

FIRST PRINT

**PUBLIC SECTOR LEGISLATION (SENIOR EXECUTIVES)  
AMENDMENT BILL 1991**

NEW SOUTH WALES



**EXPLANATORY NOTE**

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:

- (a) to reduce the size of the Senior Executive Service to 800 members (the reduction is to be made in stages); and
- (b) to provide that the remuneration payable to members of the Chief Executive Service and the Senior Executive Service is to be determined by the Industrial Commission instead of the Statutory and Other Offices Remuneration Tribunal; and
- (c) to limit that part of the remuneration so payable that a chief executive or senior executive officer may elect to be paid by way of employment benefits instead of monetary remuneration to the costs incurred by the employer in providing the following benefits:
  - one motor vehicle;
  - paying to the officer's superannuation scheme the employer's contribution;
  - paying the officer's subscription to a professional association;
  - the assessed cost of a right of return to the public sector if the officer so elects and of the provision of certain leave;
  - any other benefit authorised by the regulations.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on the date of assent.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Public Sector Management Act 1988.

*Public Sector Legislation (Senior Executives) Amendment 1991*

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Clause 4 is a formal provision that gives effect to the Schedule of amendments to the Police Service Act 1990.

Clause 5 is a formal provision that gives effect to the Schedule of consequential amendments to the Statutory and Other Offices Remuneration Act 1975.

The Bill also includes transitional provisions.

SCHEDULE 1—AMENDMENT OF PUBLIC SECTOR MANAGEMENT  
ACT 1988

Schedule 1 (1) provides for a reduction in the size of the Public Sector Senior Executive Service in planned stages. The combined size of that Service and the Police Service Senior Executive Service is to be reduced from approximately 1,500 to 800 members as follows:

- a reduction to 1,250 members by 1 July 1993;
- a reduction to 1,000 members by 1 July 1994;
- a reduction to 800 members by 1 July 1995.

Schedule 1 (2) limits that part of the remuneration package that a chief executive or senior executive officer may elect to be paid by way of employment benefits instead of monetary remuneration to the costs incurred by the employer in providing the following benefits:

- one motor vehicle;
- paying to the officer's superannuation scheme the employer's contribution;
- paying the officer's subscription to a professional association;
- the assessed cost of a right of return to the public sector if the officer so elects and of the provision of certain leave;
- any other benefit authorised by the regulations.

At present other employment benefits approved by the Minister are available. These currently include the costs incurred by the employer in providing the following benefits:

- private travel;
- child care;
- housing loan repayments;
- health fund contributions;
- education expenses;
- transport;
- aged care.

The definition of "employment benefit", as amended by the Bill, will read as follows (matter to be inserted is in **bold type** and matter to be omitted is in *italics*):

"employment benefit" means:

- (a) contributions payable to a superannuation scheme by an executive officer's employer in respect of the officer, including any liability of that employer to make any such contributions or to pay approved costs associated with that scheme; or
- (b) the provision by an executive officer's employer of a **single motor vehicle** for private use by the officer; or



*Public Sector Legislation (Senior Executives) Amendment 1991*

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- (c) the right of return to the public sector under section 42R by an executive officer who elects to retain that right; or
- (d) the entitlement of an executive officer to approved leave with pay; or
- (d1) payment of an executive officer's subscriptions to any professional association to which the officer belongs and which is relevant to the officer's duties; or
- (e) any other *approved benefit* benefit prescribed by the regulations which is provided to an executive officer at the cost of the officer's employer (being a benefit of a private nature).

Schedule 1 (3) and (4) make consequential changes which provide that the remuneration payable to members of the Chief Executive Service and the Senior Executive Service is to be determined by the Industrial Commission instead of the Statutory and Other Offices Remuneration Tribunal.

**SCHEDULE 2—AMENDMENT OF POLICE SERVICE ACT 1990**

Schedule 2 (1)–(4) make similar changes to the Police Service Senior Executive Service as are proposed to be made to the Public Sector Senior Executive Service.

**SCHEDULE 3—AMENDMENT OF STATUTORY AND OTHER OFFICES  
REMUNERATION ACT 1975**

Schedule 3 (1) and (2) provide that the remuneration payable to members of the Chief Executive Service and the Senior Executive Service is to be determined by the Industrial Commission instead of the Statutory and Other Offices Remuneration Tribunal. The determination is to be made by the Full Bench of the Industrial Commission.

Schedule 3 (3) provides that the Minister may only make submissions to the Industrial Commission on the remuneration that should be payable. At present the Minister may give directions to the Statutory and Other Offices Remuneration Tribunal.

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**TABLE OF PROVISIONS**

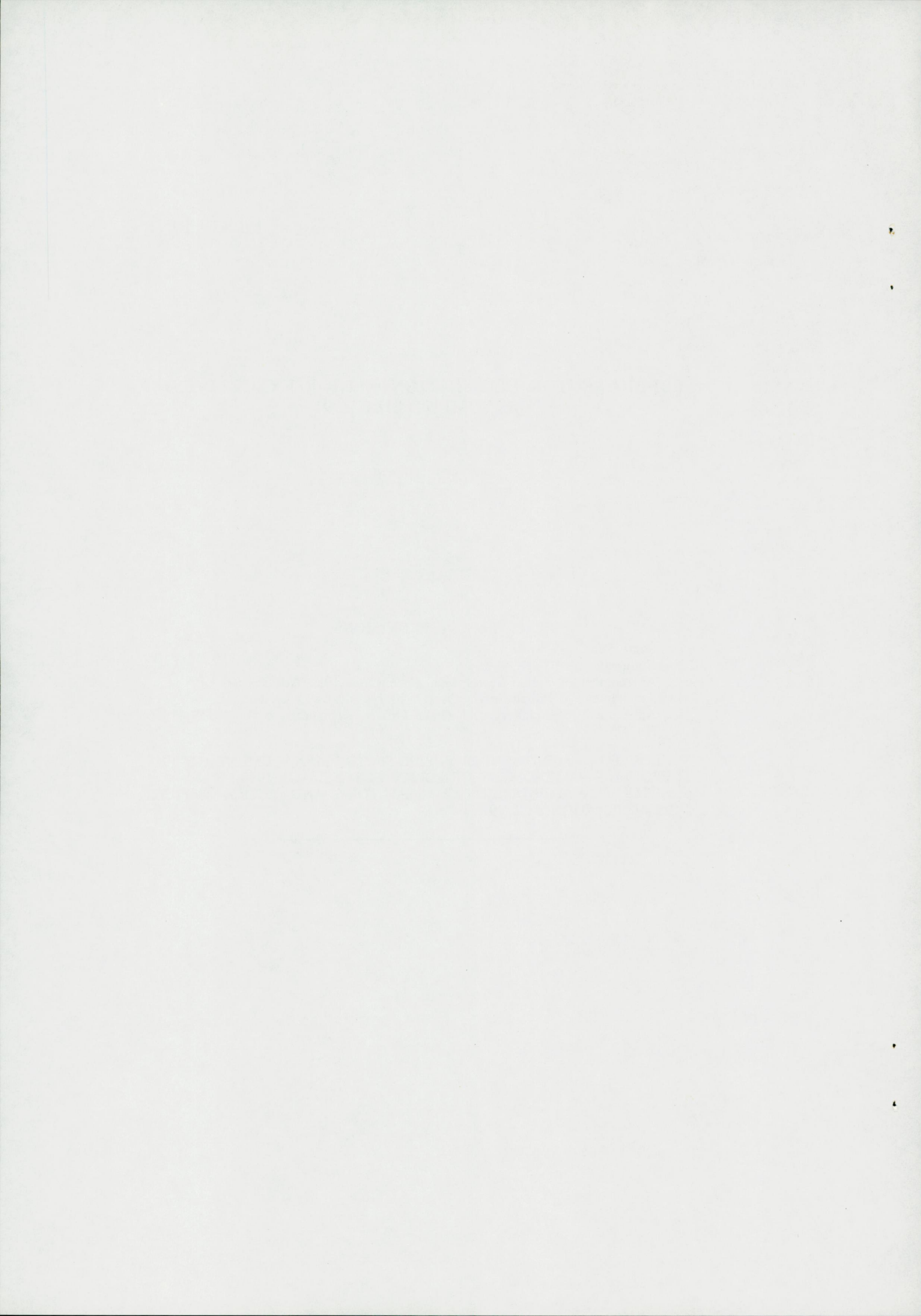
1. Short title
2. Commencement
3. Amendment of Public Sector Management Act 1988 No. 33
4. Amendment of Police Service Act 1990 No. 47
5. Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

SCHEDULE 1—AMENDMENT OF PUBLIC SECTOR MANAGEMENT ACT 1988

SCHEDULE 2—AMENDMENT OF POLICE SERVICE ACT 1990

SCHEDULE 3—AMENDMENT OF STATUTORY AND OTHER OFFICES  
REMUNERATION ACT 1975

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**PUBLIC SECTOR LEGISLATION (SENIOR EXECUTIVES)  
AMENDMENT BILL 1991**

NEW SOUTH WALES



No.       , 1991

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**A BILL FOR**

An Act to amend the Public Sector Management Act 1988 and the Police Service Act 1990 with respect to senior executives in the public sector; and to consequentially amend the Statutory and Other Offices Remuneration Act 1975.

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*Public Sector Legislation (Senior Executives) Amendment 1991*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Public Sector Legislation (Senior Executives) Amendment Act 1991.

**Commencement**

2. This Act commences on the date of assent.

**Amendment of Public Sector Management Act 1988 No. 33**

3. The Public Sector Management Act 1988 is amended as set out in Schedule 1.

**Amendment of Police Service Act 1990 No. 47**

4. The Police Service Act 1990 is amended as set out in Schedule 2.

**Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)**

5. The Statutory and Other Offices Remuneration Act 1975 is amended as set out in Schedule 3.

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**SCHEDULE 1—AMENDMENT OF PUBLIC SECTOR  
MANAGEMENT ACT 1988**

(Sec. 3)

**Reduction in size of Public Sector Senior Executive Service**

(1) Section 42C (**Composition of Senior Executive Service**):

At the end of the section, insert:

(2) The number of positions in the Senior Executive Service (when added to the number of positions in the Police Service Senior Executive Service) must not exceed the following:

- (a) 1,250 after 1 July 1993;
- (b) 1,000 after 1 July 1994;
- (c) 800 after 1 July 1995.



*Public Sector Legislation (Senior Executives) Amendment 1991*

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SCHEDULE 1—AMENDMENT OF PUBLIC SECTOR  
MANAGEMENT ACT 1988—*continued*

**Transitional provision**

If a proclamation under section 42D of the Public Sector Management Act 1988 removes a position from Schedule 3B to that Act and declares that the position is removed in order to comply with section 42C (2) of that Act, the person holding that position (or who last held that position) is taken to have elected to retain a right of return to the public sector. This provision does not apply if the person had an opportunity to make such an election after the commencement of this Act.

**Limitation of employment benefits**

- (2) Section 42K (1), definition of “employment benefit”:
- (a) Before “motor vehicle” in paragraph (b), insert “single”;
  - (b) After paragraph (d), insert:
    - (d1) payment of an executive officer’s subscriptions to any professional association to which the officer belongs and which is relevant to the officer’s duties; or
  - (c) From paragraph (e), omit “approved benefit”, insert instead “benefit prescribed by the regulations which is”.

**Transitional provision**

If a chief or senior executive officer under Part 2A of the Public Sector Management Act 1988 is entitled to an employment benefit under a contract of employment in force on the commencement of this Act and an employment benefit of that kind ceases to be an employment benefit because of this Act, the employment benefit concerned continues to be an employment benefit for the purposes of that contract until that contract expires or is terminated.

**Determination of remuneration by Industrial Commission**

- (3) Section 42A (**Definitions**):
- From section 42A (3), omit “Statutory and Other Offices Remuneration Tribunal”, insert instead “Industrial Commission in court session”.
- (4) Section 42J (**Industrial arbitration or legal proceedings excluded**):
- After section 42J (8), insert:

*Public Sector Legislation (Senior Executives) Amendment 1991*

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SCHEDULE 1—AMENDMENT OF PUBLIC SECTOR  
MANAGEMENT ACT 1988—*continued*

(9) Nothing in this section affects the power of the Industrial Commission in court session to determine the remuneration packages of executive officers under the Statutory and Other Offices Remuneration Act 1975.

SCHEDULE 2—AMENDMENT OF POLICE  
SERVICE ACT 1990

(Sec. 4)

**Reduction in size of Police Service Senior Executive Service**

(1) Section 33 (Composition of Police Service Senior Executive Service):

At the end of the section, insert:

(2) The number of positions in the Police Service Senior Executive Service (when added to the number of positions in the Senior Executive Service under the Public Sector Management Act 1988) must not exceed the following:

- (a) 1,250 after 1 July 1993;
- (b) 1,000 after 1 July 1994;
- (c) 800 after 1 July 1995.

**Transitional provision**

If a proclamation under section 34 of the Police Service Act 1990 removes a position from Schedule 2 to that Act and declares that the position is removed in order to comply with section 33 (2) of that Act, the person holding that position (or who last held that position) is taken to have elected to retain a right of return to the public sector. This provision does not apply if the person had an opportunity to make such an election after the commencement of this Act.

**Limitation of employment benefits**

(2) Section 45, definition of “employment benefit”:

- (a) Before “motor vehicle” in paragraph (b), insert “single”;
- (b) After paragraph (d), insert:
  - (d1) payment of an executive officer’s subscriptions to any professional association to which the officer belongs and which is relevant to the officer’s duties; or
- (c) From paragraph (e), omit “approved benefit”, insert instead “benefit prescribed by the regulations which is”.



*Public Sector Legislation (Senior Executives) Amendment 1991*

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SCHEDULE 2—AMENDMENT OF POLICE SERVICE ACT  
1990—*continued*

**Transitional provision**

If an executive officer under Part 5 of the Police Service Act 1990 is entitled to an employment benefit under a contract of employment in force on the commencement of this Act and an employment benefit of that kind ceases to be an employment benefit because of this Act, the employment benefit concerned continues to be an employment benefit for the purposes of that contract until that contract expires or is terminated.

**Determination of remuneration by Industrial Commission**

(3) Section 32 (**Definitions**):

From section 32 (2), omit “Statutory and Other Offices Remuneration Tribunal”, insert instead “Industrial Commission in court session”.

(4) Section 44 (**Industrial arbitration or legal proceedings excluded**):

After section 44 (8), insert:

(9) Nothing in this section affects the power of the Industrial Commission in court session to determine the remuneration packages of executive officers under the Statutory and Other Offices Remuneration Act 1975.

SCHEDULE 3—AMENDMENT OF STATUTORY AND OTHER  
OFFICES REMUNERATION ACT 1975

(Sec. 5)

(1) Section 24A (**Definitions**):

In alphabetical order, insert:

“**Commission**” means the Industrial Commission in court session;

(2) Part 3A (**Remuneration packages for chief executive and senior executive office holders**):

(a) From the whole Part, omit “Tribunal” and “Tribunal’s” wherever occurring, insert instead “Commission” and “Commission’s”, respectively.

(b) From section 24G (3), omit “himself or herself”, “he or she” and “him or her”, insert instead “itself”, “it” and “it”, respectively.



*Public Sector Legislation (Senior Executives) Amendment 1991*

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SCHEDULE 3—AMENDMENT OF STATUTORY AND OTHER  
OFFICES REMUNERATION ACT 1975—*continued*

(3) Section 24E (**Submissions by Minister**):

From section 24E (1), omit “The Minister may give the Tribunal directions”, insert instead “The Minister may make submissions to the Commission”.

**Transitional provision**

A determination of the Statutory and Other Offices Remuneration Tribunal that has been made under Part 3A of the Statutory and Other Offices Remuneration Act 1975 and that is in force on the commencement of this Act is taken to be a determination under that Part of the Industrial Commission in court session.

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