage less than declared living wage.}
 25 wage. ^{cf. Act No. 17, 1912, s. 26A.}

- (2) Upon a declaration as to the living wage during the currency of any award or industrial agreement, the terms of such award or industrial agreement affecting rates of pay may be varied to accord with such declaration by the registrar upon application to him as prescribed
 30 by any party whose appearance is recorded on the making of the award, and upon notice to the other parties whose names are so recorded, and a variation of the award or industrial agreement shall, upon publication in
 35 the Gazette, have effect as an award from the date of the declaration.

An appeal may be made in the manner prescribed to the commission against any determination of the registrar under this subsection.

(3)

Industrial Conciliation and Arbitration.

(3) Neither subsection one nor subsection two of this section shall extend to an award or industrial agreement made in respect of any of the employees referred to in subsection two or subsection three of section six of this Act.

32. The commission or a committee in respect of the industry for which it is established shall by award prohibit the working of overtime except for emergency purposes or with the consent of the industrial union of employees named in the award. Overtime prohibited.

This section shall not extend to the employees referred to in subsection two and subsection three of section six of this Act.

33. (1) The commission or a committee shall by award prohibit piece-work, contract work, bonus work, or any other system of payment by results unless the industrial union or unions of employees concerned in the industry covered by the award consents or consent thereto. Piece-work and payment by results.

(2) Where it is provided by an award that piece-work shall be permitted, the subletting of such work to any other employee or person shall be prohibited by the award.

34. (1) The powers and functions of the commission shall include the following:— Powers and functions of the commission.

(a) to inquire into and determine any industrial matter referred to it by the Minister;

(b) not more frequently than once in every six months to determine after public inquiry a standard of living, and to declare what shall, for the purpose of this Act, be the living wage based upon such standard for adult male employees in the State.

The commission shall declare the amount of the living wage for adult female employees at such percentage of the living wage for adult male employees as it deems proper. cf. Act No. 40, 1929, s. 4.

A declaration of a living wage for adult male employees or of a living wage for adult female employees shall not be deemed to be completed nor shall it have any force or effect whatsoever for

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for the purposes of this Act unless and until it is notified by the Governor by proclamation published in the Gazette.

5 The commission may declare what deductions may be made from such wages for board or residence, or board and residence, and for any customary privileges or payments in kind conceded to or made to such employees ;

10 (c) to hear and determine appeals under this Act ;
(d) to confer with any persons or industrial unions as to anything affecting the settlement of an industrial matter ;

(e) to summon any person before the commission for the purpose of conference or of giving evidence. Such summons shall be signed as prescribed ;

15 (f) to refer to the senior chairman for inquiry and report any matter not within the jurisdiction of a committee.

20 (2) The commission in the exercise of any of its powers under this Act shall have the powers conferred by the Royal Commissions Act, 1923, on a commissioner appointed under Division 1 of Part II of that Act and the said Act, section thirteen and Division 2 of Part II
25 excepted, shall, mutatis mutandis, apply to any witness or person summoned by or appearing before the commission.

30 **35.** The commission is further empowered to exercise the following functions and perform the following duties ;—

(a) to encourage and create councils for the purpose of encouraging the proper apprenticeship of all minors and provide for the welfare of juvenile labor ;

35 (b) to inquire and disseminate knowledge on all matters connected with industrial occupations with a view to improving the industrial relationship between employers and workers and to combat the evils of unemployment ;

40 (c) to collect and publish information relating to or affecting industrial conditions ;

(d)

Further powers and functions of the commission.

cf. Act No. 17, 1912, s. 82.

Industrial Conciliation and Arbitration.

- 5 (d) to propound schemes for welfare work, and report to the Governor on all matters relating to such work and to the insurance of employees against loss or injury caused by unemployment, sickness, or accident, or industrial diseases ;
- 10 (e) to report on any matter referred to it as to the prices of commodities, and as to whether or not monopolies or trade rings exist for the purpose of unfairly keeping up the prices of commodities ;
- 15 (f) to investigate and report on the existence of sweating in an industry ;
- (g) to report upon the productivity of industries, the number of employees in any industry, and the effect or probable effect of the regulation of the conditions of any industry upon such productivity ;
- 20 (h) to consider and report upon the industrial efficiency of the community, the organization of the labour market and opportunities of employment, and all questions relating to unemployment ;
- 25 (i) to collect and publish from time to time statistics of vital, social and industrial matters, and on labour employment and unemployment in specific industries, and on other prescribed matters ;
- 30 (j) to encourage and assist in the establishment of hostels for women workers and workmen's clubs and libraries ;
- (k) to report and advise on schemes for the better housing of the people ;
- 35 (l) to conduct any investigation into the financial position, business transactions and/or working conditions of any employer or group of employers as the commission may deem necessary or desirable for the determination of any industrial matter ;
- 40 (m) to consider and report upon any other matter referred to it by the Minister.

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36. (1) For the purpose of enabling the statistics referred to in this Act to be collected, all persons shall correctly and fully when required by the commission so to do fill up and supply in accordance with the instructions contained in or accompanying the prescribed form, the particulars specified in that form.

Collection of statistics.
cf. Act No. 17, 1912, ss. 84, 85.

(2) Every person shall to the best of his knowledge and belief answer all questions asked him by the commission, or by its duly authorised officers, necessary to obtain any information required for the purpose of any statistics authorised by this Act to be collected.

37. Upon the establishment of a committee, the commission shall not hear or determine any industrial matter or make an award relating to the industry for which the committee has been established, except pursuant to section thirty of this Act.

Certain jurisdiction of committees exclusive.

38. Except as provided in section thirty-seven of this Act, the commission, in addition to the jurisdiction and powers conferred on it by this Act, shall have the powers and may exercise the jurisdiction hereby conferred on committees and the chairman thereof, and on the industrial registrar and an industrial magistrate.

Commission to have powers of committee.

39. In proceedings before the commission, if the matter is an industrial matter no party shall be represented by counsel or a solicitor except by the consent of the commission and of all parties, and in proceedings before a committee, no party shall (except by consent of the committee, and all the parties) be represented by counsel or a solicitor.

Appearance by counsel.

PART V.

PROCEDURE OF COMMITTEES.

40. (1) Proceedings before a committee shall be commenced by—

Commencement of proceedings.

- (a) reference to the committee by the commission or the Minister ; or
- (b) application to the committee by an industrial union of employers or of employees in the industries or callings for which the committee has been established.

(2)

Industrial Conciliation and Arbitration.

(2) Any such application shall be in the form and shall contain the particulars prescribed, and shall be signed by an officer of an industrial union whose members are employers or whose members are employees in any such industry or calling.

(3) Sitzings of a committee shall be convened by the chairman whenever he thinks fit, or within three days of a request by the Minister, or by two members of the committee.

10 **41.** A committee may make rules for the order and Rules.
conduct of its business and proceedings.

42. The chairman of a committee shall keep a record Record.
of the proceedings before such committee, which record shall be forwarded to the registrar with the committee's
15 award, order, or determination.

43. In every case where an application or reference Inquiry by
to a committee is made, it shall be the duty of the chair- committee.
man to endeavour to bring the parties to an agreement cf. Act No.
with respect to the matters referred to in such applica- 17, 1912,
tion or reference, and to this end the committee shall, s. 32.
20 in such manner as it thinks fit, expeditiously and care-
fully inquire into such matters and anything affecting
the merits thereof.

In the course of such inquiry, the chairman may make
25 all such suggestions and do all such things as he deems
right and proper for inducing the parties to come to a
fair and amicable settlement of such matters.

44. A committee, or any two or more members Inspection of
thereof authorised by the committee under the hand of premises.
30 its chairman, may enter and inspect any premises used
in any industry to which a reference or application to
the committee relates, and any work being carried on
there.

If any person hinders or obstructs a committee or any
35 member thereof in the exercise of the powers conferred
by this section, or hinders or obstructs the commissioner
in the exercise of like powers, he shall be liable to a
penalty of ten pounds.

45. A committee may confer with any persons or Persons
40 industrial unions as to anything affecting the settlement may be
of an industrial matter and may summon any person summoned.

Industrial Conciliation and Arbitration.

before it for the purpose of conference or of giving evidence. Such summons shall be signed by the chairman or by the registrar.

5 **46.** A committee may—

- (a) conduct its proceedings in public or private as it may think fit;
- (b) adjourn the proceedings to any time or place;
- 10 (c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as were by section one hundred and seventy-four of the Parliamentary Electorates and Elections Act, 1912, conferred on a committee of elections and
- 15 qualifications, and the provisions of the said section shall apply in respect of the proceedings of the committee: Provided that unless a person raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed, no
- 20 person shall be required without his consent to produce his books, or to give evidence with regard to the trade secrets, profits, losses, receipts, and outgoings of his business.
- 25

Conduct of
proceedings
and power as
to witnesses.

Where a person raises such objection he shall produce the books used in connection with the carrying on of the industry in respect of which the claim is made, and shall give evidence with regard to the profits, losses, receipts, and outgoings in connection with such industry, but he shall not be required to give evidence regarding any trade secret. No such evidence shall be given without his consent except in the presence of the chairman and members of the committee alone, and no person shall inspect such books except the chairman, the members of the committee, and two accountants who may be appointed by the committee, one nominated by the employers' representatives and the other by the employees' representatives on the committee. Such accountants shall, before acting

30

35

40

under

Industrial Conciliation and Arbitration.

under this paragraph, take the oath prescribed in respect of members of a committee by section seventeen of this Act;

- 5 (d) admit or dispense with advocates and admit or call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not.

47. (1) The chairman shall require any person, including a member of the committee, to give his evidence on oath, and may, on behalf of the committee, issue any summons requiring the attendance of witnesses; if any person so summoned does not attend, he shall be liable to a penalty not exceeding fifty pounds. Evidence to be on oath

15 (2) Any question as to the admissibility of evidence shall be decided by the chairman alone, and his decision shall be final.

(3) Where during the hearing of any matter before a committee its jurisdiction is disputed, the chairman shall decide the question of jurisdiction subject to appeal to the commission.

20 48. At any meeting of a committee—

Proceedings at meetings.

- 25 (a) the chairman shall preside;
(b) each member except the chairman shall have one vote; and where the votes for and against any matter are equal, the chairman shall decide the question;
(c) any member of the committee may call, examine, or cross-examine witnesses.

PART VI.

30 BREACHES OF AWARDS AND OTHER OFFENCES.

Payment of wages awarded.

49. (1) Where an employer employs any person to do any work for which the price or rate has been fixed by an award, or by an industrial agreement, whether made under this Act, or under any Act repealed by this Act, or by permit issued under section twenty-seven of this Act, he shall be liable to pay in full in money to such person Recovery of wages.

Industrial Conciliation and Arbitration.

person the price or rate so fixed without any deduction except such as may be authorised by any award or industrial agreement.

(2) Such person, or an officer of any industrial
5 union covering his trade or calling may, within six years after such money has become due, apply in the manner prescribed to the registrar or to an industrial magistrate for an order directing the employer or any successor, assignee, or transferee of the employer's business to
10 pay the full amount of any balance due in respect of such price or rate. Such order may be so made notwithstanding any smaller payment or any express or implied agreement to the contrary, or any written acknowledgment by such person that wages have been paid at the
15 full price or rate, and notwithstanding the fact that a lesser amount is claimed by the complainant. The registrar or magistrate may make such order as to amount as he thinks just, and may award costs to either party, and assess the amount of such costs.

(3) Such person or officer may, within the said
20 period of six years, in lieu of applying for an order under the last preceding subsection, sue for any balance due as aforesaid in any district court or court of petty sessions: Provided that any person feeling himself
25 aggrieved by a judgment or order of such court given or made under this subsection may appeal therefrom to the commission as prescribed.

Upon such appeal the commission may affirm, vary, or
rescind the judgment or order appealed from and may
30 make such order as the court appealed from should have made, including an order as to costs of the judgment or order appealed from or of the appeal.

(4) Such person or officer may take any such
proceedings, and may recover any such balance due,
35 and costs, notwithstanding that the person may not be of full age either at the time of doing such work or at the time of taking such proceedings.

(5) Any person who enters into a contract with a
contractor for the carrying out by the contractor of any
40 work involving the payment of wages shall be liable for the payment of such wages.

Breach

Industrial Conciliation and Arbitration.

Breach of award or industrial agreement.

50. (1) If any person commits a breach of an award or a breach of an industrial agreement, whether by contravening or failing to observe the same, or otherwise, he shall be liable upon conviction by the registrar or an industrial magistrate to pay a penalty not exceeding one hundred pounds.

Penalty for
breach of
award.

Where such breach is a failure to pay the rate of wage fixed by award or industrial agreement, the penalty shall not be less than ten pounds for a first offence and not less than twenty-five pounds for a second or any subsequent offence; in the case of any breach of an award or industrial agreement other than with respect to wages the penalty shall not be less than two pounds for a first offence and not less than ten pounds for a second or any subsequent offence.

(2) Where on making such order it appears that the breach complained of relates to the failure of the defendant to pay in full any wages (including wages for overtime) due to an employee at the price or rate fixed by the award or agreement, the registrar or magistrate shall, if the complainant so desires, also make such an order with respect to such wages as might have been made in proceedings taken under section forty-nine. Such order may be made without motion, and shall be a bar to proceedings under the said section in respect of such wages.

(3) Where an order is made under subsection one of this section against any person, and the registrar or magistrate is of opinion that the breach was committed by the wilful act or default of such person, he may on motion or without motion, and in addition to any order made, grant a writ of injunction to restrain such person from committing further or other breaches of the award or industrial agreement.

If any person disobeys such writ of injunction he shall be guilty of misdemeanour and shall be liable to imprisonment for any period not exceeding six months.

Such person may be committed for trial for such offence by any justice or justices acting under and in pursuance of the Justices Act, 1902, and any Acts amending the same.

(4)

Industrial Conciliation and Arbitration.

(4) Proceedings for a breach of an award or an industrial agreement may be taken and prosecuted within a period of six years by the Minister, or an employer, or an officer of an industrial union concerned in the industry covered by such award or industrial agreement.

The costs of any such proceedings shall be paid by the complainant if the order is not made, and by the defendant if the order is made. Such costs shall be according to a scale to be prescribed.

- 10 **51.** If the secretary of an industrial union of employees or any person acting or purporting to act on behalf of any such industrial union receives any money paid in respect of any act constituting a breach of an award or industrial agreement otherwise
 15 than in pursuance of the order or with the knowledge of the registrar or an industrial magistrate, he shall be liable to a penalty not exceeding twenty pounds. Pro-
 20 vided that no offence against the section shall be deemed to have been committed if the secretary or any such person within seven days of the receipt of such money reports the fact of such receipt to the registrar.

Unlawful dismissal.

- 52.** If an employer dismisses an employee or injures him in his employment or alters his position to his pre-
 25 judice by reason of the fact that the employee—

- (a) is an officer, delegate, shop steward, member of a shop committee, or representative of an industrial union or is a member of a conciliation committee; or
 30 (b) claims some benefit of an industrial agreement or an award to which he is entitled; or
 (c) has appeared as a witness, or has given evidence in a proceeding in relation to an industrial matter; or
 35 (d) after applying to his employer for leave without pay for the purpose, and after the employer has unreasonably refused leave, has absented himself from work through being engaged in other duties

Industrial Conciliation and Arbitration.

duties as a member of an industrial union in respect of any matter affecting the industry in which he is working or as a member of such a conciliation committee ; or

- 5 (e) has reported a breach or a suspected breach of an award made under this Act,

the commission or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds.

- 10 The commission or magistrate may further order that the employee be reimbursed the wages lost by him and the commission may also direct his reinstatement in his old position or in another position acceptable to the employee.

- 15 In any proceeding for an offence against this section, if all the facts and circumstances constituting the offence, other than the reason for the defendant's action, are proved, it shall lie upon the defendant to prove that he was not actuated by the reason alleged in the charge.

- 20 In a proceeding for an offence in respect of paragraph (d) of this section it shall not be necessary for the prosecution to prove among the facts and circumstances constituting the offence that the employer unreasonably refused leave.

- 25 A prosecution under this section may be taken before the commission or an industrial magistrate by the secretary of the industrial union concerned in the industry in which the employee alleged to have been so dismissed, injured, or prejudiced was employed : Pro-
30 vided always that if any party feels aggrieved by any decision of a magistrate, he may appeal in the prescribed manner to the commission.

- In lieu of proceedings for a penalty for an offence under this section, such a secretary may apply to the
35 committee established for the industry concerned for an award that the employee be reimbursed the wages lost by him and that he be reinstated in his old position.

53. An employer shall not terminate the employment of an employee who is also a delegate, shop steward,
40 member of a shop committee, or representative of an industrial union unless he shall have given seven days' notice

Notice of
termination
of employ-
ment of shop
steward, &c.

Industrial Conciliation and Arbitration.

notice thereof to the industrial union of which such employee is a member. The industrial union may within the time prescribed if it so desires refer the matter of such termination of employment to the committee
5 established for the industry in which the employee is working and the committee may make any award as to it seems just including an award that the employment of the employee shall not be terminated, or if terminated that he be reinstated in his old position and reimbursed
10 any wages lost by him.

If any employer contravenes the provisions of this section he shall be liable to a penalty of ten pounds.

PART VII.

TRADE UNIONS.

- 15 **54.** (1) A trade union shall have power to apply and use the moneys and other property of the union for or in connection with any lawful object or purpose for the time being authorised by its rules, and without limiting the generality of this provision may—
- 20 (a) acquire, purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with in the names of the trustees for the time being of such union any real or personal property (including shares in
25 any registered company, whether registered in New South Wales or not), and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a
30 discharge for the money arising therefrom;
- (b) apply to the commission or to any district court or court of petty sessions having jurisdiction in the locality for and obtain an order directing
the
- Powers of trade union with regard to its funds.

Industrial Conciliation and Arbitration.

the payment by any of its members of any fine, levy, penalty, call, or subscription in pursuance of the rules of the union ;

5 (c) provide for the application of its money and property to the furtherance of political objects.

(2) The expression "political objects" in the last preceding subsection means the payments of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to Parliament
10 or to any public office, before, during, or after the election in connection with his candidature or election ; or the holding of any meeting or the distribution of any literature or document in support of any such candidate or prospective candidate ; or the maintenance of any person
15 who is a member of Parliament or who holds a public office ; or the registration of electors, or the selection of a candidate for Parliament or any public office ; or the holding of political meetings of any kind, or the distribution of political literature or political documents of
20 any kind, or the maintenance and publication of a newspaper or the establishment, maintenance and use of radio transmitting and/or receiving apparatus.

(3) The expression "public office" in the last preceding subsection means the office of member of any
25 shire or municipal council, or The Municipal Council of Sydney, or of any public body which has power to raise money, either directly or indirectly, by means of a rate.

Industrial Conciliation and Arbitration.

PART VIII.

GENERAL AND SUPPLEMENTAL.

Fines and subscriptions payable to unions.

55. The registrar or an industrial magistrate may
 5 order the payment by any member of an industrial union of any fine, levy, penalty, contribution, or subscription which has become payable in pursuance of the rules of the union during a period not exceeding six years prior to the commencement of the proceedings to obtain such
 10 order.

Fines and
subscription
payable to
union.

Enforcement of orders.

56. Where an order is made under sections forty-nine, fifty, fifty-two, fifty-three, or fifty-five that any person shall pay the amount of any money due or any penalty,
 15 such order shall have the effect of a judgment for the amount of such money or of such penalty in the district court or court of petty sessions named in such order or if no such court is so named in the metro-
 20 politan district court at the suit of the person or union respectively against the person against whom such order has been made; and such amount may be recovered and such recovery may be enforced by process of such court as in pursuance of such judgment.

Enforcement
of certain
orders.

Appeal to commission.

25 57. (1) From any order of the registrar, or any industrial or other magistrate or justices under this Act, imposing a penalty or ordering the payment of any sum of money or any penalty, an appeal shall lie to the
 commission.

Appeal from
registrar or
magistrate.

30 On any such appeal the commission may either affirm the order appealed from or reverse the said order or reduce the amount so ordered to be paid or the amount of the penalty; and, in any case, the commission may make such order as to the costs of the appeal, and of the
 35 proceedings before the registrar, magistrate, or justices, as it thinks just.

Industrial Conciliation and Arbitration.

(2) The registrar or any industrial or other magistrate, or justices, may on the application made by any party to any proceedings for the payment of money or a penalty under this Act state a case for the opinion of the commission, setting forth the facts and the grounds for any order or conviction made by him or them.

(3) The provisions of the Justices Act, 1902, and any Act amending the same, which relate to appeals to a court of quarter sessions and to the stating of cases by justices for the opinion of the Supreme Court, and the decision of any such court thereon, and the carrying out of such decision shall, mutatis mutandis, and subject to any regulations made under this Act, apply to and in relation to appeals to and cases stated for the opinion of the commission under this section. The recognizance referred to in subsection one of section one hundred and two of the Justices Act, 1902, shall be entered into within eight days after the determination under that subsection of the sum referred to therein.

(4) No other proceedings in the nature of an appeal from any such order or by prohibition shall be allowed.

Procedure and decisions of commission and committees.

25 **58.** The commission or a committee exercising the jurisdiction conferred by this Act shall be governed in its procedure and in its decisions by equity and good conscience, and shall not be bound to observe the rules of law governing the admissibility of evidence. Rules to govern commission and committees.

30 **59.** Where the commissioner is unable to attend at the time and on the day appointed for the hearing of any matter by the commission, the registrar, or, in his absence from the commission, the chief clerk shall adjourn the commission, and also adjourn the hearing of any cases set down for that day to such day as he may deem convenient. Adjournment of commission.

60. (1) Any decision of the commission shall be final; no award, and no order or proceeding of the commission shall be vitiated by reason only of any informality Decision of commission to be final.

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informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

5 (2) No writ of prohibition or certiorari shall lie in respect of any award, order, proceeding, or direction of the commission relating to any industrial matter or any other matter which on the face of the proceedings appears to be or to relate to an industrial matter.

10 (3) The validity of any proceeding or decision of the committee or of a chairman of a committee shall not be challenged except as provided by this Act.

61. In any proceeding before the commission it may reserve its decision. Court
reserving
its decision.

15 Where a decision has been so reserved it may be given at any continuation or adjournment of the commission, or at any subsequent holding thereof, or the commissioner may draw up such decision in writing, and, having duly signed the same, forward it to the registrar.

20 Whereupon the registrar shall notify the parties of his intention to proceed at some convenient time and place by him specified to read the same, and he shall read the same accordingly, and thereupon such decision shall be of the same force and effect as if given by the com-

25 mission.

Evidence of award and its validity.

62. (1) Evidence of any award, industrial agreement, order, proclamation, notification, rule, or regulation made under the authority of this Act or any of the repealed Acts, may be given by the production of any document purporting to be a copy thereof and purporting to be printed by the Government Printer or by the authority of the Minister. Evidence and
publication.

35 (2) All awards, industrial agreements, orders, proclamations or other notifications excepting rules or regulations required or directed by this Act to be published in the Gazette, may be published either in the Gazette or in the New South Wales Industrial Gazette.

Penalties

*Industrial Conciliation and Arbitration.**Penalties and costs.*

63. Any penalty imposed by or under this Act or the regulations may, except where otherwise provided, be recovered upon summary conviction before a stipendiary, police, or industrial magistrate, or any two justices in petty sessions. Recovery of penalties.

64. The amount of any penalty recovered under this Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund except when such penalty has been recovered upon the complaint or information of an officer of an industrial union when the amount of such penalty shall be paid to the union. Application of penalties.

65. Except where otherwise in this Act provided the commissioner or the registrar, or any industrial or other magistrate or justices, may in any proceedings for a penalty or prosecution under this Act, and in any proceedings under section fifty-five or for a writ of injunction, make such order as to the payment of costs as may be thought just, and may assess the amount of such costs. Orders for costs.

66. Where by any conviction or order made under this Act, it is adjudged that any fine or penalty, or any sum of money or costs shall be paid, the commissioner or the registrar or an industrial magistrate may, if the person or persons against whom such conviction or order is made does or do not pay in accordance with the terms of the conviction or order the amount thereby adjudged to be paid as ascertained thereby, by warrant in the manner prescribed commit such person or persons to prison there to be kept according to the terms of the conviction or order unless he or they sooner pays or pay such amount together with such further sum for the costs of enforcing such conviction or order including the costs and charges of conveying such person or persons to prison as to the commissioner or the registrar or the industrial magistrate may seem just and reasonable: Imprisonment for non-payment of fine, penalty, money, or costs.

Provided always that this section in the event of non-payment of the amount of such fine, penalty, sum of money or costs shall not in any way affect the provisions

of

Industrial Conciliation and Arbitration.

of section fifty-six of this Act, even though such person or persons shall have been committed to prison by warrant as aforesaid.

5 **67.** Whosoever, before a committee or the commis- False state-
sion, wilfully makes on oath any false statement knowing ment.
ing the same to be false shall be guilty of perjury.

10 **68.** Where any statement on oath has been made by Directing
a person in any proceeding before the commission prosecution
or an industrial magistrate the commissioner or for perjury.
magistrate before whom the same was so made,
may, if reasonable cause appears for so doing, direct such
person to be prosecuted for perjury in respect thereof,
and may thereupon require him forthwith to enter
15 into a recognizance, with one or more surety or
sureties, to take his trial for that offence at the
next, or nearest practicable, sitting of the
Supreme Court, or court of quarter sessions,
and may also require any persons then present to
20 enter into recognizances to prosecute, and give
evidence, respectively, against the accused, and
may commit any person in default of his
entering into such recognizance.

The registrar, industrial magistrate, and inspectors.

25 **69.** (1) The Governor may, subject to the Public Registrar.
Service Act, 1902, appoint an industrial registrar, who
shall have the prescribed powers and duties.

(2) The Governor may appoint any person to act
as a deputy for the registrar appointed under this Act
for a time not exceeding in any case thirty days while
30 such registrar is absent from his duties for any cause,
and every such deputy shall, while acting as such, have
the same jurisdiction and powers, and perform the same
duties as if he were the registrar.

(3) The commissioner may direct the registrar
35 to inquire into any matter as to which he requires infor-
mation for the purpose of the exercise of the jurisdiction
of the commission in any matter not being proceedings
for a penalty under this Act, and the registrar shall
inquire accordingly, and report to the commission.

For

Industrial Conciliation and Arbitration.

For the purpose of such inquiry and for the purpose of any matter which by this Act or the regulations is referred to him, the registrar may summon any person, administer oaths and take affidavits, and examine parties and witnesses.

Every person summoned by the registrar shall be bound to attend upon such summons, and shall, for disobedience thereto, be liable to a penalty not exceeding fifty pounds.

(4) For the purpose of hearing and determining any proceedings for a penalty or for the recovery of money under this Act, the registrar shall have the powers of two justices of the peace within any police district.

70. (1) The Governor may appoint as Chief Industrial Magistrate a person who shall have the qualifications of a police magistrate and who shall, throughout the State, have the jurisdiction and powers conferred by this Act on an industrial magistrate and in the exercise of such jurisdiction may do alone whatever might be done by two or more justices sitting in petty sessions. The Chief Industrial Magistrate shall hold office during ability and good behaviour and shall be paid such salary and allowances as the Governor may determine. The Governor may remove such Chief Industrial Magistrate for inability or misbehaviour. Twenty-one days at least before such removal the Chief Industrial Magistrate shall have notice of the intention to remove him and shall thereafter and before removal have the opportunity of being heard before the Governor-in-Council in his defence.

Appointment
and powers
of industrial
magistrates.

The Chief Industrial Magistrate shall have superannuation benefits and all other rights and privileges enjoyed by the Stipendiary Magistrates in the Metropolitan Police District.

(2) The Governor may also appoint industrial magistrates, who shall have the qualifications of a police magistrate, and who shall throughout the State have the jurisdiction and powers conferred by this Act on an industrial magistrate, and in the exercise of such jurisdiction may do alone whatever might be done by two or more justices sitting in petty sessions.

(3)

Industrial Conciliation and Arbitration.

(3) The Governor may appoint any person duly qualified as aforesaid to act as a deputy for any industrial magistrate appointed under this Act for a time not exceeding in any case thirty days while such magistrate is absent from his duties for any cause, and every such deputy shall, while acting as such, have the same jurisdiction and powers and perform the same duties as if he were an industrial magistrate.

71. If any person shall, during any proceeding before an industrial magistrate, be guilty of contempt, such person may be punished in a summary way by such industrial magistrate by fine not exceeding forty shillings, or by imprisonment for a period not exceeding fourteen days.

Contempt.
cf. Justices
Act, 1902,
s. 152.

72. In proceedings before an industrial magistrate the applicant and defendant may appear, and each conduct his case by himself, or by his counsel or attorney, or by an industrial officer of any industrial union.

Appearance.

73. (1) The Minister may appoint inspectors who shall have the powers and duties prescribed.

Appointment
and powers
of inspectors.

Any such inspector may exercise the following powers and perform the following duties in respect of an industry as to which an award or an industrial agreement is in force :—

- 25 (a) he may at any time inspect any premises of any employer upon which any such industry as aforesaid is carried on, and any work being done therein ;
- 30 (b) he may at any time require the employer in such industry to produce for his examination, and may examine and take copies of any time-sheets and pay-sheets of the employees in such industry ;
- 35 (c) he may at any time examine any employee in such industry either alone or in the presence of his employer on any matter relating to his employment or work ;
- 40 (d) he may, on obtaining the authority of the Minister, institute proceedings for a penalty under section fifty.

An

Industrial Conciliation and Arbitration.

An inspector shall report to the Minister all breaches of this Act, or of an award or industrial agreement which have come to his knowledge.

(2) No inspector shall have any authority under this Act to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein, or unless he has reasonable ground for believing that such work is being carried on therein.

(3) If any person obstructs any inspector in the exercise of his powers under this Act, or fails when duly required as aforesaid to produce any time-sheets or pay-sheets, he shall be liable to a penalty of ten pounds for the first offence and twenty-five pounds for any subsequent offence.

Miscellaneous.

74. (1) Every employer in an industry in respect of which an award or an industrial agreement is in force shall keep, or cause to be kept, from day to day at the place where his employees in such industry are working in the manner and to the effect prescribed, time-sheets and pay-sheets of such employees, correctly written up in ink in English. Such time and pay sheets shall be kept by the employer at such place for a period covering at least the preceding twelve months.

If he fails to carry out any of the requirements of this subsection he shall be liable to a penalty not exceeding ten pounds.

(2) A copy of any award or industrial agreement whether made under the repealed Acts or this Act shall be exhibited and kept exhibited by every employer carrying on an industry to which it relates, at the place where his employees in such industry are working so as to be legible by his employees. If such employer fails to carry out the provisions of this subsection he shall be liable to a penalty not exceeding ten pounds.

75. No person shall accept a premium from any person in respect of employment which is subject to an award made under this Act, and any person who accepts such a premium shall be liable to a penalty not exceeding ten pounds.

Industrial Conciliation and Arbitration.

76. Whosoever publishes a newspaper which contains any advertisement in which a person offers or seeks employment at a wage lower than the wage fixed by any award or industrial agreement applicable to such employment, shall be liable to a penalty not exceeding ten pounds.

Advertising employment at less wages than award rate.

77. Every employer whose business or undertaking is subject to an award made under this Act shall in the manner prescribed register his name and trade name and address or any change in name, trade name or address with the registrar, and such register shall be open for inspection by any officer of an industrial union. For any contravention of this section an employer shall be liable to a penalty not exceeding five pounds.

Register of employers.

78. (1) In any contract for the supply of musical entertainment the consideration for the contract shall not be less than a sum sufficient to pay to each person engaged in the supply of the musical performance the amount required by the provisions of any award for the time being in force to be paid to a person so engaged.

Musical entertainments.

(2) Any person who offers, enters into, or is in any way concerned with a contract which does not comply with subsection one of this section or who knowingly engages or takes part in a musical performance in pursuance of a contract which does not comply with that subsection shall be guilty of an offence against this Act, and shall be liable to a penalty of ten pounds.

79. In any proceeding for a penalty for an offence under any of the provisions of this Act, or for an order directing an employer to pay any balance due in respect of work for which the price or rate has been fixed by an award, or for the recovery of any moneys payable in pursuance of the rules of an industrial union, the averments contained in the information or complaint, excepting the averment as to the commission of the offence, or that such balance of moneys are due and payable, shall be deemed to be proved in the absence of proof to the contrary.

Onus of proof.

PART

Industrial Conciliation and Arbitration.

PART IX.

THE ORGANIZATION OF THE LABOUR MARKET.

State labour exchanges.

80. The Minister shall establish, maintain, and conduct in the manner prescribed, in Sydney, and in such other places as he thinks fit, free employment agencies, which agencies shall be known as State labour exchanges. Establishment of State labour exchanges.

All State labour exchanges established under any of the Acts repealed by this Act, and existing at the commencement of this Act shall be deemed to have been established under this Act.

81. The functions of the State labour exchanges shall be to bring together intending employers and persons seeking employment; to make known the opportunities for employment and self-employment in the State; to encourage minors and others to undertake training in skilled employments; to provide industrial or agricultural training for vagrants and other persons unsuited for ordinary employments; and to carry out any other duties prescribed. For any of the above purposes a State labour exchange may co-operate with and assist any other labour exchange. Functions.

82. (1) The Minister may authorise a State labour exchange to make advances by way of loan towards meeting the expenses of persons seeking to avail themselves of opportunities of employment in localities distant from those in which they find themselves. Advances to meet expenses of travelling to work.

(2) When any such advance has been made, the Minister may order that the amount of such advance shall be a charge on any moneys which are then, or which may thereafter be due to the person to whom such advance is made from his then or future employer, for wages or in respect of work done. On the making of any such order, the employer for the time being of such person, or any employer who shall not have discharged his indebtedness to such person, shall on being notified of such order pay such moneys to the Minister, when and as they become due and payable, in satisfaction of the charge imposed by the order. (3)

Industrial Conciliation and Arbitration.

(3) Such order may be for the repayment of the amount of such advance, in one sum or by such instalments as the Minister may direct.

(4) No charge upon, or assignment of his wages, or moneys in respect of work done, or to be done, whenever or however made by any such person shall have any force whatever to defeat or affect any such order, and such order shall have effect as if no such charge or assignment existed.

10 **83.** (1) Any person obtaining or attempting to obtain under false pretences, or by means of any other fraud or deceit, an advance by way of loan, under the last preceding section, shall be guilty of a misdemeanour. Penalty for obtaining loan by fraud.
 15 months. Penalty, ten pounds, or imprisonment not exceeding six

(2) If any person makes any wilfully false statement or false representation to any officer in superintendence of a State labour exchange, or to any person acting for or for the purposes of any such labour exchange, with intent to obtain employment or to procure labour in preference to others, he shall be guilty of a misdemeanour. Penalty ten pounds, or imprisonment not exceeding six months.

(3) If any person knowingly—
 25 (a) sends, delivers, or causes to be sent or delivered to any officer any writing which purports to be signed or sent by any other person without such person's authority or in the name of any fictitious person; or
 30 (b) makes, sends, or delivers any written communication which purports to be a communication from any Government department or any officer thereof, and which is not so in fact,

he shall be guilty of a misdemeanour. Penalty, ten pounds, or imprisonment not exceeding six months.

84. A person shall not, after the passing of this Act, Private employment agencies prohibited. open, or carry on for profit any agency for procuring or assisting to procure employment or labour or any business having as one of its purposes the bringing together of intending employers and persons seeking employment.

This

Industrial Conciliation and Arbitration.

This section shall not extend to any agency conducted by the Returned Sailors' and Soldiers' Imperial League of Australia, New South Wales branch, or by the Limbless Soldiers' Association of New South Wales.

- 5 **85.** Any person who contravenes or fails to carry out any provision of this Part of this Act shall, where no other penalty or punishment is provided, be liable on conviction to a penalty not exceeding fifty pounds, or imprisonment not exceeding three months. Penalty for contravention of this Part.

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PART X.

REGULATIONS.

- 86.** The Governor may amend or repeal any regulations made under any Act repealed by this Act and may make regulations for carrying out the provisions of this Act, and in particular, but without derogating from the generality of such powers— Regulations

- 15 (a) prescribing the forms of references and applications to a committee and generally the forms to be used in carrying out this Act ;
- 20 (b) prescribing the form of oath to be taken by members of committees ;
- (c) regulating the exhibition by an employer of an award ;
- 25 (d) prescribing the form and mode of service of notices of meetings of a committee, and regulating the convening of such meetings ;
- (e) prescribing the giving of notice of inspection by a committee or its members of premises used in any industry, and prescribing the form and regulating the service of such notice ;
- 30 (f) providing for the payment of expenses of witnesses and persons summoned by the registrar ;

(g)

Industrial Conciliation and Arbitration.

- 5 (g) regulating the procedure to be followed in proceedings before the commission and before the registrar and an industrial magistrate, and in enforcing judgments, convictions, and orders given and made under this Act ;
- (h) for the enforcement of orders for penalties and orders for attachments made under this Act ;
- 10 (i) prescribing the powers and duties of the registrar, and regulating the registration under this Act of industrial unions ;
- (j) imposing any penalty not exceeding twenty pounds for any breach of such regulations ;
- (k) as to matters which by this Act may be prescribed.

15 **87.** (1) The regulations shall—

- (a) be published in the Gazette ;
- (b) take effect from the date of publication or from a later date to be specified in the regulations ;
- 20 (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is then sitting, and if not then within fourteen sitting days after the commencement of the next session.

25 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to

30 have effect.

Publication
of regula-
tions.

Industrial Conciliation and Arbitration.

SCHEDULES.

SCHEDULE ONE.

Reference to Act.	Short Title.	Extent of repeal.
5 1912, No. 17	Industrial Arbitration Act, 1912...	The whole.
1916, No. 81	Industrial Arbitration (Amendment) Act, 1916.	The whole.
10 1918, No. 16	Industrial Arbitration (Amendment) Act, 1918.	The whole.
1918, No. 39	Industrial Arbitration (Further Amendment) Act, 1918.	The whole.
15 1919, No. 50	Industrial Arbitration (Amendment) Act, 1919.	The whole.
1920, No. 19	Industrial Arbitration (Amendment) Act, 1920.	The whole.
1922, No. 30	Industrial Arbitration (Amendment) Act, 1922.	The whole.
20 1923, No. 54	Monopolies Act, 1923	Section 3.
1926, No. 14	Industrial Arbitration (Amendment) Act, 1926.	The whole.
1927, No. 45	Industrial Arbitration (Amendment) Act, 1927.	The whole.
25 1929, No. 41	Industrial Arbitration (Amendment) Act, 1929.	The whole.
1929, No. 40	Industrial Arbitration (Living Wage) Amendment Act, 1929.	The whole.

SCHEDULE TWO.

- 30 Government Railways Transport Staff Association.
 Government Tramways Electrical Branch Workers' Association.
 Permanent and Casual Wharf Labourers' Union of Australia, New South Wales Branch.
 Railway Service Association.
 Schweppes Mineral Water Employees' Union.
 Elliott Brothers Ltd. Chemical Works Employees' Union.

Industrial Commission and its members

MEMBERS

MEMBERS

2

The Industrial Commission was organized on January 1, 1912, under the provisions of the Industrial Commission Act, Chapter 101, Laws of 1911. The Commission is composed of seven members, three of whom are appointed by the Governor and four by the Senate. The members are: Mr. J. B. Connelley, Chairman; Mr. J. B. Connelley, Secretary; Mr. J. B. Connelley, Treasurer; Mr. J. B. Connelley, Auditor; Mr. J. B. Connelley, Counselor; Mr. J. B. Connelley, Engineer; and Mr. J. B. Connelley, Surveyor.

The Commission has the honor to acknowledge the receipt of your letter of the 10th inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

Very respectfully,
J. B. Connelley, Chairman

[Signature]