GOVERNMENT RAILWAYS AND TRANSPORT (AMENDMENT) BILL.

Schedule of the Amendments referred to in Legislative Council's Message of 13 *March,* 1974.

Page 9, clause 3. *After* line 33 *insert*—

(g) by omitting from section 100D (3) (b) the word "six" and inserting instead the word "twelve".

Sec. 100D. (Election between rights under sec. 100B, and right to compensation or damages.)

Page 16, clause 4. *After* line 32 *insert*—

(e) by omitting from section 124B (3) (b) the word "six" and inserting instead the word "twelve".

Sec. 124B. (Election between rights under sec. 124, and right to compensation or damages.)

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.*

R. E. WARD,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 28 *February,* 1974.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with Amendments.*

A. W. SAXON,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 13 *March,* 1974.

New South Wales

ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1974.

An Act relating to the remuneration of officers employed under the Government Railways Act, 1912, or the Transport Act, 1930, who are required to work on certain bank or public holidays; to make further provision with respect to the constitution of boards hearing certain appeals by any such officers; to confer on the Workers' Compensation Commission of New South Wales jurisdiction in relation to any such officers who are incapacitated by certain injuries; for these and other purposes to amend those Acts; to validate certain matters; and for purposes connected therewith.

39227 32—A BE

NOTE.—The words to be *inserted* are printed in **black letter.**

BE it enacted by the Queen'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:—

Short title.

1. This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1974".

Commencement.

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 3 (f) and 4 (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 30, 1912.

3. The Government Railways Act, 1912, is amended—

Sec. 17A. (Power of Commissioners to acquire coal mines and sawmills.)

(a) (i) by omitting from section 17A (a) the word "and" where lastly occurring;

(ii) by inserting at the end of section 17A the following new paragraphs:—

(c) to acquire, construct and operate sawmills and to carry out all works and do all things necessary or proper in connection therewith, including the acquisition of timber; and

(d) to use, sell or otherwise dispose of the timber or any product of the timber produced from any such sawmill.

(b)

(b) by inserting in section 72 (2) after the word "cars" the words "or in connection with a sawmill (other than a sawmill associated with a workshop) operated by the Public Transport Commission of New South Wales"; Sec. 72 (2). (Supernumerary employment.)

(c) (i) by omitting section 87 (1) (c) and by inserting instead the following paragraph:— Sec. 87. (Appeal to board.)

(c) the nominated member within the meaning of subsection (2) or (9) of section 87A, as the case may require.

(ii) by omitting section 87 (2);

(d) by inserting next after section 87 the following new section:— New sec. 87A.

87A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— Nominated member of board under s. 87.

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 91; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations made under section 102,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b)

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4)

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

5 (a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b) if he ceases to be an officer; or

10 (c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under
15 subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the
20 secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

25 (7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

30 (a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(e) (i) by inserting in the proviso to section 100A (1) after the words "Provided that" the words ", subject to subsection (1C),"; **Sec. 100A. (Annual leave, extended leave and retiring leave of officers.)**

(ii) by inserting in section 100A (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 100A (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that

day,

day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(f) by inserting next after section 100C the following new section :— New sec. 100CA.

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100CA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 100B and subsection (2) of section 100C, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 100B (1), (2) and (3) and 100C (2).

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(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

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(a) the question whether an injury received by an officer entitles him to the benefits of section 100B or subsection (2) of section 100C;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 100B or subsection (2) of section 100C.

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(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

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(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall

shall apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 100B or subsection (2) of section 100C, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(g) by omitting from section 100D (3) (b) the word "six" and inserting instead the word "twelve".

Sec. 100D. (Election between rights under sec. 100B, and right to compensation or damages.)

(h) ~~(g)~~ by omitting the Third Schedule.

Third Schedule.

4.

4. The Transport Act, 1930, is amended— **Amendment of Act No. 18, 1930.**

(a) by omitting section 114 (1) (c) and by inserting instead the following paragraph :— **Sec. 114. (Appeal Board.)**

(c) an officer, being—

(i) if there is an officer who was elected for the purposes of the paragraph which this paragraph replaces before its repeal by the Government Railways and Transport (Amendment) Act, 1974, and who would, but for the enactment of that Act, have been the member of the board for the purpose of hearing and determining the appeal, and who is willing and able to act as such a member—that officer; or

(ii) in any other case—the nominated member within the meaning of subsection (2) or (9) of section 114A, as the case may require.

(b) by inserting next after section 114 the following new section :— **New sec. 114A.**

114A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— **Nominated member of board under s. 114.**

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 115c; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations referred to in section 263,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more

such

such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b)

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of

paragraph

paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(c) (i) by inserting in the proviso to section 123 (1) after the words "Provided that" the words ", subject to subsection (1C),"; **Sec. 123. (Annual leave and leave of absence after years of service.)**

(ii) by inserting in section 123 (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 123 (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(d) by inserting next after section 124A the following new section :— **New sec. 124AA.**

Jurisdiction of Workers' Compensation Commission in proceedings re ss. 124 (1), (2) and (3) and 124A (2).

124AA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 124 and subsection (2) of section 124A, and the action or decision of that Commission shall be final.

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 124 or subsection (2) of section 124A;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 124 or subsection (2) of section 124A.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the

jurisdiction

jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 124 or subsection (2) of section 124A, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(e) by omitting from section 124B (3) (b) the word "six" and inserting instead the word "twelve".

Sec. 124B. (Election between rights under sec. 124, and right to compensation or damages.)

(f) ~~(e)~~ by omitting section 263 (a).

Sec. 263. (Regulations to be made on recommendation of Board.)

5.

5. Any act, matter or thing that was done or omitted at any time before the date of assent to this Act and that would have been valid had the amendments made by this Act (sections 3 (f) and 4 (d) excepted) been in force at that time is hereby validated. Validation.

6. (1) In this section, "proceedings" means proceedings with respect to any person's entitlement under section 100B (1), (2) or (3) or section 100C (2) of the Government Railways Act, 1912, or under section 124 (1), (2) or (3) or section 124A (2) of the Transport Act, 1930. Savings.

(2) Any proceedings commenced before the date of commencement of sections 3 (f) and 4 (d), and any proceedings not so commenced but in relation to which a notice has been given in accordance with section 144 of the Government Railways Act, 1912, or section 233 of the Transport Act, 1930, as the case may be, may be continued or commenced, as the case may be, and heard and determined, in all respects as if this Act had not been enacted.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974
[15c]

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.*

R. E. WARD,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 28 *February,* 1974.

New South Wales

ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1974.

An Act relating to the remuneration of officers employed under the Government Railways Act, 1912, or the Transport Act, 1930, who are required to work on certain bank or public holidays; to make further provision with respect to the constitution of boards hearing certain appeals by any such officers; to confer on the Workers' Compensation Commission of New South Wales jurisdiction in relation to any such officers who are incapacitated by certain injuries; for these and other purposes to amend those Acts; to validate certain matters; and for purposes connected therewith.

39227 32—A BE

BE it enacted by the Queen'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:—

1. This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1974". **Short title.**

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act. **Commencement.**

(2) Sections 3 (f) and 4 (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Government Railways Act, 1912, is amended— **Amendment of Act No. 30, 1912.**

(a) (i) by omitting from section 17A (a) the word "and" where lastly occurring; **Sec. 17A. (Power of Commissioners to acquire coal mines and sawmills.)**

(ii) by inserting at the end of section 17A the following new paragraphs:—

(c) to acquire, construct and operate sawmills and to carry out all works and do all things necessary or proper in connection therewith, including the acquisition of timber; and

(d) to use, sell or otherwise dispose of the timber or any product of the timber produced from any such sawmill.

(b)

(b) by inserting in section 72 (2) after the word "cars" the words "or in connection with a sawmill (other than a sawmill associated with a workshop) operated by the Public Transport Commission of New South Wales"; Sec. 72 (2). (Super-numerary employ-ment.)

(c) (i) by omitting section 87 (1) (c) and by inserting instead the following paragraph:— Sec. 87. (Appeal to board.)

(c) the nominated member within the meaning of subsection (2) or (9) of section 87A, as the case may require.

(ii) by omitting section 87 (2);

(d) by inserting next after section 87 the following new section :— New sec. 87A.

87A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— Nominated member of board under s. 87.

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 91; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations made under section 102,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b)

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4)

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

5 (a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b) if he ceases to be an officer; or

10 (c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under
15 subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the
20 secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

25 (7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

30 (a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(e) (i) by inserting in the proviso to section 100A (1) after the words "Provided that" the words ", subject to subsection (1C),"; Sec. 100A. (Annual leave, extended leave and retiring leave of officers.)

(ii) by inserting in section 100A (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 100A (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that

day,

day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(f) by inserting next after section 100C the following new section :— New sec. 100CA.

100CA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 100B and subsection (2) of section 100C, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 100B (1), (2) and (3) and 100C (2).

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 100B or subsection (2) of section 100C;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 100B or subsection (2) of section 100C.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall

shall apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 100B or subsection (2) of section 100C, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(g) by omitting the Third Schedule. Third Schedule.

4.

4. The Transport Act, 1930, is amended— **Amendment of Act No. 18, 1930.**

(a) by omitting section 114 (1) (c) and by inserting instead the following paragraph :— **Sec. 114. (Appeal Board.)**

(c) an officer, being—

(i) if there is an officer who was elected for the purposes of the paragraph which this paragraph replaces before its repeal by the Government Railways and Transport (Amendment) Act, 1974, and who would, but for the enactment of that Act, have been the member of the board for the purpose of hearing and determining the appeal, and who is willing and able to act as such a member—that officer; or

(ii) in any other case—the nominated member within the meaning of subsection (2) or (9) of section 114A, as the case may require.

(b) by inserting next after section 114 the following new section :— **New sec. 114A.**

114A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— **Nominated member of board under s. 114.**

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 115C; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations referred to in section 263,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more

such

such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b)

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of

paragraph

paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

Sec. 123. (Annual leave and leave of absence after years of service.)

(c) (i) by inserting in the proviso to section 123 (1) after the words "Provided that" the words ", subject to subsection (1C),";

(ii) by inserting in section 123 (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 123 (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(d)

(d) by inserting next after section 124A the following new section :— New sec. 124AA.

Jurisdiction of Workers' Compensation Commission in proceedings re ss. 124 (1), (2) and (3) and 124A (2).

124AA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 124 and subsection (2) of section 124A, and the action or decision of that Commission shall be final.

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 124 or subsection (2) of section 124A;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 124 or subsection (2) of section 124A.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the

jurisdiction

jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 124 or subsection (2) of section 124A, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(e) by omitting section 263 (a).

Sec. 263. (Regulations to be made on recommendation of Board.)

5.

5. Any act, matter or thing that was done or omitted at any time before the date of assent to this Act and that would have been valid had the amendments made by this Act (sections 3 (f) and 4 (d) excepted) been in force at that time is hereby validated. Validation.

6. (1) In this section, "proceedings" means proceedings with respect to any person's entitlement under section 100B (1), (2) or (3) or section 100C (2) of the Government Railways Act, 1912, or under section 124 (1), (2) or (3) or section 124A (2) of the Transport Act, 1930. Savings.

(2) Any proceedings commenced before the date of commencement of sections 3 (f) and 4 (d), and any proceedings not so commenced but in relation to which a notice has been given in accordance with section 144 of the Government Railways Act, 1912, or section 233 of the Transport Act, 1930, as the case may be, may be continued or commenced, as the case may be, and heard and determined, in all respects as if this Act had not been enacted.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974
[15c]

No. , 1973.

A BILL

Relating to the remuneration of officers employed under the Government Railways Act, 1912, or the Transport Act, 1930, who are required to work on certain bank or public holidays; to make further provision with respect to the constitution of boards hearing certain appeals by any such officers; to confer on the Workers' Compensation Commission of New South Wales jurisdiction in relation to any such officers who are incapacitated by certain injuries; for these and other purposes to amend those Acts; to validate certain matters; and for purposes connected therewith.

[Mr Morris—12 *December*, 1973.]

39227 32—A BE

BE it enacted by the Queen'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:—

1. This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1973". Short title.

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act. Commencement.

(2) Sections 3 (f) and 4 (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Government Railways Act, 1912, is amended— Amendment of Act No. 30, 1912.

(a) (i) by omitting from section 17A (a) the word "and" where lastly occurring; Sec. 17A. (Power of Commissioners to acquire coal mines and sawmills.)

(ii) by inserting at the end of section 17A the following new paragraphs:—

(c) to acquire, construct and operate sawmills and to carry out all works and do all things necessary or proper in connection therewith, including the acquisition of timber; and

(d) to use, sell or otherwise dispose of the timber or any product of the timber produced from any such sawmill.

(b)

(b) by inserting in section 72 (2) after the word "cars" the words "or in connection with a sawmill (other than a sawmill associated with a workshop) operated by the Public Transport Commission of New South Wales"; Sec. 72 (2). (Supernumerary employment.)

(c) (i) by omitting section 87 (1) (c) and by inserting instead the following paragraph:— Sec. 87. (Appeal to board.)

(c) the nominated member within the meaning of subsection (2) or (9) of section 87A, as the case may require.

(ii) by omitting section 87 (2);

(d) by inserting next after section 87 the following new section :— New sec. 87A.

87A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— Nominated member of board under s. 87.

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 91; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations made under section 102,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b)

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

5 (a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b) if he ceases to be an officer; or

10 (c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under 15 subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the 20 secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

25 (7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

30 (a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(e) (i) by inserting in the proviso to section 100A (1) after the words "Provided that" the words ", subject to subsection (1C),";

Sec. 100A. (Annual leave, extended leave and retiring leave of officers.)

(ii) by inserting in section 100A (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 100A (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that

day,

day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(f) by inserting next after section 100C the following new section :— New sec. 100CA.

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100CA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 100B and subsection (2) of section 100C, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 100B (1), (2) and (3) and 100C (2).

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(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

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(a) the question whether an injury received by an officer entitles him to the benefits of section 100B or subsection (2) of section 100C;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 100B or subsection (2) of section 100C.

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(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

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(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall

shall apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 100B or subsection (2) of section 100C, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(g) by omitting the Third Schedule. Third Schedule.

4. The Transport Act, 1930, is amended— **Amendment of Act No. 18, 1930.**

(a) by omitting section 114 (1) (c) and by inserting instead the following paragraph :— **Sec. 114. (Appeal Board.)**

(c) an officer, being—

(i) if there is an officer who was elected for the purposes of the paragraph which this paragraph replaces before its repeal by the Government Railways and Transport (Amendment) Act, 1973, and who would, but for the enactment of that Act, have been the member of the board for the purpose of hearing and determining the appeal, and who is willing and able to act as such a member—that officer; or

(ii) in any other case—the nominated member within the meaning of subsection (2) or (9) of section 114A, as the case may require.

(b) by inserting next after section 114 the following new section :— **New sec. 114A.**

114A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— **Nominated member of board under s. 114.**

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 115c; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations referred to in section 263,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more

such

such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b)

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of

paragraph

paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(c) (i) by inserting in the proviso to section 123 (1) after the words "Provided that" the words ", subject to subsection (1C),";

Sec. 123. (Annual leave and leave of absence after years of service.)

(ii) by inserting in section 123 (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 123 (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(d)

(d) by inserting next after section 124A the following new section :— New sec. 124AA.

124AA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 124 and subsection (2) of section 124A, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 124 (1), (2) and (3) and 124A (2).

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 124 or subsection (2) of section 124A;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 124 or subsection (2) of section 124A.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the

jurisdiction

jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 124 or subsection (2) of section 124A, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(e) by omitting section 263 (a).

Sec. 263. (Regulations to be made on recommendation of Board.)

5.

5. Any act, matter or thing that was done or omitted at any time before the date of assent to this Act and that would have been valid had the amendments made by this Act (sections 3 (f) and 4 (d) excepted) been in force at that time is hereby validated. **Validation.**

6. (1) In this section, "proceedings" means proceedings with respect to any person's entitlement under section 100B (1), (2) or (3) or section 100C (2) of the Government Railways Act, 1912, or under section 124 (1), (2) or (3) or section 124A (2) of the Transport Act, 1930. **Savings.**

(2) Any proceedings commenced before the date of commencement of sections 3 (f) and 4 (d), and any proceedings not so commenced but in relation to which a notice has been given in accordance with section 144 of the Government Railways Act, 1912, or section 233 of the Transport Act, 1930, as the case may be, may be continued or commenced, as the case may be, and heard and determined, in all respects as if this Act had not been enacted.

BY AUTHORITY
V. C. N. BLIGHT, C.B.E., GOVERNMENT PRINTER, NEW SOUTH WALES—1973
[15c]

PROOF

GOVERNMENT RAILWAYS AND TRANSPORT (AMENDMENT) BILL, 1973

EXPLANATORY NOTE

THE objects of this Bill are—

(a) to empower the Public Transport Commission of New South Wales to acquire and operate sawmills;

(b) to provide that one of the members of the board constituted under section 87 of the Government Railways Act, 1912, or section 114 of the Transport Act, 1930, to hear and determine an appeal made by an officer employed under either of those Acts (hereinafter referred to as an "officer"), is to be nominated by the secretary of the industrial union of which the officer is, or is entitled to be, a member;

(c) to provide that an officer who is required to work on a bank or public holiday is entitled to pay at the rate of time and one-half as well as to a day's leave on full pay, but that, if under an award or industrial agreement he is entitled to pay at a rate in excess of double time, he is not to be also entitled to a day's leave on full pay;

(d) to confer exclusive jurisdiction on the Workers' Compensation Commission to determine disputes in relation to the entitlement of an officer to be paid his salary while incapacitated by an injury arising out of and in the course of his employment;

(e) to validate acts and omissions before the commencement of the proposed Act in relation to the matters referred to in paragraphs (a), (b) and (c);

(f) to make other provisions of a minor, consequential or ancillary character.

39227 32—

PROOF

No. , 1973.

A BILL

Relating to the remuneration of officers employed under the Government Railways Act, 1912, or the Transport Act, 1930, who are required to work on certain bank or public holidays; to make further provision with respect to the constitution of boards hearing certain appeals by any such officers; to confer on the Workers' Compensation Commission of New South Wales jurisdiction in relation to any such officers who are incapacitated by certain injuries; for these and other purposes to amend those Acts; to validate certain matters; and for purposes connected therewith.

[MR MORRIS—12 *December*, 1973.]

39227 32—A BE

BE it enacted by the Queen'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:—

1. This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1973". Short title.

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act. Commencement.

(2) Sections 3 (f) and 4 (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. The Government Railways Act, 1912, is amended— Amendment of Act No. 30, 1912.

(a) (i) by omitting from section 17A (a) the word "and" where lastly occurring; Sec. 17A. (Power of Commissioners to acquire coal mines and sawmills.)

(ii) by inserting at the end of section 17A the following new paragraphs:—

(c) to acquire, construct and operate sawmills and to carry out all works and do all things necessary or proper in connection therewith, including the acquisition of timber; and

(d) to use, sell or otherwise dispose of the timber or any product of the timber produced from any such sawmill.

(b)

(b) by inserting in section 72 (2) after the word "cars" the words "or in connection with a sawmill (other than a sawmill associated with a workshop) operated by the Public Transport Commission of New South Wales"; Sec. 72 (2). (Super-numerary employ-ment.)

(c) (i) by omitting section 87 (1) (c) and by inserting instead the following paragraph:— Sec. 87. (Appeal to board.)

(c) the nominated member within the meaning of subsection (2) or (9) of section 87A, as the case may require.

(ii) by omitting section 87 (2);

(d) by inserting next after section 87 the following new section :— New sec. 87A.

87A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— Nominated member of board under s. 87.

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 91; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations made under section 102,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b)

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4)

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

5 (a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b) if he ceases to be an officer; or

10 (c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under

15 subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the

20 secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

25 (7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

30 (a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(e) (i) by inserting in the proviso to section 100A (1) after the words "Provided that" the words ", subject to subsection (1C),";

Sec. 100A. (Annual leave, extended leave and retiring leave of officers.)

(ii) by inserting in section 100A (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 100A (2) the following new subsections:—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that

day,

day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(f) by inserting next after section 100C the following new section :— New sec. 100CA.

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100CA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 100B and subsection (2) of section 100C, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 100B (1), (2) and (3) and 100C (2).

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(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

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(a) the question whether an injury received by an officer entitles him to the benefits of section 100B or subsection (2) of section 100C;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 100B or subsection (2) of section 100C.

25

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

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(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall

shall apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 100B or subsection (2) of section 100C, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(g) by omitting the Third Schedule. Third Schedule.

4.

4. The Transport Act, 1930, is amended— Amendment of Act No. 18, 1930.

(a) by omitting section 114 (1) (c) and by inserting instead the following paragraph :— Sec. 114. (Appeal Board.)

(c) an officer, being—

(i) if there is an officer who was elected for the purposes of the paragraph which this paragraph replaces before its repeal by the Government Railways and Transport (Amendment) Act, 1973, and who would, but for the enactment of that Act, have been the member of the board for the purpose of hearing and determining the appeal, and who is willing and able to act as such a member—that officer; or

(ii) in any other case—the nominated member within the meaning of subsection (2) or (9) of section 114A, as the case may require.

(b) by inserting next after section 114 the following new section :— New sec. 114A.

114A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— Nominated member of board under s. 114.

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 115c; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations referred to in section 263,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more

such

such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b)

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of

paragraph

paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

Sec. 123. (Annual leave and leave of absence after years of service.)

(c) (i) by inserting in the proviso to section 123 (1) after the words "Provided that" the words ", subject to subsection (1C),";

(ii) by inserting in section 123 (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 123 (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(d) by inserting next after section 124A the following new section :— New sec. 124AA.

124AA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 124 and subsection (2) of section 124A, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 124 (1), (2) and (3) and 124A (2).

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 124 or subsection (2) of section 124A;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 124 or subsection (2) of section 124A.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the

jurisdiction

jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 124 or subsection (2) of section 124A, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(e) by omitting section 263 (a).

Sec. 263. (Regulations to be made on recommendation of Board.)

5.

5. Any act, matter or thing that was done or omitted at any time before the date of assent to this Act and that would have been valid had the amendments made by this Act (sections 3 (f) and 4 (d) excepted) been in force at that time is hereby validated. Validation.

6. (1) In this section, "proceedings" means proceedings with respect to any person's entitlement under section 100B (1), (2) or (3) or section 100C (2) of the Government Railways Act, 1912, or under section 124 (1), (2) or (3) or section 124A (2) of the Transport Act, 1930. Savings.

(2) Any proceedings commenced before the date of commencement of sections 3 (f) and 4 (d), and any proceedings not so commenced but in relation to which a notice has been given in accordance with section 144 of the Government Railways Act, 1912, or section 233 of the Transport Act, 1930, as the case may be, may be continued or commenced, as the case may be, and heard and determined, in all respects as if this Act had not been enacted.

BY AUTHORITY
V. C. N. BLIGHT, C.B.E., GOVERNMENT PRINTER, NEW SOUTH WALES—1973

New South Wales

ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

* *

Act No. 11, 1974.

An Act relating to the remuneration of officers employed under the Government Railways Act, 1912, or the Transport Act, 1930, who are required to work on certain bank or public holidays; to make further provision with respect to the constitution of boards hearing certain appeals by any such officers; to confer on the Workers' Compensation Commission of New South Wales jurisdiction in relation to any such officers who are incapacitated by certain injuries; for these and other purposes to amend those Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 3rd April, 1974.]

BE

P 55495—A [15c]

Government Railways and Transport (Amendment).

BE it enacted by the Queen'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:—

Short title.

1. This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1974".

Commencement.

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 3 (f) and 4 (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 30, 1912.

3. The Government Railways Act, 1912, is amended—

Sec. 17A. (Power of Commissioners to acquire coal mines and sawmills.)

(a) (i) by omitting from section 17A (a) the word "and" where lastly occurring;

(ii) by inserting at the end of section 17A the following new paragraphs:—

(c) to acquire, construct and operate sawmills and to carry out all works and do all things necessary or proper in connection therewith, including the acquisition of timber; and

(d) to use, sell or otherwise dispose of the timber or any product of the timber produced from any such sawmill.

(b)

(b) by inserting in section 72 (2) after the word "cars" the words "or in connection with a sawmill (other than a sawmill associated with a workshop) operated by the Public Transport Commission of New South Wales"; Sec. 72 (2). (Supernumerary employment.)

(c) (i) by omitting section 87 (1) (c) and by inserting instead the following paragraph:— Sec. 87. (Appeal to board.)

(c) the nominated member within the meaning of subsection (2) or (9) of section 87A, as the case may require.

(ii) by omitting section 87 (2);

(d) by inserting next after section 87 the following new section :— New sec. 87A.

87A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— Nominated member of board under s. 87.

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 91; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations made under section 102,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b)

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4)

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(e) (i) by inserting in the proviso to section 100A (1) after the words "Provided that" the words ", subject to subsection (1C),";

Sec. 100A. (Annual leave, extended leave and retiring leave of officers.)

(ii) by inserting in section 100A (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 100A (2) the following new subsections:—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(f)

New sec. 100CA.

Jurisdiction of Workers' Compensation Commission in proceedings re ss. 100B (1), (2) and (3) and 100C (2).

(f) by inserting next after section 100C the following new section :—

100CA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 100B and subsection (2) of section 100C, and the action or decision of that Commission shall be final.

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 100B or subsection (2) of section 100C;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 100B or subsection (2) of section 100C.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they

they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 100B or subsection (2) of section 100C, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(g) by omitting from section 100D (3) (b) the word "six" and inserting instead the word "twelve". Sec. 100D. (Election between rights under sec. 100B, and right to compensation or damages.)

(h) by omitting the Third Schedule. Third Schedule.

4.

Amendment of Act No. 18, 1930.

4. The Transport Act, 1930, is amended—

Sec. 114. (Appeal Board.)

(a) by omitting section 114 (1) (c) and by inserting instead the following paragraph :—

(c) an officer, being—

(i) if there is an officer who was elected for the purposes of the paragraph which this paragraph replaces before its repeal by the Government Railways and Transport (Amendment) Act, 1974, and who would, but for the enactment of that Act, have been the member of the board for the purpose of hearing and determining the appeal, and who is willing and able to act as such a member—that officer; or

(ii) in any other case—the nominated member within the meaning of subsection (2) or (9) of section 114A, as the case may require.

New sec. 114A.

(b) by inserting next after section 114 the following new section :—

Nominated member of board under s. 114.

114A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires—

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 115C; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations referred to in section 263,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more

such

such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b)

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of

paragraph

paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

Sec. 123. (Annual leave and leave of absence after years of service.)

(c) (i) by inserting in the proviso to section 123 (1) after the words "Provided that" the words ", subject to subsection (1C),";

(ii) by inserting in section 123 (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 123 (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(d) by inserting next after section 124A the following new section :— New sec. 124AA.

124AA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 124 and subsection (2) of section 124A, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 124 (1), (2) and (3) and 124A (2).

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 124 or subsection (2) of section 124A;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 124 or subsection (2) of section 124A.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the

jurisdiction

jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 124 or subsection (2) of section 124A, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

Sec. 124B. (Election between rights under sec. 124, and right to compensation or damages.)

(e) by omitting from section 124B (3) (b) the word "six" and inserting instead the word "twelve".

(f)

(f) by omitting section 263 (a).

Sec. 263 (Regulations to be made on recommendation of Board.)

5. Any act, matter or thing that was done or omitted at any time before the date of assent to this Act and that would have been valid had the amendments made by this Act (sections 3 (f) and 4 (d) excepted) been in force at that time is hereby validated.

Validation.

6. (1) In this section, "proceedings" means proceedings with respect to any person's entitlement under section 100B (1), (2) or (3) or section 100C (2) of the Government Railways Act, 1912, or under section 124 (1), (2) or (3) or section 124A (2) of the Transport Act, 1930.

Savings.

(2) Any proceedings commenced before the date of commencement of sections 3 (f) and 4 (d), and any proceedings not so commenced but in relation to which a notice has been given in accordance with section 144 of the Government Railways Act, 1912, or section 233 of the Transport Act, 1930, as the case may be, may be continued or commenced, as the case may be, and heard and determined, in all respects as if this Act had not been enacted.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 19 *March,* 1974.

New South Wales

ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

* *

Act No. 11, 1974.

An Act relating to the remuneration of officers employed under the Government Railways Act, 1912, or the Transport Act, 1930, who are required to work on certain bank or public holidays; to make further provision with respect to the constitution of boards hearing certain appeals by any such officers; to confer on the Workers' Compensation Commission of New South Wales jurisdiction in relation to any such officers who are incapacitated by certain injuries; for these and other purposes to amend those Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 3rd April, 1974.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

BE it enacted by the Queen'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:—

Short title.

1. This Act may be cited as the "Government Railways and Transport (Amendment) Act, 1974".

Commencement.

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 3 (f) and 4 (d) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 30, 1912.

3. The Government Railways Act, 1912, is amended—

Sec. 17A. (Power of Commissioners to acquire coal mines and sawmills.)

(a) (i) by omitting from section 17A (a) the word "and" where lastly occurring;

(ii) by inserting at the end of section 17A the following new paragraphs:—

(c) to acquire, construct and operate sawmills and to carry out all works and do all things necessary or proper in connection therewith, including the acquisition of timber; and

(d) to use, sell or otherwise dispose of the timber or any product of the timber produced from any such sawmill.

(b)

(b) by inserting in section 72 (2) after the word "cars" the words "or in connection with a sawmill (other than a sawmill associated with a workshop) operated by the Public Transport Commission of New South Wales"; **Sec. 72 (2). (Super-numerary employ-ment.)**

(c) (i) by omitting section 87 (1) (c) and by inserting instead the following paragraph:— **Sec. 87. (Appeal to board.)**

(c) the nominated member within the meaning of subsection (2) or (9) of section 87A, as the case may require.

(ii) by omitting section 87 (2);

(d) by inserting next after section 87 the following new section :— **New sec. 87A.**

87A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires— **Nominated member of board under s. 87.**

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 91; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations made under section 102,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b)

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of paragraph (c) of subsection (1) of section 87, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

(e) (i) by inserting in the proviso to section 100A (1) after the words "Provided that" the words ", subject to subsection (1C),"; Sec. 100A. (Annual leave, extended leave and retiring leave of officers.)

(ii) by inserting in section 100A (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 100A (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(f)

New sec. 100CA.

Jurisdiction of Workers' Compensation Commission in proceedings re ss. 100B (1), (2) and (3) and 100C (2).

(f) by inserting next after section 100C the following new section :—

100CA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 100B and subsection (2) of section 100C, and the action or decision of that Commission shall be final.

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 100B or subsection (2) of section 100C;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 100B or subsection (2) of section 100C.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they

they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 100B or subsection (2) of section 100C, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

(g) by omitting from section 100D (3) (b) the word "six" and inserting instead the word "twelve". **Sec. 100D. (Election between rights under sec. 100B, and right to compensation or damages.)**

(h) by omitting the Third Schedule. **Third Schedule.**

4.

Amendment of Act No. 18, 1930.

4. The Transport Act, 1930, is amended—

Sec. 114. (Appeal Board.)

(a) by omitting section 114 (1) (c) and by inserting instead the following paragraph :—

(c) an officer, being—

(i) if there is an officer who was elected for the purposes of the paragraph which this paragraph replaces before its repeal by the Government Railways and Transport (Amendment) Act, 1974, and who would, but for the enactment of that Act, have been the member of the board for the purpose of hearing and determining the appeal, and who is willing and able to act as such a member—that officer; or

(ii) in any other case—the nominated member within the meaning of subsection (2) or (9) of section 114A, as the case may require.

New sec. 114A.

(b) by inserting next after section 114 the following new section :—

Nominated member of board under s. 114.

114A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires—

"industrial union" means an industrial union of employees registered under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as subsequently amended;

"prescribed

"prescribed time", in relation to an appeal, means—

(a) if no time is prescribed for the purposes of paragraph (b)—the expiration of the period of five days after the day on which notice of the decision appealed against was given to the appellant, as referred to in section 115C; or

(b) such time as may be prescribed for the purposes of this paragraph by regulations referred to in section 263,

or such earlier time as the chairman, at the request or with the consent of the appellant, determines;

"secretary", in relation to an industrial union, means the secretary or chief executive officer of the industrial union.

(2) For the purposes of paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to an appeal, means an officer, being—

(a) if only one representative's nomination made under subsection (3) by the secretary of an industrial union of which the appellant is a member, or, if he is not a member of any industrial union, of an industrial union of which he is entitled or eligible to be a member, remains unrevoked at the prescribed time—that representative;

(b) if two or more representatives' nominations made under subsection (3) by the secretary of such a union, or of each of two or more

such

such unions, remain unrevoked at the prescribed time—such one of those representatives—

(i) as the appellant nominates by instrument in writing furnished to the secretary to the board within such period after the prescribed time as the chairman allows before the hearing of the appeal commences; or

(ii) if the appellant does not make such a nomination within that period or any such further period or periods—as the chairman nominates before the hearing commences; or

(c) if there is no nomination made under subsection (3) by the secretary of such a union or no such nomination remains unrevoked at the prescribed time—such officer as the chairman nominates before the hearing commences.

(3) The secretary of an industrial union of which officers are, or are entitled or eligible to be, members—

(a) may, by instrument in writing furnished to the secretary to the board, nominate an officer to be a representative for the purposes of this section; and

(b) may, by instrument in writing so furnished, revoke that nomination.

(4) Without affecting paragraph (b) of subsection (3), a person's nomination as a representative under subsection (3) shall, for the purposes of this section, be deemed to be revoked—

(a) if he notifies the secretary to the board, by instrument in writing, that he does not desire to continue as a representative so nominated;

(b)

(b) if he ceases to be an officer; or

(c) upon the expiration of the period (if any) specified in the instrument of his nomination as the period for which the nomination is to remain in force.

(5) A nomination may be made under subsection (3) generally or for a particular appeal and, unless expressed to have been made for a particular appeal, shall be deemed to have been made generally.

(6) While a nomination made by the secretary of an industrial union under subsection (3) for a particular appeal remains unrevoked, a nomination made generally by that secretary shall, for the purposes of that appeal only, be deemed to have been revoked.

(7) A nomination made under subsection (3) for a particular appeal has no force or effect for the purposes of any other appeal.

(8) For the purposes only of a particular appeal, where—

(a) a nomination made under subsection (3) remains unrevoked at the prescribed time; and

(b) the nomination is revoked before the appeal is determined by the board,

the nomination shall, unless the chairman otherwise determines, be deemed to remain unrevoked until the appeal is so determined.

(9) Where, in relation to an appeal, a vacancy arises in the office of the nominated member after the prescribed time and before the appeal is determined, then, for the purposes of

paragraph

paragraph (c) of subsection (1) of section 114, "the nominated member", in relation to that appeal, means an officer nominated by the chairman.

(10) The secretary to the board may accept a nomination referred to in subparagraph (i) of paragraph (b) of subsection (2) notwithstanding that it is not communicated to him by an instrument in writing.

Sec. 123. (Annual leave and leave of absence after years of service.)

(c) (i) by inserting in the proviso to section 123 (1) after the words "Provided that" the words ", subject to subsection (1C),";

(ii) by inserting in section 123 (1) after the words "In this subsection" the words "and subsections (1B) and (1C)";

(iii) by inserting next before section 123 (2) the following new subsections :—

(1B) Any officer who is required to work on a bank or public holiday shall be entitled to pay at the rate of time and one-half for work performed on that day, except in so far as an award or industrial agreement applicable to him provides for payment at a rate in excess of that rate for any work so performed.

(1C) Where an award or industrial agreement referred to in subsection (1B) provides for payment at a rate in excess of double time for any work performed on a bank or public holiday, the officer shall not, in respect of that day, be entitled to leave on full pay at some future time, as provided for in the proviso to subsection (1), as well as to pay at such a rate.

(d) by inserting next after section 124A the following new section :— New sec. 124AA.

124AA. (1) Subject to section 37 of the Workers' Compensation Act, 1926, the Workers' Compensation Commission of New South Wales (in this section referred to as "the Workers' Compensation Commission") shall have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under subsections (1), (2) and (3) of section 124 and subsection (2) of section 124A, and the action or decision of that Commission shall be final. Jurisdiction of Workers' Compensation Commission in proceedings re ss. 124 (1), (2) and (3) and 124A (2).

(2) Without affecting the generality of subsection (1), the jurisdiction of the Workers' Compensation Commission shall extend to determining—

(a) the question whether an injury received by an officer entitles him to the benefits of section 124 or subsection (2) of section 124A;

(b) the rate at which salary is payable to an officer who is entitled to the benefits of section 124 or subsection (2) of section 124A.

(3) For the purposes only of Part IV (subsection (4) of section 36 and sections 40, 41, 42 and 42A excepted) and section 50 of the Workers' Compensation Act, 1926, the jurisdiction conferred on the Workers' Compensation Commission by section 36 of that Act shall be deemed to include the jurisdiction conferred by this section.

(4) The provisions of sections 51, 53B, 53C, 53D, 56, 62A and 70 of the Workers' Compensation Act, 1926, and, except in so far as the rules made under that Act otherwise provide, those rules, shall apply to and in respect of proceedings with respect to any matter or question that is within the

jurisdiction

jurisdiction of the Workers' Compensation Commission by virtue of this section in the same way as they apply to and in respect of proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of section 36 of that Act.

(5) Without affecting the generality of the foregoing provisions of this section, the power to make rules conferred on the Workers' Compensation Commission by the Workers' Compensation Act, 1926, extends to the making of rules for or with respect to—

(a) regulating the procedure and practice of that Commission in dealing with proceedings with respect to any matter or question that is within the jurisdiction of that Commission by virtue of this section, including the commencement of those proceedings; and

(b) prescribing all matters that are necessary or convenient to be prescribed by rules in relation to the exercise of the jurisdiction conferred upon that Commission by this section.

(6) Where, but for the enactment of this section, any provisions of this Act would have applied to or in respect of any proceedings in any court with respect to any person's entitlement under subsection (1), (2) or (3) of section 124 or subsection (2) of section 124A, those provisions shall apply to or in respect of any such proceedings in the Workers' Compensation Commission.

Sec. 124B. (Election between rights under sec. 124, and right to compensation or damages.)

(e) by omitting from section 124B (3) (b) the word "six" and inserting instead the word "twelve".

(f)

(f) by omitting section 263 (a).

Sec. 263. (Regulations to be made on recommendation of Board.)

5. Any act, matter or thing that was done or omitted at any time before the date of assent to this Act and that would have been valid had the amendments made by this Act (sections 3 (f) and 4 (d) excepted) been in force at that time is hereby validated.

Validation.

6. (1) In this section, "proceedings" means proceedings with respect to any person's entitlement under section 100B (1), (2) or (3) or section 100C (2) of the Government Railways Act, 1912, or under section 124 (1), (2) or (3) or section 124A (2) of the Transport Act, 1930.

Savings.

(2) Any proceedings commenced before the date of commencement of sections 3 (f) and 4 (d), and any proceedings not so commenced but in relation to which a notice has been given in accordance with section 144 of the Government Railways Act, 1912, or section 233 of the Transport Act, 1930, as the case may be, may be continued or commenced, as the case may be, and heard and determined, in all respects as if this Act had not been enacted.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 3rd April, 1974.