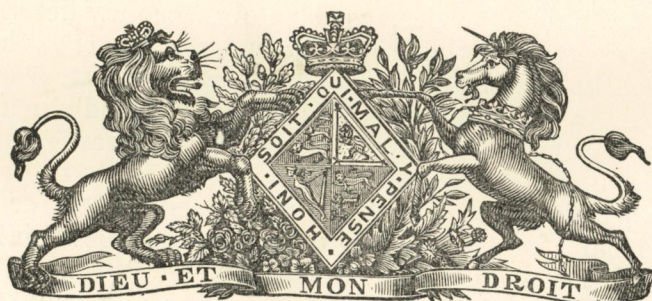


New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. XXIX.

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes. [Assented to, 31st March, 1892.]

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and employees would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their employees, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

Trade Disputes Conciliation and Arbitration (No. 2).

it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

Office of Clerk of
Awards

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

Duties, &c., of Clerk
of Awards.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

Establishment of
Councils of
Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and of the entire number (which shall in every case be some number divisible by two) one half shall be appointed by the Governor on the recommendation of each of the several Recommending Authorities.

The

Trade Disputes Conciliation and Arbitration (No. 2).

The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such Recommending Authorities shall be prescribed by regulations to be made pursuant to this Act: Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the employees of any employer, for the purpose of dealing specially with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

Special Councils of Conciliation.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim so desires the dispute or claim shall be referred to Conciliators for settlement, and a Council of four Conciliators appointed by both parties, two members of such Council being selected by each party, shall be a Council of Conciliation for all purposes of this Act as aforesaid: Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.

6. Every member of any such Council of Conciliation whilst engaged in the adjustment of any dispute shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

Remuneration of members of Council of Conciliation.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

Duration of office of Member of Council of Conciliation.

8. Any vacancy in such Council arising through the death or resignation of any member thereof, shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

Extraordinary vacancies.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper Recommending Authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Certain disabilities.

Trade Disputes Conciliation and Arbitration (No. 2).

Council in certain cases.

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Procedure for Conciliation.

How disputes, &c., referred to Council of Conciliation.

11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

- (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.
- (II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.
- (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, or Managers, of the case.
- (IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.
- (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the Recommending Authority in the fourth section of this Act described representing the employees, and one to be appointed by him on the recommendation of the Recommending Authority in the said fourth section described representing the employers, and, in each case, in accordance with the regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or employees. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.

Establishment of
Council of
Arbitration.

14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor.

Remuneration of
members of Council
of Arbitration.

15. (i) The term of office of a member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of members shall be made pursuant to this Act.

Duration, tenure, and
vacation of office of
members of Council
of Arbitration, &c.

(ii) Every member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.

(iii) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.

(iv) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.

(v) The President shall not engage during his term of office in any employment outside the duties of such office.

16. (i) Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

Vacancies,
disabilities, &c.

(ii) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.

(iii) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

Trade Disputes Conciliation and Arbitration (No. 2).

Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

References to Arbitration, how made, &c.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

- (I) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (II) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

Council of Arbitration to sit in open Court, &c.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Award, how to be made.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

When award may be enforced by legal process.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration

or

Trade Disputes Conciliation and Arbitration (No. 2).

or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council touching the matter of such dispute or claim, provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be examined and give evidence as aforesaid, then such offender may be imprisoned for the full term of such commitment.

Enforcing attendance
of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material, machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

Powers of entry for
purpose of viewing.

23. A claim or dispute under this Act shall include any matter as to which there is a disagreement between any employer and his employees respecting,—

Claims and disputes
explained.

- (i) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as agreed upon.

(II)

Trade Disputes Conciliation and Arbitration (No. 2).

- (II) Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to employees and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (VIII) The dismissal or employment under agreement of any employees or number of employees.

Provisions as to
parties and repre-
sentatives.

24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the employees affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party.

Regulations.

25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament.

Expenses of Act,
how defrayed.

26. All expenses connected with the administration of this Act not hereinbefore provided for, exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration, shall be defrayed from such annual appropriations as Parliament shall make in that behalf.

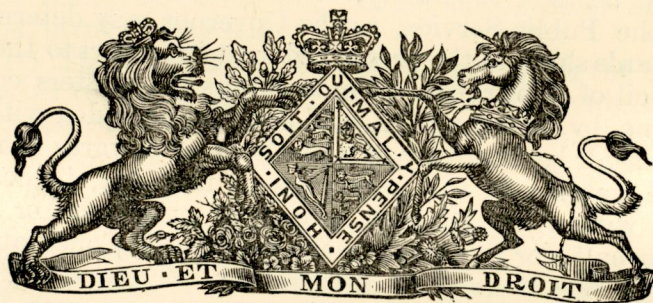
Interpretation of
terms.

27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act.

Short title.

28. This Act may be cited for all purposes as the "Trade Disputes Conciliation and Arbitration Act, 1892," and shall continue in force for four years from the commencement thereof and no longer.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. XXIX.

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes. [Assented to, 31st March, 1892.]

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and employees would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their employees, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

Trade Disputes Conciliation and Arbitration (No. 2).

it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

Office of Clerk of
Awards

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

Duties, &c., of Clerk
of Awards.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

Establishment of
Councils of
Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and of the entire number (which shall in every case be some number divisible by two) one half shall be appointed by the Governor on the recommendation of each of the several Recommending Authorities.

The

Trade Disputes Conciliation and Arbitration (No. 2).

The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such Recommending Authorities shall be prescribed by regulations to be made pursuant to this Act: Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the employees of any employer, for the purpose of dealing specially with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

Special Councils of Conciliation.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim so desires the dispute or claim shall be referred to Conciliators for settlement, and a Council of four Conciliators appointed by both parties, two members of such Council being selected by each party, shall be a Council of Conciliation for all purposes of this Act as aforesaid: Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.

6. Every member of any such Council of Conciliation whilst engaged in the adjustment of any dispute shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

Remuneration of members of Council of Conciliation.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

Duration of office of Member of Council of Conciliation.

8. Any vacancy in such Council arising through the death or resignation of any member thereof, shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

Extraordinary vacancies.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper Recommending Authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Certain disabilities.

Trade Disputes Conciliation and Arbitration (No. 2).

Council in certain cases.

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Procedure for Conciliation.

How disputes, &c., referred to Council of Conciliation.

11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

- (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.
- (II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.
- (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, or Managers, of the case.
- (IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.
- (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the Recommending Authority in the fourth section of this Act described representing the employees, and one to be appointed by him on the recommendation of the Recommending Authority in the said fourth section described representing the employers, and, in each case, in accordance with the regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or employees. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.

Establishment of
Council of
Arbitration.

14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor.

Remuneration of
members of Council
of Arbitration.

15. (I) The term of office of a member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of members shall be made pursuant to this Act.

Duration, tenure, and
vacation of office of
members of Council
of Arbitration, &c.

(II) Every member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.

(III) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.

(IV) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.

(V) The President shall not engage during his term of office in any employment outside the duties of such office.

16. (I) Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

Vacancies,
disabilities, &c.

(II) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.

(III) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

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Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

References to Arbitration, how made, &c.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

- (I) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (II) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

Council of Arbitration to sit in open Court, &c.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Award, how to be made.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

When award may be enforced by legal process.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration or

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or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council touching the matter of such dispute or claim, provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be examined and give evidence as aforesaid, then such offender may be imprisoned for the full term of such commitment.

Enforcing attendance
of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material, machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

Powers of entry for
purpose of viewing.

23. A claim or dispute under this Act shall include any matter as to which there is a disagreement between any employer and his employees respecting,—

Claims and disputes
explained.

- (i) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as agreed upon.

(II)

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- (II) Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to employees and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (VIII) The dismissal or employment under agreement of any employees or number of employees.

Provisions as to parties and representatives.

24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the employees affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party.

Regulations.

25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament.

Expenses of Act, how defrayed.

26. All expenses connected with the administration of this Act not hereinbefore provided for, exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration, shall be defrayed from such annual appropriations as Parliament shall make in that behalf.

Interpretation of terms.

27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act.

Short title.

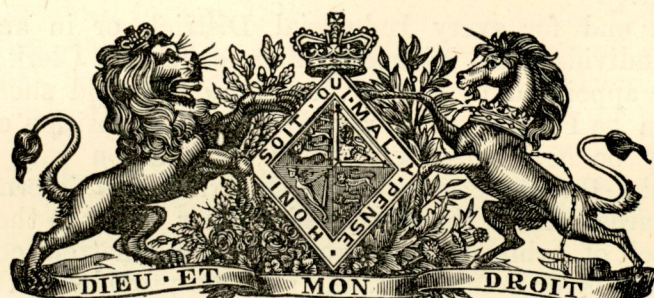
28. This Act may be cited for all purposes as the "Trade Disputes Conciliation and Arbitration Act, 1892," and shall continue in force for four years from the commencement thereof and no longer.

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.

*Legislative Assembly Chamber,
Sydney, 29 March, 1892.* }

F. W. WEBB,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. XXIX.

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes. [Assented to, 31st March, 1892.]

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and employees would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their employees, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

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

NINIAN MELVILLE,
Chairman of Committees of the Legislative Assembly.

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it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

Office of Clerk of
Awards

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

Duties, &c., of Clerk
of Awards.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

Establishment of
Councils of
Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and of the entire number (which shall in every case be some number divisible by two) one half shall be appointed by the Governor on the recommendation of each of the several Recommending Authorities.

The

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The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such Recommending Authorities shall be prescribed by regulations to be made pursuant to this Act: Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the employees of any employer, for the purpose of dealing specially with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

Special Councils of Conciliation.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim so desires the dispute or claim shall be referred to Conciliators for settlement, and a Council of four Conciliators appointed by both parties, two members of such Council being selected by each party, shall be a Council of Conciliation for all purposes of this Act as aforesaid: Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.

6. Every member of any such Council of Conciliation whilst engaged in the adjustment of any dispute shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

Remuneration of members of Council of Conciliation.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

Duration of office of Member of Council of Conciliation.

8. Any vacancy in such Council arising through the death or resignation of any member thereof, shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

Extraordinary vacancies.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper Recommending Authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Certain disabilities.

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Council in certain cases.

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Procedure for Conciliation.

How disputes, &c., referred to Council of Conciliation.

11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

- (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.
- (II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.
- (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, or Managers, of the case.
- (IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.
- (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the Recommending Authority in the fourth section of this Act described representing the employees, and one to be appointed by him on the recommendation of the Recommending Authority in the said fourth section described representing the employers, and, in each case, in accordance with the regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or employees. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.

Establishment of
Council of
Arbitration.

14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor.

Remuneration of
members of Council
of Arbitration.

15. (I) The term of office of a member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of members shall be made pursuant to this Act.

Duration, tenure, and
vacation of office of
members of Council
of Arbitration, &c.

(II) Every member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.

(III) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.

(IV) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.

(V) The President shall not engage during his term of office in any employment outside the duties of such office.

16. (I) Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

Vacancies,
disabilities, &c.

(II) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.

(III) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

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Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

References to Arbitration, how made, &c.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

- (i) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (ii) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

Council of Arbitration to sit in open Court, &c.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Award, how to be made.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

When award may be enforced by legal process.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration

or

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or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council touching the matter of such dispute or claim, provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be examined and give evidence as aforesaid, then such offender may be imprisoned for the full term of such commitment.

Enforcing attendance
of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material, machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

Powers of entry for
purpose of viewing.

23. A claim or dispute under this Act shall include any matter as to which there is a disagreement between any employer and his employees respecting,—

Claims and disputes
explained.

- (I) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as agreed upon.
- (II)

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- (II) Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to employees and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (VIII) The dismissal or employment under agreement of any employees or number of employees.

Provisions as to
parties and repre-
sentatives.

24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the employees affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party.

Regulations.

25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament.

Expenses of Act,
how defrayed.

26. All expenses connected with the administration of this Act not hereinbefore provided for, exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration, shall be defrayed from such annual appropriations as Parliament shall make in that behalf.

Interpretation of
terms.

27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act.

Short title.

28. This Act may be cited for all purposes as the "Trade Disputes Conciliation and Arbitration Act, 1892," and shall continue in force for four years from the commencement thereof and no longer.

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

Government House,
31st March, 1892.

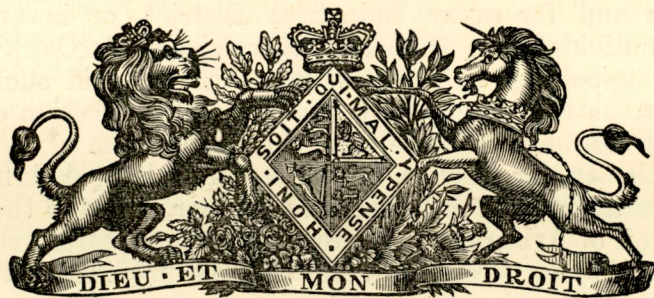
JERSEY.

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.

*Legislative Assembly Chamber,
Sydney, 29 March, 1892. }*

*F. W. WEBB,
Clerk of Legislative Assembly.*

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. XXIX.

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes. [Assented to, 31st March, 1892.]

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and employees would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their employees, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

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

*NINIAN MELVILLE,
Chairman of Committees of the Legislative Assembly.*

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it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

Office of Clerk of
Awards

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

Duties, &c., of Clerk
of Awards.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

Establishment of
Councils of
Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and of the entire number (which shall in every case be some number divisible by two) one half shall be appointed by the Governor on the recommendation of each of the several Recommending Authorities.

The

Trade Disputes Conciliation and Arbitration (No. 2).

The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such Recommending Authorities shall be prescribed by regulations to be made pursuant to this Act: Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the employees of any employer, for the purpose of dealing specially with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

Special Councils of Conciliation.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim so desires the dispute or claim shall be referred to Conciliators for settlement, and a Council of four Conciliators appointed by both parties, two members of such Council being selected by each party, shall be a Council of Conciliation for all purposes of this Act as aforesaid: Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.

6. Every member of any such Council of Conciliation whilst engaged in the adjustment of any dispute shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

Remuneration of members of Council of Conciliation.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

Duration of office of Member of Council of Conciliation.

8. Any vacancy in such Council arising through the death or resignation of any member thereof, shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

Extraordinary vacancies.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper Recommending Authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Certain disabilities.

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Council in certain cases.

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Procedure for Conciliation.

How disputes, &c., referred to Council of Conciliation.

11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

- (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.
- (II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.
- (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, or Managers, of the case.
- (IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.
- (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the Recommending Authority in the fourth section of this Act described representing the employees, and one to be appointed by him on the recommendation of the Recommending Authority in the said fourth section described representing the employers, and, in each case, in accordance with the regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or employees. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.

Establishment of
Council of
Arbitration.

14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor.

Remuneration of
members of Council
of Arbitration.

15. (i) The term of office of a member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of members shall be made pursuant to this Act.

Duration, tenure, and
vacation of office of
members of Council
of Arbitration, &c.

(ii) Every member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.

(iii) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.

(iv) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.

(v) The President shall not engage during his term of office in any employment outside the duties of such office.

16. (i) Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

Vacancies,
disabilities, &c.

(ii) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.

(iii) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

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Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

References to Arbitration, how made, &c.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

- (i) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (ii) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

Council of Arbitration to sit in open Court, &c.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Award, how to be made.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

When award may be enforced by legal process.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration

or

Trade Disputes Conciliation and Arbitration (No. 2).

or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council touching the matter of such dispute or claim, provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be examined and give evidence as aforesaid, then such offender may be imprisoned for the full term of such commitment.

Enforcing attendance
of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material, machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

Powers of entry for
purpose of viewing.

23. A claim or dispute under this Act shall include any matter as to which there is a disagreement between any employer and his employees respecting,—

Claims and disputes
explained.

- (I) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as agreed upon.
- (II)

Trade Disputes Conciliation and Arbitration (No. 2).

- (II) Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to employees and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (VIII) The dismissal or employment under agreement of any employees or number of employees.

Provisions as to
parties and repre-
sentatives.

24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the employees affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party.

Regulations.

25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament.

Expenses of Act,
how defrayed.

26. All expenses connected with the administration of this Act not hereinbefore provided for, exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration, shall be defrayed from such annual appropriations as Parliament shall make in that behalf.

Interpretation of
terms.

27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act.

Short title.

28. This Act may be cited for all purposes as the "Trade Disputes Conciliation and Arbitration Act, 1892," and shall continue in force for four years from the commencement thereof and no longer.

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

*Government House,
31st March, 1892.*

JERSEY.

TRADE DISPUTES CONCILIATION AND ARBITRATION BILL.

SCHEDULE of Amendments referred to in Message of 28th March, 1892.

- Page 1, Preamble, line 3. *Omit "workmen" insert "employees"*
 Page 1, Preamble, line 5. *Omit "workmen" insert "employees"*
 Page 2, clause 3, line 20. *Omit "workmen" insert "employees"*
 Page 2, clause 4, line 41. *Omit "workmen" insert "employees"*
 Page 2, clause 4, line 54. *Omit "one half"*
 Page 2, clause 4, line 55. *After "two" insert "one half"*
 Page 2, clause 4, line 56. *After "of" insert "each of"*
 Page 2, clause 4, line 57. *After "authorities" omit remainder of clause.*
 Page 3, clause 5, line 22. *Omit "workmen" insert "employees"*
 Page 3, clause 5, line 23. *After "dealing" insert "specially"*
 Page 3, clause 5, line 33. *After "claim" insert "so"*
 Page 3, clause 5, line 33. *Omit "to refer the same to a Council of Conciliation" insert "the dispute or
 "claim shall be referred to Conciliators"*
 Page 3, clause 5, line 34. *Omit "to be" insert "and a Council of four Conciliators"*
 Page 3, clause 5, line 36. *Omit "such Council"*
 Page 3, clause 5. At end of clause *add* proviso.
 Page 3, clause 6, line 40. *After "Conciliation" insert "whilst engaged in the adjustment of any
 "dispute"*
 Page 3, clause 8, line 51. *Omit "Upon"*
 Page 3, clause 8, line 52. *Omit "the vacancy"*
 Page 5, clause 13, line 5. *Omit "nominating authority" insert "Recommending Authority in the
 "fourth section of this Act described"*
 Page 5, clause 13, line 7. *Omit "workmen" insert "employees"*
 Page 5, clause 13, line 8. *Omit "nominating authority" insert "Recommending Authority in the
 "said fourth section described"*
 Page 5, clause 13, line 20. *Omit "workmen," insert "employees,"*
 Page 5, clause 16, line 43. *Omit "Upon"*
 Page 5, clause 16, lines 44 and 45. *Omit "the vacancy"*
 Page 6, clause 21, line 58. *Omit "a"*
 Page 7, clause 22, line 12. *After "evidence" insert "on oath or affirmation as may be necessary"*
 Page 7, clause 22, line 20. *After "claim," insert "provided reasonable travelling expenses have
 "been tendered to such witness by the party at whose instance the summons is issued,"*
 Page 7, clause 22, line 35. *Omit "shall" insert "may"*
 Page 7, clause 23, line 56. *Omit "workmen" insert "employees"*
 Page 8, clause 23, line 1. *Omit "with respect to"*
 Page 8, clause 23, line 4. *Omit "workmen" insert "employees"*
 Page 8, clause 23, line 14. *Omit "workmen" insert "employees"*
 Page 8, clause 23. At end of clause *add* new subsection (viii)
 Page 8, clause 24, line 27. *Omit "workmen or"*
 Page 8, clause 26, line 44. *After "for" insert "exclusive of the expenses of the parties and witnesses
 "concerned in any dispute or matter referred either to a Council of Conciliation or the
 "Council of Arbitration,"*
 Page 8, clause 28. At end of clause *add* "and shall continue in force for four years from the
 "commencement thereof and no longer."

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.

*Legislative Assembly Chamber,
Sydney, 21 March, 1892.* }

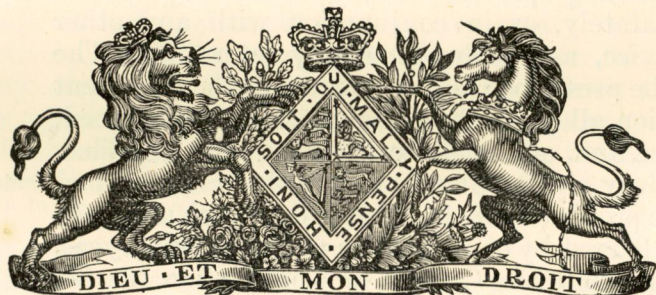
F. W. WEBB,
Clerk of Legislative Assembly.

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

*Legislative Council Chamber,
Sydney, 28th March, 1892.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes.

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and ~~workmen~~ employees would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their ~~workmen~~ employees, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

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

Trade Disputes Conciliation and Arbitration (No. 2).

it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or ~~workmen~~ employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of ~~workmen~~ employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and ~~one-half~~ of the entire number (which shall in every case be some number divisible by two) ~~one half~~ shall be appointed by the Governor on the recommendation of each of the several recommending authorities, ~~one-half to be recommended by each.~~

The

Trade Disputes Conciliation and Arbitration (No. 2).

The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such recommending authorities shall be prescribed by regulations to be made pursuant to this Act. Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the ~~workmen~~ employees of any employer, for the purpose of dealing specially with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim so desires to refer the same to a Council of Conciliation the dispute or claim shall be referred to Conciliators for settlement, to be and a Council of four Conciliators appointed by both parties, two members of such Council being selected by each party, such Council shall be a Council of Conciliation for all purposes of this Act as aforesaid: Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.

6. Every member of any such Council of Conciliation whilst engaged in the adjustment of any dispute shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

8. Upon Any vacancy in such Council arising through the death or resignation of any member thereof, the vacancy shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper recommending authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Trade Disputes Conciliation and Arbitration (No. 2).

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, 5 may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Procedure for Conciliation.

10 11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

Council in certain cases.

How disputes, &c., referred to Council of Conciliation.

- 15 (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.
- (II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.
- 20 (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where 25 the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, 30 or Managers, of the case.
- (IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be 35 convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.
- 40 (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the Members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

45 12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the 50 Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall 55 thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the ~~nominating-authority~~ **Establishment of Council of Arbitration. Recommending Authority in the fourth section of this Act** described representing the ~~workmen, employees,~~ and one to be appointed by him on the recommendation of the ~~nominating-authority~~ **Recommending Authority in the said fourth section described** representing the employers, and, in each case, in accordance with the Regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or ~~workmen, employees.~~ As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.

14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor. **Remuneration of members of Council of Arbitration.**

15. (I) The term of office of a Member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of Members shall be made pursuant to this Act. **Duration, tenure, and vacation of office of members of Council of Arbitration, &c.**

(II) Every Member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.

35 (III) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.

(IV) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.

(V) The President shall not engage during his term of office in any employment outside the duties of such office.

16. (I) ~~Upon~~ Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, ~~the~~ **Vacancies, disabilities, &c.** vacancy shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

(II) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.

(III) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

Trade Disputes Conciliation and Arbitration (No. 2).

Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

- (I) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (II) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the Members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration

or

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

References to Arbitration, how made, &c.

Council of Arbitration to sit in open Court, &c.

Award, how to be made.

When award may be enforced by legal process.

Trade Disputes Conciliation and Arbitration (No. 2).

or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be
5 made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in
10 writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and
15 place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council
20 touching the matter of such dispute or claim, **provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued**, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons,
25 having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to
30 give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be
35 examined and give evidence as aforesaid, then such offender **shall may** be imprisoned for the full term of such commitment.

Enforcing attendance
of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any
40 manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material,
45 machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such
50 time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

Powers of entry for
purpose of viewing.

23. A claim or dispute under this Act shall include any matter
55 as to which there is a disagreement between any employer and his ~~workmen~~ **employees** respecting,—

Claims and disputes
explained.

(I) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as
60 agreed upon. (II)

Trade Disputes Conciliation and Arbitration (No. 2).

- (II) ~~With respect to~~ Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to ~~workmen~~ **employees** and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to ~~workmen~~ **employees** where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (viii) The dismissal or employment under agreement of any **employees or number of employees.**
24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the ~~workmen or~~ **employees** affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party.
25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament.
26. All expenses connected with the administration of this Act not hereinbefore provided for, **exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration**, shall be defrayed from such annual appropriations as Parliament shall make in that behalf.
27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act.
28. This Act may be cited for all purposes as the "**Trade Disputes Conciliation and Arbitration Act, 1892**," and shall continue in force for four years from the commencement thereof and no longer.

Provisions as to parties and representatives.

Regulations.

Expenses of Act, how defrayed.

Interpretation of terms.

Short title.

TRADE DISPUTES CONCILIATION AND ARBITRATION BILL.

SCHEDULE of Amendments referred to in Message of 28th March, 1892.

- Page 1, Preamble, line 3. *Omit "workmen" insert "employees"*
 Page 1, Preamble, line 5. *Omit "workmen" insert "employees"*
 Page 2, clause 3, line 20. *Omit "workmen" insert "employees"*
 Page 2, clause 4, line 41. *Omit "workmen" insert "employees"*
 Page 2, clause 4, line 54. *Omit "one half"*
 Page 2, clause 4, line 55. *After "two" insert "one half"*
 Page 2, clause 4, line 56. *After "of" insert "each of"*
 Page 2, clause 4, line 57. *After "authorities" omit remainder of clause.*
 Page 3, clause 5, line 22. *Omit "workmen" insert "employees"*
 Page 3, clause 5, line 23. *After "dealing" insert "specially"*
 Page 3, clause 5, line 33. *After "claim" insert "so"*
 Page 3, clause 5, line 33. *Omit "to refer the same to a Council of Conciliation" insert "the dispute or
"claim shall be referred to Conciliators"*
 Page 3, clause 5, line 34. *Omit "to be" insert "and a Council of four Conciliators"*
 Page 3, clause 5, line 36. *Omit "such Council"*
 Page 3, clause 5. At end of clause *add* proviso.
 Page 3, clause 6, line 40. *After "Conciliation" insert "whilst engaged in the adjustment of any
"dispute"*
 Page 3, clause 8, line 51. *Omit "Upon"*
 Page 3, clause 8, line 52. *Omit "the vacancy"*
 Page 5, clause 13, line 5. *Omit "nominating authority" insert "Recommending Authority in the
"fourth section of this Act described"*
 Page 5, clause 13, line 7. *Omit "workmen" insert "employees"*
 Page 5, clause 13, line 8. *Omit "nominating authority" insert "Recommending Authority in the
"said fourth section described"*
 Page 5, clause 13, line 20. *Omit "workmen," insert "employees,"*
 Page 5, clause 16, line 43. *Omit "Upon"*
 Page 5, clause 16, lines 44 and 45. *Omit "the vacancy"*
 Page 6, clause 21, line 58. *Omit "a"*
 Page 7, clause 22, line 12. *After "evidence" insert "on oath or affirmation as may be necessary"*
 Page 7, clause 22, line 20. *After "claim," insert "provided reasonable travelling expenses have
"been tendered to such witness by the party at whose instance the summons is issued,"*
 Page 7, clause 22, line 35. *Omit "shall" insert "may"*
 Page 7, clause 23, line 56. *Omit "workmen" insert "employees"*
 Page 8, clause 23, line 1. *Omit "with respect to"*
 Page 8, clause 23, line 4. *Omit "workmen" insert "employees"*
 Page 8, clause 23, line 14. *Omit "workmen" insert "employees"*
 Page 8, clause 23. At end of clause *add* new subsection (viii)
 Page 8, clause 24, line 27. *Omit "workmen or"*
 Page 8, clause 26, line 44. *After "for" insert "exclusive of the expenses of the parties and witnesses
"concerned in any dispute or matter referred either to a Council of Conciliation or the
"Council of Arbitration,"*
 Page 8, clause 28. At end of clause *add* "and shall continue in force for four years from the
"commencement thereof and no longer."

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.

*Legislative Assembly Chamber,
Sydney, 21 March, 1892.* }

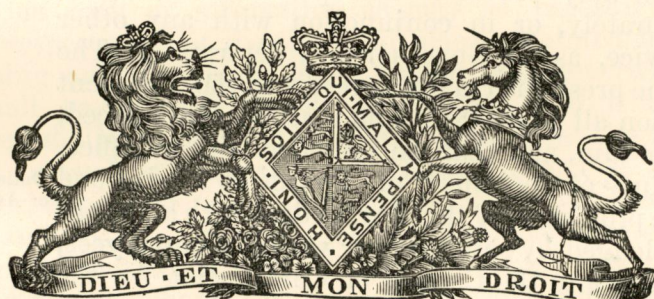
F. W. WEBB,
Clerk of Legislative Assembly.

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

*Legislative Council Chamber,
Sydney, 28th March, 1892.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. . .

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes.

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and ~~workmen~~ **employees** would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their ~~workmen~~ **employees**, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

- 15 1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

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

Trade Disputes Conciliation and Arbitration (No. 2).

it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or ~~workmen~~ employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of ~~workmen~~ employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and ~~one-half~~ of the entire number (which shall in every case be some number divisible by two) ~~one half~~ shall be appointed by the Governor on the recommendation of each of the several recommending authorities, ~~one-half to be recommended by each.~~

The

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The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such recommending authorities shall be prescribed by regulations to be made pursuant to this Act. Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the ~~workmen~~ **employees** of any employer, for the purpose of dealing specially with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim so desires ~~to refer the same to a Council of Conciliation~~ **the dispute or claim shall be referred to Conciliators** for settlement, ~~to be~~ **and a Council of four Conciliators** appointed by both parties, two members of such Council being selected by each party, ~~such Council~~ shall be a Council of Conciliation for all purposes of this Act as aforesaid: **Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.**

6. Every member of any such Council of Conciliation **whilst engaged in the adjustment of any dispute** shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

8. ~~Upon~~ Any vacancy in such Council arising through the death or resignation of any member thereof, ~~the vacancy~~ shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper recommending authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

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10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Council in certain cases.

Procedure for Conciliation.

10 11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

How disputes, &c., referred to Council of Conciliation.

(I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.

15 (II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.

20 (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, or Managers, of the case.

30 (IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.

35 (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the Members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

40 12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the ~~nominating-authority~~ **Establishment of Council of Arbitration.** **Recommending Authority in the fourth section of this Act** described representing the ~~workmen,~~ employees, and one to be appointed by him on the recommendation of the ~~nominating-authority~~ **Recommending Authority in the said fourth section** described representing the employers, and, in each case, in accordance with the Regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or ~~workmen.~~ employees. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.

14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor. **Remuneration of members of Council of Arbitration.**

15. (I) The term of office of a Member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of Members shall be made pursuant to this Act. **Duration, tenure, and vacation of office of members of Council of Arbitration, &c.**

(II) Every Member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.

35 (III) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.

(IV) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.

(V) The President shall not engage during his term of office in any employment outside the duties of such office.

16. (I) ~~Upon~~ Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, ~~the~~ **Vacancies, disabilities, &c.** **vacancy** shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

(II) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.

(III) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

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Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

References to Arbitration, how made, &c.

- (I) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (II) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Council of Arbitration to sit in open Court, &c.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the Members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

Award, how to be made.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by a writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration

When award may be enforced by legal process.

or

Trade Disputes Conciliation and Arbitration (No. 2).

or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be
5 made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in
10 writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and
15 place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council
20 touching the matter of such dispute or claim, **provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued**, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons,
25 having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to
30 give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be
35 examined and give evidence as aforesaid, then such offender **shall** may be imprisoned for the full term of such commitment.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any
40 manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material,
45 machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such
50 time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

23. A claim or dispute under this Act shall include any matter
55 as to which there is a disagreement between any employer and his ~~workmen~~ employees respecting,—

(I) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as agreed upon.

(II)

Trade Disputes Conciliation and Arbitration (No. 2).

- (II) ~~With respect to~~ Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to ~~workmen~~ employees and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to ~~workmen~~ employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (viii) The dismissal or employment under agreement of any employees or number of employees.
24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the ~~workmen or~~ employees affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party.
25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament.
26. All expenses connected with the administration of this Act not hereinbefore provided for, **exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration**, shall be defrayed from such annual appropriations as Parliament shall make in that behalf.
27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act.
28. This Act may be cited for all purposes as the "**Trade Disputes Conciliation and Arbitration Act, 1892**," and shall continue in force for four years from the commencement thereof and no longer.

Provisions as to parties and representatives.

Regulations.

Expenses of Act, how defrayed.

Interpretation of terms.

Short title.

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.

*Legislative Assembly Chamber,
Sydney, 21 March, 1892.* }

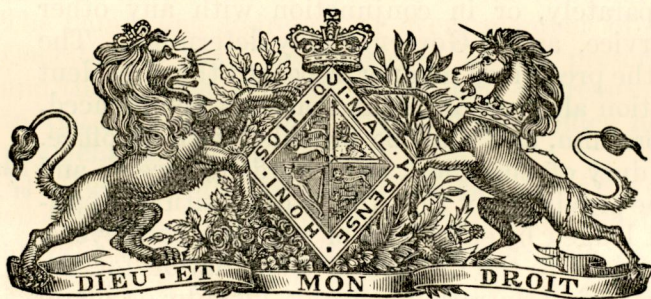
F. W. WEBB,
Clerk of Legislative Assembly.

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

*Legislative Council Chamber,
Sydney, March, 1892.* }

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes.

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and ~~workmen~~ employees would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their ~~workmen~~ employees, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

- 15 1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

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

Trade Disputes Conciliation and Arbitration (No. 2).

it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or ~~workmen~~ employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of ~~workmen~~ employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and ~~one-half~~ of the entire number (which shall in every case be some number divisible by two) ~~one half~~ shall be appointed by the Governor on the recommendation of ~~each of~~ the several recommending authorities, ~~one-half to be recommended by each.~~

The

Trade Disputes Conciliation and Arbitration (No. 2).

The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such recommending authorities shall be prescribed by regulations to be made pursuant to this Act. Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the ~~workmen~~ **employees** of any employer, for the purpose of dealing **specially** with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim ~~so desires to refer the same to a Council of Conciliation~~ **the dispute or claim shall be referred to Conciliators** for settlement, ~~to be~~ **and a Council of four Conciliators** appointed by both parties, two members of such Council being selected by each party, ~~such Council~~ shall be a Council of Conciliation for all purposes of this Act as aforesaid: **Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.**

6. Every member of any such Council of Conciliation **whilst engaged in the adjustment of any dispute** shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

8. ~~Upon~~ Any vacancy in such Council arising through the death or resignation of any member thereof, ~~the vacancy~~ shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper recommending authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Special Councils of Conciliation.

Remuneration of members of Council of Conciliation.

Duration of office of Member of Council of Conciliation.

Extraordinary vacancies.

Certain disabilities.

Trade Disputes Conciliation and Arbitration (No. 2).

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, 5 may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Council in certain cases.

Procedure for Conciliation.

10 11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

How disputes, &c., referred to Council of Conciliation.

15 (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.

(II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.

20 (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where 25 the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, 30 or Managers, of the case.

(IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be 35 convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.

40 (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the Members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

45 12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the 50 Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall 55 thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor Establishment of Council of Arbitration. on the recommendation of the ~~nominating-authority~~ **Recommending Authority in the fourth section of this Act** described representing the ~~workmen,~~ employees, and one to be appointed by him on the recommendation of the ~~nominating-authority~~ **Recommending Authority in the said fourth section** described representing the employers, and, in each case, in accordance with the Regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or ~~workmen,~~ employees. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.

14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor. Remuneration of members of Council of Arbitration.

15. (i) The term of office of a Member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of Members shall be made pursuant to this Act. Duration, tenure, and vacation of office of members of Council of Arbitration, &c.

(ii) Every Member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.

35 (iii) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.

(iv) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.

(v) The President shall not engage during his term of office in any employment outside the duties of such office.

16. (i) ~~Upon~~ Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, ~~the~~ Vacancies, disabilities, &c. ~~vacancy~~ shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.

(ii) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.

55 (iii) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

Trade Disputes Conciliation and Arbitration (No. 2).

Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

References to Arbitration, how made, &c.

- (i) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (ii) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Council of Arbitration to sit in open Court, &c.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the Members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

Award, how to be made.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by a writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration

When award may be enforced by legal process.

or

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or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council touching the matter of such dispute or claim, **provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued**, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons, having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be examined and give evidence as aforesaid, then such offender **shall** may be imprisoned for the full term of such commitment.

Enforcing attendance of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material, machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

Powers of entry for purpose of viewing.

23. A claim or dispute under this Act shall include any matter as to which there is a disagreement between any employer and his ~~workmen~~ employees respecting,—

Claims and disputes explained.

(I) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as agreed upon.

(II)

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- (II) ~~With respect to~~ Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to ~~workmen~~ **employees** and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to ~~workmen~~ **employees** where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (VIII) **The dismissal or employment under agreement of any employees or number of employees.**
24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the ~~workmen or~~ employees affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party. Provisions as to parties and representatives.
25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament. Regulations.
26. All expenses connected with the administration of this Act not hereinbefore provided for, **exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration**, shall be defrayed from such annual appropriations as Parliament shall make in that behalf. Expenses of Act, how defrayed.
27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act. Interpretation of terms.
28. This Act may be cited for all purposes as the "**Trade Disputes Conciliation and Arbitration Act, 1892**," and shall continue in force for four years from the commencement thereof and no longer. Short title.

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.

*Legislative Assembly Chamber,
Sydney, 21 March, 1892.* }

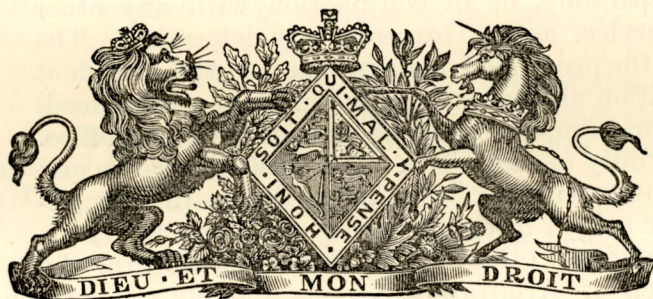
F. W. WEBB,
Clerk of Legislative Assembly.

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

*Legislative Council Chamber,
Sydney, March, 1892.* }

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes.

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and ~~workmen~~ employees would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their ~~workmen~~ employees, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

- 15 1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

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

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it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

Office of Clerk of Awards

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or ~~workmen~~ employees, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Duties, &c., of Clerk of Awards.

Councils of Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of ~~workmen~~ employees and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and ~~one-half~~ of the entire number (which shall in every case be some number divisible by two) ~~one-half~~ shall be appointed by the Governor on the recommendation of each of the several recommending authorities, ~~one-half to be recommended by each.~~

Establishment of Councils of Conciliation.

The

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The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such recommending authorities shall be prescribed by regulations to be made pursuant to this Act. Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

10 (I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

15 (II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the ~~workmen~~ **employees** of any employer, for the purpose of dealing **specially** with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

20 (II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim so desires ~~to refer the same to a Council of Conciliation~~ **the dispute or claim shall be referred to Conciliators** for settlement, ~~to be~~ **and a Council of four Conciliators** appointed by both parties, two members of such Council being selected by each party, such Council shall be a Council of Conciliation for all purposes of this Act as aforesaid: **Provided that any appointments under this section shall not take effect until after the approval thereof by the Governor.**

40 6. Every member of any such Council of Conciliation **whilst engaged in the adjustment of any dispute** shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

45 7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

50 8. ~~Upon~~ Any vacancy in such Council arising through the death or resignation of any member thereof, ~~the vacancy~~ shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

55 9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper recommending authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Trade Disputes Conciliation and Arbitration (No. 2).

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, 5 may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Council in certain cases.

Procedure for Conciliation.

10 11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

How disputes, &c., referred to Council of Conciliation.

15 (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.

(II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.

20 (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where 25 the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, 30 or Managers, of the case.

(IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be 35 convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.

40 (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the Members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

45 12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the 50 Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall 55 thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the ~~nominating-authority~~ ^{Establishment of Council of Arbitration.} **Recommending Authority in the fourth section of this Act** described representing the ~~workmen, employees,~~ and one to be appointed by him on the recommendation of the ~~nominating-authority~~ **Recommending Authority in the said fourth section described** representing the employers, and, in each case, in accordance with the Regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or ~~workmen~~ **employees.** As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.
14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor. ^{Remuneration of members of Council of Arbitration.}
15. (I) The term of office of a Member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of Members shall be made pursuant to this Act. ^{Duration, tenure, and vacation of office of members of Council of Arbitration, &c.}
- (II) Every Member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.
- 35 (III) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.
- (IV) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.
- (V) The President shall not engage during his term of office in any employment outside the duties of such office.
16. (I) ~~Upon~~ Any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, ^{Vacancies, disabilities, &c.} the ~~vacancy~~ shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.
- (II) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.
- 50 (III) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor

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Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

References to Arbitration, how made, &c.

- (i) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.
- (ii) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Council of Arbitration to sit in open Court, &c.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the Members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

Award, how to be made.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by a writing under the hands of such party in the prescribed manner, agree to be bound by the award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration

When award may be enforced by legal process.

or

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or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be
 5 made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

22. (i) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in
 10 writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give evidence on oath or affirmation as may be necessary before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and
 15 place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council
 20 touching the matter of such dispute or claim, provided reasonable travelling expenses have been tendered to such witness by the party at whose instance the summons is issued, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not appearing according to such summons,
 25 having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in appearing, or appearing and refusing to
 30 give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such offender shall submit to be
 35 examined and give evidence as aforesaid, then such offender shall may be imprisoned for the full term of such commitment.

Enforcing attendance of witnesses.

(ii) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council without any other warrant than this Act, at any time to enter upon any
 40 manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Council; and to inspect and view any work, material,
 45 machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such
 50 time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police Magistrate.

Powers of entry for purpose of viewing.

23. A claim or dispute under this Act shall include any matter
 55 as to which there is a disagreement between any employer and his workmen employees respecting,—

Claims and disputes explained.

(i) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages as agreed upon, or the hours or times of working as agreed upon.

(ii)

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- (II) ~~With respect to~~ Damage alleged to have been done to the work, delay in finishing the same, not finishing the same in a good and workmanlike manner, or according to agreement, or with respect to materials supplied to ~~workmen~~ **employees** and alleged to be bad, or unfit, or unsuitable.
- (III) The price to be paid for winning any mineral or substance mined, or obtained by mining, hewing, quarrying, or other process; the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral or substance is impeded.
- (IV) The performance or non-performance of any stipulation or matter alleged to have been embodied in any agreement whether in writing or not.
- (V) Insufficient or unwholesome food supplied to ~~workmen~~ **employees** where there is an agreement to victual them, or to supply them with provisions or stores of any kind.
- (VI) Ill-ventilated, or dangerous workings, or places in mines, or unwholesome or insanitary rooms, or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places.
- (VII) Any established custom, or usage of any industry, employment, or District.
- (viii) The dismissal or employment under agreement of any **employees or number of employees.**

24. No claim or dispute shall be the subject of conciliation or arbitration under this Act, in any case in which the ~~workmen or~~ **employees** affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Council of Arbitration, such Council shall have power to require any party to the claim or dispute so referred to name not more than three persons, who upon their consent in writing, shall for all purposes of the reference be taken to represent such party.

Provisions as to parties and representatives.

25. The Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act. And all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Gazette*. Every such regulation shall be laid before Parliament within fourteen days after it has been published in the *Gazette*, if Parliament be then in Session; but if not, or if Parliament be in recess, then such regulation shall be laid before it, within fourteen days from the date of the first day of the ensuing Session or reassembling of Parliament.

Regulations.

26. All expenses connected with the administration of this Act not hereinbefore provided for, **exclusive of the expenses of the parties and witnesses concerned in any dispute or matter referred either to a Council of Conciliation or the Council of Arbitration**, shall be defrayed from such annual appropriations as Parliament shall make in that behalf.

Expenses of Act, how defrayed.

27. In the construction and for the purposes of this Act, the expression "Governor" means Governor with the advice of the Executive Council; "Minister" means the responsible Minister charged with the administration of this Act; "prescribed" means prescribed by any Regulation made under this Act.

Interpretation of terms.

28. This Act may be cited for all purposes as the "**Trade Disputes Conciliation and Arbitration Act, 1892,**" and shall continue in force for four years from the commencement thereof and no longer.

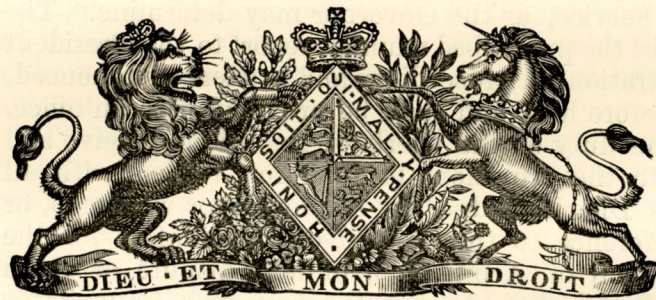
Short title.

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.

Legislative Assembly Chamber,
Sydney, 21 March, 1892. }

F. W. WEBB,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes.

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and workmen would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their workmen, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

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it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the
 5 Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

2. In and for every Industrial District, or in and for the
 10 Colony (if undivided into Districts), there shall be a Clerk of Awards ^{Office of Clerk of Awards} who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The
 15 Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

3. It shall be the duty of the Clerk of Awards to receive and ^{Duties, &c., of Clerk of Awards.} register, and, subject to the provisions of this Act, to deal with all
 20 applications within his District lodged by employers or workmen, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a
 25 Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties
 30 in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed
 35 manner.

Councils of Conciliation.

4. In and for every Industrial District there shall be a Council ^{Establishment of Councils of Conciliation.} of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be
 40 appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of workmen, and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him
 45 on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is
 50 hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and one half of the entire number (which shall in every
 55 case be some number divisible by two) shall be appointed by the Governor on the recommendation of the several recommending authorities, one half to be recommended by each.

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The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such recommending authorities shall be prescribed by regulations to be made pursuant to this Act. Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the workmen of any employer, for the purpose of dealing with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim desires to refer the same to a Council of Conciliation for settlement, to be appointed by both parties, two members of such Council being selected by each party, such Council shall be a Council of Conciliation for all purposes of this Act as aforesaid.

6. Every member of any such Council of Conciliation shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

8. Upon any vacancy in such Council arising through the death or resignation of any member thereof, the vacancy shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper recommending authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

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10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Council in certain cases.

Procedure for Conciliation.

11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

How disputes, &c., referred to Council of Conciliation.

- (i) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.
- (ii) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.
- (iii) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, or Managers, of the case.
- (iv) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be convened by him in the prescribed manner, and, subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.
- (v) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the Members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the nominating authority representing the workmen, and one to be appointed by him on the recommendation of the nominating authority representing the employers, and, in each case, in accordance with the Regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or workmen. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.
14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor.
15. (I) The term of office of a Member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of Members shall be made pursuant to this Act.
- 30 (II) Every Member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.
- (III) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.
- (IV) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.
- (V) The President shall not engage during his term of office in any employment outside the duties of such office.
- 40 16. (I) Upon any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, the vacancy shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.
- 45 (II) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.
- (III) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor may appoint the person so nominated, who shall

Establishment of
Council of
Arbitration.Remuneration of
members of Council
of Arbitration.Duration, tenure, and
vacation of office of
members of Council
of Arbitration, &c.Vacancies,
disabilities, &c.

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shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

17. In any case where the Council of Conciliation has, upon a reference to it of any dispute or claim under this Act, been unable to bring about a settlement or adjustment of the same; and thereupon, such dispute or claim has, pursuant to the provisions hereinbefore contained, been referred to the Council of Arbitration for its award, it shall be lawful for the members of such Council of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Council of Arbitration, two members of the Council of Conciliation on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Council of Arbitration when called upon to do so, and that no such member sitting as an assessor shall be entitled to more than half fees for so sitting.

Members of Council of Conciliation may sit as assessors to Council of Arbitration.

18. Any dispute or claim within the meaning of this Act may be referred to the Council of Arbitration for its hearing and determination in any of the following ways:—

References to Arbitration, how made, &c.

(i) On application in the prescribed manner to the Clerk of Awards by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.

(ii) On application in like manner to the Clerk of Awards by both parties to a dispute or claim within the meaning of this Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference or either of them shall not thereby be precluded from referring the same to the Council of Conciliation, or from making a second reference to such Council where a former reference has already been made to it.

19. The Council of Arbitration shall sit and conduct its proceedings as in open Court, and in making its decisions shall be governed as far as practicable by the principles of equity and good conscience. The President shall, for the purpose of preserving order during any sitting of the Council, have all the powers of a Judge of a Superior Court of Record: Provided that no party to any proceedings either before the Council of Conciliation or the Council of Arbitration shall be represented by Counsel or Attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen.

Council of Arbitration to sit in open Court, &c.

20. The award of the Council of Arbitration shall be made by the President within one month after such Council shall have completed its sittings for the hearing of any reference, and shall be by and under the hands of a majority of the Members of the Council, and the official seal of the Council shall be attached thereto. Every such award shall be published in the *Gazette*, and in one or more newspapers circulating in the Industrial District within which the claim or dispute, the subject of such award, arose. A copy of the award, certified under the hand of the President of the said Council, shall be deposited in the office of the said Council and also of the Registrar of Trade Unions, and shall be open to inspection without charge during office hours.

Award, how to be made.

21. Either party to a reference to the Council of Arbitration may, at any time before award made, by a writing under the hands of such party in the prescribed manner, agree to be bound by the award

When award may be enforced by legal process.

Trade Disputes Conciliation and Arbitration (No. 2).

award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the
 5 reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

10 22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give
 15 evidence before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable
 20 excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council touching the matter of such dispute or claim, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not
 25 appearing according to such summons, having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in
 30 appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such
 35 offender shall submit to be examined and give evidence as aforesaid, then such offender shall be imprisoned for the full term of such commitment.

Enforcing attendance
of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council
 40 without any other warrant than this Act, at any time to enter upon any manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a
 45 reference to such Council; and to inspect and view any work, material, machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned
 50 person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police
 55 Magistrate.

Powers of entry for
purpose of viewing.

Trade Disputes Conciliation and Arbitration (No. 2).

23. A claim or dispute under this Act shall include any matter Claims and disputes explained.
as to which there is a disagreement between any employer and his
workmen respecting,—

- 5 (I) The price to be paid for work done, or in course of being done,
whether such disagreement shall have arisen with respect to
wages as agreed upon, or the hours or times of working as
agreed upon.
- 10 (II) With respect to damage alleged to have been done to the
work, delay in finishing the same, not finishing the same in
a good and workmanlike manner, or according to agreement,
or with respect to materials supplied to workmen and alleged
to be bad, or unfit, or unsuitable.
- 15 (III) The price to be paid for winning any mineral or substance
mined, or obtained by mining, hewing, quarrying, or other
process; the allowances, if any, to be made for bands, refuse,
faults, or other causes whereby the mining of the mineral or
substance is impeded.
- 20 (IV) The performance or non-performance of any stipulation or
matter alleged to have been embodied in any agreement
whether in writing or not.
- (V) Insufficient or unwholesome food supplied to workmen where
there is an agreement to victual them, or to supply them
with provisions or stores of any kind.
- 25 (VI) Ill-ventilated, or dangerous workings, or places in mines, or
unwholesome or insanitary rooms, or other places of accom-
modation, in which work is being performed, or want of
necessary conveniences in connection with such rooms or
places.
- 30 (VII) Any established custom, or usage of any industry, employ-
ment, or District.

24. No claim or dispute shall be the subject of conciliation or Provisions as to parties and repre-
arbitration under this Act, in any case in which the workmen or employees sentatives.
affected by such claim or dispute shall be fewer in number than ten.
And in every case referred to a Council of Arbitration, such Council
35 shall have power to require any party to the claim or dispute so
referred to name not more than three persons, who upon their consent
in writing, shall for all purposes of the reference be taken to represent
such party.

25. The Governor may make regulations for the purpose of Regulations.
40 giving effect to any of the provisions or requirements of this Act. And
all such regulations not being inconsistent with this Act shall have
the full effect of law on publication in the *Gazette*. Every such regula-
tion shall be laid before Parliament within fourteen days after it has
been published in the *Gazette*, if Parliament be then in Session;
45 but if not, or if Parliament be in recess, then such regulation shall
be laid before it, within fourteen days from the date of the first day
of the ensuing Session or reassembling of Parliament.

26. All expenses connected with the administration of this Act Expenses of Act, how defrayed.
not hereinbefore provided for shall be defrayed from such annual
50 appropriations as Parliament shall make in that behalf.

27. In the construction and for the purposes of this Act, the Interpretation of terms.
expression "Governor" means Governor with the advice of the
Executive Council; "Minister" means the responsible Minister
charged with the administration of this Act; "prescribed" means
55 prescribed by any Regulation made under this Act.

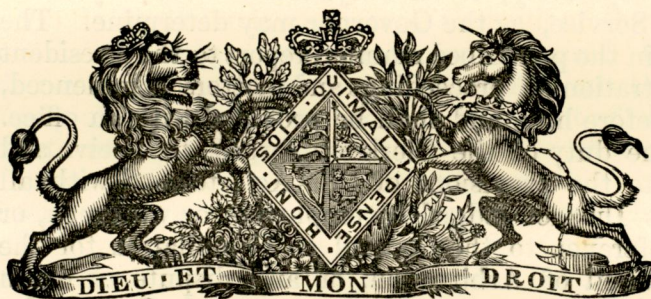
28. This Act may be cited for all purposes as the "Trade Short title.
Disputes Conciliation and Arbitration Act, 1892."

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.

Legislative Assembly Chamber,
Sydney, 21 March, 1892. }

F. W. WEBB,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

An Act to provide for the establishment of Councils of Conciliation and of Arbitration for the settlement of Industrial Disputes.

WHEREAS it is believed that the establishment of Councils of Conciliation and of Arbitration for the settlement of disputes between employers and workmen would conduce to the cultivation and maintenance of better relations, and more active sympathies, between employers and their workmen, and would be of great benefit, in the public interest, by providing simple methods for the prevention of strikes, and other disputes, from the effects of which industrial operations may suffer serious and lasting injury, and the welfare and peaceful government of the country be imperilled: Be it therefore 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:—

Establishment of Industrial Districts, &c.

1. The Governor shall, within three months after the passing of this Act, cause New South Wales to be divided into Industrial Districts for the purposes of this Act, not exceeding five in number; or, at his discretion, instead of so dividing the Colony, he may treat it

Trade Disputes Conciliation and Arbitration (No. 2).

it as one Industrial District for the said purposes. If the Colony shall be divided into Industrial Districts, every such District shall be notified in the *Gazette*; and in the notification shall be specified the designation and the limits of such District. By a like notification the Governor may abolish, alter, subdivide or modify the boundaries of any such District, or unite any two or more Districts, and may, from time to time and in like manner, exercise any of the said powers, as he may think fit.

2. In and for every Industrial District, or in and for the Colony (if undivided into Districts), there shall be a Clerk of Awards who shall be appointed by the Governor, and be paid such salary or remuneration as Parliament may provide. The position of Clerk of Awards may be held separately, or in conjunction with any other position in the Public Service, as the Governor may determine. The Clerk of Awards shall, in the prescribed manner, report to the President of the Council of Arbitration all proceedings and matters commenced, taken, or done, by or before him, and shall be provided with an office.

3. It shall be the duty of the Clerk of Awards to receive and register, and, subject to the provisions of this Act, to deal with all applications within his District lodged by employers or workmen, or on their behalf, for reference to the Council of Conciliation for the District, or to the Council of Arbitration, of any dispute or claim within the meaning of this Act; to convene any such Council for the purpose of dealing with any such dispute or claim; to keep a Register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the Regulations. The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before any such Council, and to issue all notices and perform all other acts in connection with the sittings of such Council in the prescribed manner.

Councils of Conciliation.

4. In and for every Industrial District there shall be a Council of Conciliation for the settlement of disputes and claims pursuant to this Act, which Council shall consist of four members, two to be appointed by the Governor on the recommendation of the organisation, or a majority of the organisations representing the interests of workmen, and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such district, and two to be appointed by him on the recommendation of the organisation or a majority of the organisations representing the interests of employers and registered according to the law regulating the registration of Trade Unions or Friendly Societies which have a registered office or offices within such District; and each such organisation or majority as aforesaid is hereinafter referred to as a Recommending Authority. If, and so long as, the Colony shall not be divided into Industrial Districts, there shall be a Council of Conciliation for the whole Colony, which shall consist of not fewer than twelve nor more than eighteen members; and one half of the entire number (which shall in every case be some number divisible by two) shall be appointed by the Governor on the recommendation of the several recommending authorities, one half to be recommended by each.

The

Trade Disputes Conciliation and Arbitration (No. 2).

The procedure for the purposes of making out lists of such organisations and of ascertaining and giving effect to the recommendations of such recommending authorities shall be prescribed by regulations to be made pursuant to this Act. Provided that if and so long as the Colony is not divided into Industrial Districts, such regulations shall be so framed as to provide, as far as may be practicable, that the Council of Conciliation appointed for the whole Colony shall be fairly representative of all large centres of industry in the Colony.

(I) As soon as practicable after a full Council shall have been appointed for any District, or for the entire Colony (as the case may be), the names of the members of such Council shall be notified in the *Gazette* by the Minister.

(II) The names and addresses of every member of a Council of Conciliation shall be registered in the prescribed manner, and the register of such names and addresses shall be open to the inspection of any person during office hours, without payment of any fee.

5. (I) The appointment for any District, or for the entire Colony, of a Council of Conciliation under the provisions hereinbefore contained, shall not prevent the appointment, from time to time, as occasion may require, of a Council of four Conciliators, two by each party to any dispute or claim, by or on behalf of any employer or the workmen of any employer, for the purpose of dealing with any reference of such dispute or claim. And the members of any such Council shall, for all purposes of this Act, except in respect of the duration of their office, be deemed to be and to possess all the powers and to be entitled to the remuneration of members of a Council of Conciliation appointed as hereinbefore provided.

(II) If in any case there be no Council of Conciliation appointed by the Governor, pursuant to recommendation under this Act, or none available for the purpose of dealing with any dispute or claim within the meaning of this Act, and if either party to such dispute or claim desires to refer the same to a Council of Conciliation for settlement, to be appointed by both parties, two members of such Council being selected by each party, such Council shall be a Council of Conciliation for all purposes of this Act as aforesaid.

6. Every member of any such Council of Conciliation shall be remunerated for his services in a manner and according to a scale of payment to be fixed and provided for by Parliament.

7. The duration of the office of a member of a Council of Conciliation shall, except in the case of members appointed under section five of this Act, be two years, at the end of which term and of every successive term of two years, a fresh appointment of members shall be made by the Governor upon recommendation pursuant to section four of this Act. Any person who has held office as a member of such Council shall, if duly recommended, be eligible for reappointment.

8. Upon any vacancy in such Council arising through the death or resignation of any member thereof, the vacancy shall be filled by the Governor, upon recommendation made pursuant to the provisions of section four of this Act.

9. If any member of such Council shall be disabled from illness or other cause from attending to his duties as such member, the Governor, on the recommendation of the proper recommending authorities, may appoint a person to act in his place for the period of such disability. And such person shall, upon such appointment, be deemed for all purposes of this Act to be a member of such Council during such period.

Trade Disputes Conciliation and Arbitration (No. 2).

10. If a Council of Conciliation shall be appointed for the entire Colony, the parties to any reference to a Council of Conciliation may each select two members of such Council, so that the Council to deal with such reference shall consist of four persons, or, at their discretion, 5 may each appoint two persons, not being members of such first-mentioned Council appointed pursuant to section four of this Act; and every such Council so appointed shall have the powers and be entitled to the remuneration hereinbefore mentioned.

Council in certain cases.

Procedure for Conciliation.

10 11. Any dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in manner following:—

How disputes, &c., referred to Council of Conciliation.

- 15 (I) The parties to such dispute or claim may jointly agree, in the prescribed manner, to refer such dispute or claim for settlement to a Council of Conciliation.
- (II) Either party to such dispute or claim may, in the prescribed manner, lodge an application with the Clerk of Awards requesting that such dispute or claim be referred for settlement to a Council of Conciliation.
- 20 (III) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. And where
- 25 the persons interested in any such dispute or claim, as a party, number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the Manager, or Managers, of the case.
- 30 (IV) The Clerk of Awards, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council mentioned in such agreement or application at a meeting of such Council to be convened by him in the prescribed manner, and, subject to
- 35 the provisions of this Act and the regulations, shall carry out all directions of the said Council in order to effect a settlement of the dispute or claim referred to it.
- 40 (V) The Clerk of Awards shall transmit a report of the result of every such reference, certified under the hands of the Members of the Council of Conciliation, together with all papers relating to the reference, to the President of the Council of Arbitration, which report and papers shall be filed of record by such President.

45 12. If the Council of Conciliation shall, by writing signed by the members thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto [and it shall be the duty of such Council in every such case to make such report], the 50 Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Council of Arbitration for settlement by award. The Clerk of Awards shall 55 thereupon transmit all the papers in the reference to the President of the Council of Arbitration in the prescribed manner.

Council to report failure to bring about settlement, whereupon either party may proceed to arbitration.

The

*Trade Disputes Conciliation and Arbitration (No. 2).**The Council of Arbitration.*

13. There shall be one Council of Arbitration for the settlement by award of disputes and claims pursuant to this Act. Such Council shall consist of three members, one to be appointed by the Governor on the recommendation of the nominating authority representing the workmen, and one to be appointed by him on the recommendation of the nominating authority representing the employers, and, in each case, in accordance with the Regulations to be made in pursuance of this Act. The third member, who shall be the President of the Council, shall be appointed in manner following, namely:—The two members so appointed may, within twenty-one days after their appointment, submit to the Minister the name of some impartial person for the position of President. And in case of failure so to do on the part of the said two members, then the Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occupation, business, vocation, or other influence, to be biased in favour of, or against, employers or workmen. As soon as practicable after a full Council shall have been appointed by the Governor, the names of the members of the Council of Arbitration so appointed shall be notified in the *Gazette* by the Minister.
14. Every member of the Council of Arbitration, shall be remunerated for his services in such manner and according to such rate of payment as the Governor shall appoint, but subject to Parliamentary provision being made therefor.
15. (i) The term of office of a Member of such Council shall be two years; at the end of which term, and of every successive term of two years a fresh appointment of Members shall be made pursuant to this Act.
- (ii) Every Member of such Council shall be eligible after the expiry or other termination of his term of office for re-appointment for a like term.
- (iii) If the President of such Council shall be declared a bankrupt, or shall make a composition with his creditors, or make an assignment of his property or salary for the benefit of his creditors, he shall be deemed thereby to have vacated his office of President.
- (iv) The President shall hold office during ability and good behaviour subject to the limitation of the term of office herein declared.
- (v) The President shall not engage during his term of office in any employment outside the duties of such office.
16. (i) Upon any vacancy in such Council arising through the death, resignation, or disqualification of any member thereof, the vacancy shall be filled by the Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act.
- (ii) The Governor may appoint a person to be Acting President of the Council of Arbitration in case the President of such Council shall be unable to act as such from illness or other temporary disability: And such Acting President shall upon such appointment have all the powers and perform all the duties conferred and imposed by this Act upon the President.
- (iii) If any member of such Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim hereunder, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Governor, of a member to act for and in the place of the member during such disability; and the Governor may appoint the person so nominated, who shall

Establishment of
Council of
Arbitration.Remuneration of
members of Council
of Arbitration.Duration, tenure, and
vacation of office of
members of Council
of Arbitration, &c.Vacancies,
disabilities, &c.

Trade Disputes Conciliation and Arbitration (No. 2).

shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof.

17. In any case where the Council of Conciliation has, upon a
 5 reference to it of any dispute or claim under this Act, been unable to
 bring about a settlement or adjustment of the same; and thereupon,
 such dispute or claim has, pursuant to the provisions hereinbefore
 contained, been referred to the Council of Arbitration for its award,
 it shall be lawful for the members of such Council of Conciliation,
 10 subject to the consent in writing of both parties to the said dispute
 or claim having been first obtained, to sit as assessors upon such refer-
 ence to the Council of Arbitration, two members of the Council of
 Conciliation on behalf of each such party: Provided always that no
 such assessor shall take any part in the hearing or determination of the
 15 reference, other than as an assessor sitting to inform the Council of
 Arbitration when called upon to do so, and that no such member sitting
 as an assessor shall be entitled to more than half fees for so sitting.

Members of Council
 of Conciliation may
 sit as assessors to
 Council of Arbitra-
 tion.

18. Any dispute or claim within the meaning of this Act may
 be referred to the Council of Arbitration for its hearing and deter-
 20 mination in any of the following ways:—

References to Arbi-
 tration, how made,
 &c.

- (I) On application in the prescribed manner to the Clerk of
 Awards by either party to a dispute or claim which, having
 been referred to a Council of Conciliation, has not been
 settled or adjusted by such Council.
- 25 (II) On application in like manner to the Clerk of Awards by
 both parties to a dispute or claim within the meaning of this
 Act, which has not been so referred as aforesaid.

Provided that if the award of the Council of Arbitration shall not be
 complied with or carried out by the parties to any dispute or claim as
 30 aforesaid, or for any reason shall have proved abortive, the parties to
 the reference or either of them shall not thereby be precluded from
 referring the same to the Council of Conciliation, or from making
 a second reference to such Council where a former reference has
 already been made to it.

35 19. The Council of Arbitration shall sit and conduct its
 proceedings as in open Court, and in making its decisions shall be
 governed as far as practicable by the principles of equity and good
 conscience. The President shall, for the purpose of preserving order
 during any sitting of the Council, have all the powers of a Judge of a
 40 Superior Court of Record: Provided that no party to any proceedings
 either before the Council of Conciliation or the Council of Arbitration
 shall be represented by Counsel or Attorney or by any paid agent other
 than one or more of the persons between whom the dispute or claim
 has arisen.

Council of Arbitra-
 tion to sit in open
 Court, &c.

45 20. The award of the Council of Arbitration shall be made
 by the President within one month after such Council shall have
 completed its sittings for the hearing of any reference, and shall be
 by and under the hands of a majority of the Members of the Council,
 and the official seal of the Council shall be attached thereto. Every
 50 such award shall be published in the *Gazette*, and in one or more
 newspapers circulating in the Industrial District within which the
 claim or dispute, the subject of such award, arose. A copy of the
 award, certified under the hand of the President of the said Council,
 shall be deposited in the office of the said Council and also of the
 55 Registrar of Trade Unions, and shall be open to inspection without
 charge during office hours.

Award, how to be
 made.

21. Either party to a reference to the Council of Arbitration
 may, at any time before award made, by a writing under the hands
 of such party in the prescribed manner, agree to be bound by the
 award

When award may be
 enforced by legal
 process.

Trade Disputes Conciliation and Arbitration (No. 2).

award of the Council upon such reference in the same manner as parties are bound upon an award made pursuant to a reference to Arbitration or the order of the Supreme Court or of any Judge thereof. Every agreement so to be bound shall be laid before the other party to the
 5 reference by the Clerk of Awards, and if such other party also agree in like manner to be bound by the said award, then the said award may be made a Rule of the Supreme Court on the application of either party.

General and Miscellaneous Provisions.

10 22. (I) It shall be lawful for a Council of Conciliation, and such Council is hereby authorized and required by its Clerk of Awards, or any member of such Council, at the request in writing of any of the parties, and for the President of the Council of Arbitration, to summon any witness or witnesses to appear and give
 15 evidence before such Council, respectively, at the time and place appointed for hearing and determining any dispute or claim under this Act (which time and place shall be specified in the summons); and if any person so summoned shall not appear before such Council at the time and place specified in such summons, or give some reasonable
 20 excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness, and give evidence before such Council touching the matter of such dispute or claim, then it shall be lawful for any Justice of the Peace, and he is hereby authorized (proof on oath, in the case of any person not
 25 appearing according to such summons, having been first made before such Justice of the due service of such summons on every such person by delivering the same to him, or by leaving the same at the usual place of abode of such person), by warrant under the hands of any such Justice, to commit any such person so making default in
 30 appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding two calendar months, or until such person shall submit himself to be examined and give his evidence before such Council as aforesaid; provided, always, that in case such dispute or claim shall be heard and determined before such
 35 offender shall submit to be examined and give evidence as aforesaid, then such offender shall be imprisoned for the full term of such commitment.

Enforcing attendance of witnesses.

(II) It shall be lawful for a Council of Conciliation, and for the Council of Arbitration, and for any member of any such Council
 40 without any other warrant than this Act, at any time to enter upon any manufactory, building, workshop, factory, mine, mine workings, shed or premises of any kind whatsoever, wherein or in respect of which any work is being, or has been done, or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a
 45 reference to such Council; and to inspect and view any work, material, machinery, appliances, matter or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine workings, shed, or premises. And any person who shall hinder or obstruct any other
 50 person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine workings, shed, or premises, shall for every such offence incur a penalty not exceeding five hundred pounds, to be recovered in a summary way before any Stipendiary or Police
 55 Magistrate.

Powers of entry for purpose of viewing.

Trade Disputes Conciliation and Arbitration (No. 2).

23. A claim or dispute under this Act shall include any matter Claims and disputes explained.
as to which there is a disagreement between any employer and his
workmen respecting,—

- 5 (I) The price to be paid for work done, or in course of being done,
whether such disagreement shall have arisen with respect to
wages as agreed upon, or the hours or times of working as
agreed upon.
- 10 (II) With respect to damage alleged to have been done to the
work, delay in finishing the same, not finishing the same in
a good and workmanlike manner, or according to agreement,
or with respect to materials supplied to workmen and alleged
to be bad, or unfit, or unsuitable.
- 15 (III) The price to be paid for winning any mineral or substance
mined, or obtained by mining, hewing, quarrying, or other
process; the allowances, if any, to be made for bands, refuse,
faults, or other causes whereby the mining of the mineral or
substance is impeded.
- 20 (IV) The performance or non-performance of any stipulation or
matter alleged to have been embodied in any agreement
whether in writing or not.
- (V) Insufficient or unwholesome food supplied to workmen where
there is an agreement to victual them, or to supply them
with provisions or stores of any kind.
- 25 (VI) Ill-ventilated, or dangerous workings, or places in mines, or
unwholesome or insanitary rooms, or other places of accom-
modation, in which work is being performed, or want of
necessary conveniences in connection with such rooms or
places.
- 30 (VII) Any established custom, or usage of any industry, employ-
ment, or District.

24. No claim or dispute shall be the subject of conciliation or Provisions as to parties and representatives.
arbitration under this Act, in any case in which the workmen or employees
affected by such claim or dispute shall be fewer in number than ten.
And in every case referred to a Council of Arbitration, such Council
35 shall have power to require any party to the claim or dispute so
referred to name not more than three persons, who upon their consent
in writing, shall for all purposes of the reference be taken to represent
such party.

25. The Governor may make regulations for the purpose of Regulations.
40 giving effect to any of the provisions or requirements of this Act. And
all such regulations not being inconsistent with this Act shall have
the full effect of law on publication in the *Gazette*. Every such regula-
tion shall be laid before Parliament within fourteen days after it has
been published in the *Gazette*, if Parliament be then in Session;
45 but if not, or if Parliament be in recess, then such regulation shall
be laid before it, within fourteen days from the date of the first day
of the ensuing Session or reassembling of Parliament.

26. All expenses connected with the administration of this Act Expenses of Act, how defrayed.
not hereinbefore provided for shall be defrayed from such annual
50 appropriations as Parliament shall make in that behalf.

27. In the construction and for the purposes of this Act, the Interpretation of terms.
expression "Governor" means Governor with the advice of the
Executive Council; "Minister" means the responsible Minister
charged with the administration of this Act; "prescribed" means
55 prescribed by any Regulation made under this Act.

28. This Act may be cited for all purposes as the "Trade Short title.
Disputes Conciliation and Arbitration Act, 1892."