



Western Australia.

ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. XX.

AN ACT to facilitate the Settlement of Industrial
Disputes by Conciliation and Arbitration.

[Assented to, 5th December, 1900.]

BE it enacted by the Queen's Most Excellent Majesty, by and
with the advice and consent of the Legislative Council and
Legislative Assembly of Western Australia, in this present Parliament
assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Industrial Conciliation and
Arbitration Act, 1900.

Short title.

2. IN this Act, unless the context otherwise requires,—

Interpretation.

“Association” means an Industrial Association registered
under this Act.

N.Z. Industrial, etc.,
Act, 1894, 2.

“Board” means a Board of Conciliation constituted under
this Act.

“Court” means a Court of Arbitration constituted under this
Act.

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“Employer” includes persons, firms, partnerships, and corporations employing workers.

“Industrial dispute” means any dispute arising between one or more employers or industrial unions or associations of employers and one or more industrial unions or associations of workers, in relation to industrial matters as herein defined.

“Industrial matters” means all matters or things affecting or relating to work done, or to be done, or the privileges, rights, and duties of employers or workers in any industry, and not involving questions which are or may be the subject of proceedings for an indictable offence, and, without limiting the general nature of the above definition, includes all or any matters relating to—

(a.) The wages, allowances, or remuneration of any persons employed in any industry, or the prices paid or to be paid therein in respect of such employment;

(b.) The hours of employment, sex, age, qualification, or status of workers, and the mode, terms, and conditions of employment;

(c.) The employment of children or young persons;

(d.) Any established custom or usage of any industry, either generally or in the particular district affected;

(e.) Any claim arising out of an industrial agreement.

“Industrial union” means an industrial union registered and incorporated under this Act.

“Industry” means any business, trade, manufacture, undertaking, calling, or employment in which workers are employed.

“Officer” of an industrial union, or association of workers means only the president, vice-president, secretary, or treasurer of such body.

“Party,” in relation to proceedings before the Court, includes, besides an original party to the reference or proceeding, any person, corporation, union, or branch directed by the Court to be joined in the reference or proceeding, or any person who, in the opinion of the Court, represents a party.

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

“Registrar ” means the Registrar of Friendly Societies.

“Union ” means an industrial union.

“Worker ” means and includes any person, of the age of eighteen years or more, engaged in any employment other than clerical, in the service of an employer, but shall not include—

(a.) Persons engaged under a contract of service for a period of one month or over ;

(b.) Persons under the age of eighteen years, or, being over that age, if and whilst acting in the capacity of apprentices.

Words in this Act relating to any clerk, person, officer, office, locality, association, or other matter or thing shall be construed distributively as referring to each clerk, person, officer, office, locality, association, or matter or thing to whom or to which the provision is applicable.

PART I.—REGISTRATION OF INDUSTRIAL UNIONS AND ASSOCIATIONS.

(1.)—*Industrial Unions.*

3. A SOCIETY consisting of any number of persons, not being less than five, residing within the Colony, lawfully associated for the purpose of protecting or furthering the interests of employers, or in connection with any industry in the Colony, and whether formed before or after the passing of this Act, may be registered as an industrial union under this Act.

What societies of employers may be registered.

Ibid., s. 3, and see N.Z. Industrial, etc., Act, 1895, s. 2; N.Z. Industrial, etc., Act, 1895, s. 2 (2).

Where a co-partnership firm is a member of any such society, each individual partner residing in Western Australia shall be deemed an individual member of the society and also of the industrial union when such society is registered as a union.

Ibid., s. 2 (3).

Any incorporated or registered company may be registered as an industrial union of employers.

A society consisting of any number of persons, not being less than fifteen, residing within the Colony, lawfully associated for the purpose of protecting or furthering the interests of workers or in connection with any industry in the Colony, and whether formed before

What societies of workers may be registered.

N.Z. Industrial, etc., Act, 1894, pt. s. 3.

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before or after the passing of this Act, may be registered as an industrial union under this Act.

Mode of application
and terms of rules.

4. IN order to be registered as an industrial union, a society must comply with the following provisions:—

Ibid., pt. s. 3.

(1.) An application for registration, stating the name of the proposed industrial union, shall be made to the Registrar, signed by two or more officers of the society.

N.Z. Industrial, etc.,
Act, 1894, s. 3.

(2.) Such application shall be accompanied by (a) a list of the members and officers of the society; (b) two copies of the rules of the society; (c) a copy of a resolution passed by a majority of the members present at a general meeting of the society specially called in accordance with the rules for that purpose only, and desiring registration as an industrial union. In the case of an incorporated or registered company, the directors shall sufficiently represent the members for the purpose of the application, and the resolution hereby required may be a resolution of the directors.

(3.) Such rules shall specify the purposes for which the society is formed, and shall provide for—

N.Z. Industrial, etc.,
Act, 1896, s. 4.

(a.) The appointment of a committee of management, a chairman, secretary, and any other necessary officers, or, if thought fit, of a trustee or trustees; and for supplying any vacancy occurring through any cause prescribed by the rules, or by death or resignation.

(b.) The powers, duties, and the removal of the committee, and of any chairman, secretary, or other officer or trustee of the society, and the control of the committee by general or special meetings.

(c.) The manner of calling general or special meetings, the quorum thereat, and the manner of voting thereat.

(d.) The mode in which industrial agreements and any other instruments shall be made, and by whom executed on behalf of the society, and in what manner the society shall be represented in any proceedings before a Board or the Court.

- (e.) The custody and use of the seal, including power to alter or renew the same.
 - (f.) The control of the property of the society and the investment of the funds thereof, and for a half-yearly audit of the accounts.
 - (g.) The inspection of the books by every person having an interest in the funds thereof.
 - (h.) A register of members, and the mode in which, and the terms on which, persons shall become or cease to be members, and so that no member shall discontinue his membership without giving at least three months' previous written notice to the secretary of intention so to do, nor until such member has paid all fees or other dues payable by him to the society under its rules, and which fees or dues, in so far as they are owing for any period of membership subsequent to the registration of the society under this Act, may be sued for and recovered in any Court of competent jurisdiction by any person or authority empowered to do so by law or by such rules.
 - (i.) The conduct of the business of the society at some convenient address to be specified, and to be called the registered office of the society.
- (4.) No industrial union shall be entitled to commence and continue proceedings in the Court unless it shall lodge with the Registrar of the Supreme Court the sum of Twenty-five pounds where the number of members does not exceed fifty, and of Fifty pounds where the number exceeds fifty but does not exceed one hundred, and the sum of One hundred pounds where the number of members exceed one hundred, or shall prove to his satisfaction that it has been placed in some security approved of by him in the joint names of two members of such society and of himself, or shall deposit with the Registrar of the Supreme Court a guarantee, to be approved of by him, to pay and discharge any order of the Court to the amounts hereinbefore mentioned: Provided that no union of employers shall commence and continue proceedings in the Court until it deposits a sum of One hundred pounds, or finds security for that amount.

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- (5.) No society shall be registered unless the Registrar or, in case of appeal, the Court is satisfied that the rules include the provisions aforesaid, and unless, in the case of a branch, the Registrar, or, in case of appeal, the Court is satisfied that it is a *bonâ fide* branch, and is of sufficient importance to be registered separately.
- (6.) The secretary of every industrial union shall, within one calendar month after the completion of the yearly audit of the accounts of the union, file with the Registrar a duly audited balance sheet of the assets and liabilities of the union, made up to the date of closing the accounts, the subject of such audit. If any such secretary shall neglect to file such balance sheet within the time aforesaid, he shall, for every such offence, forfeit and pay a sum not less than One pound and not exceeding Ten pounds.
- (7.) The Registrar shall forthwith publish such balance sheet in the *Government Gazette*.

Other provisions
respecting rules.
Ibid., s. 4.

5. (1.) THE rules may also provide for any other matters not contrary to law and for being amended, repealed, or altered, but so that the requisites of sub-section three of the last preceding section shall always be provided for.

(2.) Copies of amendments and alterations of any rules shall, after being verified by the secretary or some other officer of the society, be sent to the Registrar, who shall record the same.

(3.) A printed copy of the rules of the society shall be delivered by the society to any person requiring the same, on payment of a sum not exceeding One shilling.

Registration of
society.
Ibid., s. 5.

6. ON being satisfied that the provisions of section four in relation to an application have been complied with, the Registrar shall register the society, without fee, as an industrial union pursuant to the application, and shall issue a certificate of registry and incorporation, which, unless proved to have been cancelled, or to have expired as hereinbefore mentioned, shall be conclusive evidence of the fact of such registration and incorporation and of the validity thereof.

Incorporation of
society.
Ibid., s. 6.

7. UPON receiving such certificate every industrial union shall become a body corporate by the registered name, having perpetual succession until it is dissolved or expires as aforesaid, or the registration thereof is cancelled as hereinafter provided, and

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shall have a common seal. There shall be inserted in the registered name of every industrial union the word "employers" or the word "workers," according to whether such union is a union of employers or of workers, as thus: "The Bootmakers' Industrial Union of Workers."

8. EVERY industrial union may purchase or take on lease, in the name of the union or of trustees for the union, any house or building and any land, and may sell, mortgage, exchange, or let the same or any part thereof; and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the union or the trustees have authority for such sale, mortgage, exchange, or letting; and the receipt of such trustees shall be a discharge for the money arising therefrom.

Powers to purchase or take lease of land.

Ibid., s. 7.

9. FOR the purposes of this Act, every branch of a society shall, subject as aforesaid, be considered a distinct society, and may be separately registered as an industrial union under this Act.

Branch to be treated as distinct society.

10. NO industrial union shall be registered under a name identical with that by which any other industrial union has been registered under this Act, or so near resembling any such name as to be likely to deceive the members or the public.

Unions not to be registered by similar names.

Ibid., s. 9.

11. THE effect of registration shall be to render the industrial union, and all persons who may be members of any society registered as an industrial union at the time of registration, or who after such registration may become members of any society so registered, subject to the jurisdiction by this Act given to a Board and the Court respectively, and liable to all the provisions of this Act; and all such persons shall be bound by the rules of the industrial union during the continuance of membership.

Effect of registration.

Ibid., s. 10.

12. ANY industrial union may at any time apply to the Registrar, in the prescribed manner, for a cancellation of the registration thereof, and the Registrar, after giving six weeks' public notice of the intention so to do, may cancel such registration; but no registration shall be cancelled during the pendency of any conciliation or arbitration affecting such union until the Board or Court has given its decision or made its award, nor in any case unless the Registrar shall be satisfied that the cancellation is desired by a majority of the members of the union; and no cancellation of any registration shall relieve any industrial union, or any member thereof, from the obligation of any industrial agreement or an order, decision, or award of the Court.

Cancellation of registration in certain events.

Ibid., s. 11.

(2.)—*Industrial Associations.*

Councils representing industrial unions may be registered.

Ibid., s. 12.

Application of prior provisions of Act.

13. ANY council or other body, however designated, representing any number of industrial unions established within the Colony may be registered as an industrial association pursuant to this Act.

All the provisions of this Act hereinbefore contained in sections three to thirteen inclusive shall, *mutatis mutandis*, extend and apply to an industrial association, and shall be read and construed accordingly, so far as applicable.

No proceedings to be taken, etc., unless with consent of council or industrial association of workers.

14. NO proceedings shall be initiated or taken, or settlement or award made, in respect of an industrial dispute, or industrial agreement entered into in connection with an industrial union of workers, consisting of less than one hundred members, excepting with the consent of the council or industrial association of workers with which it is connected or affiliated, or of which it forms part: Provided that nothing in this section contained shall apply to a union of workers unconnected with an industrial association.

(3.)—*General.*

Half-yearly lists of associations and unions to be sent to Registrar.

Ibid., s. 13, as amended by N.Z. Act, No. 30 of 1895, s. 7.

15. IN the months of January and July in every year there shall be forwarded to the Registrar by every association a list of the unions constituting such association; and in the same months in every year there shall be forwarded to the Registrar by every union a list of the members of such union with their addresses. Each such list shall specify the names of all the officers, including the trustees (if any) of each such association or union, and shall be verified by the statutory declaration of the president or chairman of each association and union, and such statutory declaration shall be *prima facie* evidence of the truth of the matters therein set forth.

Penalty for neglect to do so.

Ibid., s. 14.

16. EVERY association or industrial union making default in forwarding to the Registrar any list required to be forwarded by the last preceding section shall be guilty of an offence against this Act, punishable by a penalty not exceeding Two pounds for every week during which such default continues; and every member of the council of any such association or committee of any such union who wilfully permits such default shall be guilty of a similar offence, punishable by a penalty not exceeding Five shillings for every week during which he wilfully permits such default:

Associations and unions may sue in registered name.

Ibid., s. 15.

17. EVERY association or industrial union may sue or be sued, for the purposes of this Act, by the name by which it is registered, and service of any process, notice, or any document of any kind may be effected by delivering the same to the chairman or secretary of such union or association, or by leaving the same at the registered office of such union or association.

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18. ALL deeds and instruments of any kind which the association or industrial union is required to execute for the purposes of this Act, or any regulations in force thereunder, may be made and executed under the seal of such association or union, and signed by the chairman and secretary thereof, or in such other manner as may be provided in the rules of the association or union.

Mode of executing
deeds and
instruments.

Ibid., s. 16.

19. THE fees, fines, levies, and dues payable by a member to his society under its rules, so far as due and owing for any period of membership subsequent to the registration of the society under this Act, may be sued for and recovered by any person or authority empowered by law or by the rules to do so in any Court of competent jurisdiction.

Recovery of fees.

PART II.—INDUSTRIAL AGREEMENTS.

20. THE parties to industrial agreements may be (1) industrial unions, (2) industrial associations, (3) employers; and any such agreement may provide for any matter or thing affecting any industrial matter, or in relation thereto, or for the prevention or settlement of an industrial dispute.

Parties to industrial
agreements defined.

Ibid., s. 17.

21. EVERY industrial agreement may be varied, renewed, or cancelled by any subsequent industrial agreement made by and between the parties thereto, or any additional parties, but so that no person shall be deprived of the benefit of any industrial agreement to which he is a party by any subsequent industrial agreement to which he is not a party.

Agreement may be
varied, renewed, or
cancelled.

Ibid., s. 18.

22. EVERY industrial agreement shall be for a term to be specified therein, not exceeding three years from the date of the making thereof, and shall commence as follows:—"This agreement made in pursuance of the Industrial Conciliation and Arbitration Act, 1900, this day of , between , and then set out the matters agreed upon, and the date of the making of such agreement shall be the date when such agreement shall be first signed or executed by any party thereto, and such date, and the names of all industrial unions, associations, or employers parties to such agreement shall be truly stated therein.

Form and terms of
agreement.

Ibid., s. 19.

23. A DUPLICATE of every industrial agreement shall be filed with the Registrar within thirty days of the making thereof, and a fee of Five shillings shall be paid in respect of every agreement so filed.

Duplicate to be filed
in the Supreme
Court Office.

Ibid., s. 20.

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Effect of agreement.
Ibid., s. 21.

24. EVERY industrial agreement, duly made and executed, shall be binding on the parties thereto, and on every person who, at any time during the term of such agreement, is a member of any industrial union or association party thereto, and on every employer who shall, in the prescribed manner, signify to the Registrar with whom such agreement is filed, concurrence therein, and every such employer shall be entitled to the benefit thereof, and be deemed to be a party thereto: And no industrial agreement shall be invalid merely by reason that it is in restraint of trade.

Provisions for enforcing industrial agreements.
N.Z. Industrial, etc., Act, 1898, s. 9 (1).

25. (1.) INDUSTRIAL agreements, whether made before or after the commencement of this Act, may be enforced in like manner as if an industrial agreement were an award of the Court, and the Court shall accordingly have full and exclusive jurisdiction to deal therewith.

Agreement may define what constitutes a breach.

N.Z. Act, 1894,
No. 14, pt. s. 22.

(2.) Any industrial agreement may fix and determine what shall constitute a breach of an agreement within the meaning of this Act.

(3.) Nothing herein contained shall deprive any person who may be damnified of his right of action for redress or compensation in respect of any breach of an agreement.

PART III.—CONCILIATION AND ARBITRATION.

(1.)—*Preliminary.*

Constitution of districts.

N.Z. Industrial, etc., Act, 1894, s. 24.

26. THE Governor may from time to time divide Western Australia, or any portion thereof, into such districts as he shall think fit, to be called "Industrial Districts," and may from time to time alter the boundaries of such districts, or create new districts, as he shall think fit, and notice of the constitution of every such district, or of the alteration of the boundaries of a district, shall be given in the *Government Gazette* as occasion requires.

Clerk of awards for each district.
Ibid., s. 25.

27. IN and for every industrial district the Governor shall appoint a Clerk of Awards (hereinafter referred to as "the Clerk"), who shall be attached to the office of the Registrar, and shall be subject to his control and direction, and the clerk shall in the prescribed manner report all proceedings taken or done before him to the Registrar.

The office of clerk may be held either separately or in conjunction with any other office in the Public Service, as the Governor may determine, and the clerk shall be paid such salary or other remuneration as the Governor thinks fit.

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28. IT shall be the duty of the clerk,—

- (1.) To receive, register, and deal with all applications within his district lodged for reference of any industrial dispute to the Board for the district or to the Court ;
- (2.) To convene the Board or Court for the purpose of dealing with any such dispute, and to attend all meetings of the Board and sittings of the Court ;
- (3.) To keep a register in which shall be entered the particulars of all references and settlements of industrial disputes made to and by the Board, and of all references and awards made to and by the Court ;
- (4.) To issue all summonses to witnesses to give evidence before the Board or Court, and to issue all notices and perform all other acts in connection with the sittings of the Board or Court in the prescribed manner ; and
- (5.) Generally to do all such things, and take all such proceedings as may be required in the performance of his duties by this Act or in the prescribed manner, or, in the absence of regulations, by the directions of the Registrar.

Duties of clerk.
Ibid., s. 26.

29. THE following persons shall be disqualified from being appointed or elected or from holding office as chairman or as a member of any Board, or as a member of the Court, and, if so elected or appointed, shall be incapable of continuing to be such member or chairman.

Disqualification as
member of Board or
Court.
Ibid., s. 28.

- (1.) An undischarged bankrupt, or a debtor against whose estate there is a subsisting receiving order in bankruptcy ;
or,
- (2.) A person who has been in any part of Her Majesty's dominions attainted or convicted of treason or felony ; or,
- (3.) A person of unsound mind.

30. (1.) WHENEVER an industrial dispute shall be referred to a Board or the Court as hereinafter provided, no industrial union or association, whether of employers or workers, and no employer who may be a party to the proceedings before the Board or Court shall, on account of such industrial dispute, do any act or thing in the nature of a strike or lock-out, or suspend or discontinue employment or work in any industry affected by such proceedings ; but each party shall continue to employ or be employed, as the case may be, on the same terms and conditions as theretofore until the Board or Court shall have come to a final decision in accordance with this Act.

When matter re-
ferred to Board or
Court, no strikes or
lock-out till decision
given.
Ibid., s. 29.

But nothing herein shall be deemed to prevent any suspension or discontinuance of any industry, or from working therein, for any other good cause.

(2.) If any such party contravenes any of the provisions of this section the Board or the Court, on the application of any other party to the proceedings, may in a summary way impose on the first-mentioned party a penalty not exceeding in the case of an industrial union Five hundred pounds, and in the case of any other person Twenty pounds, and shall specify the person to whom such penalty shall be paid.

(2.)—*Boards of Conciliation.*

31. IN and for every industrial district there shall be established a Board of Conciliation, to have jurisdiction for the settlement of industrial disputes occurring in such district which may be referred to it by one or more of the parties to an industrial dispute, or by industrial agreement.

District Board to be constituted.
Ibid., s. 30.

32. THE Governor may determine the number of persons who (together with the chairman) shall compose the Board of such district, subject, however, to the express provisions of the Act, and such number shall be stated in the notice of the constitution of the district

Governor to determine number of each Board.
Ibid., s. 31.

33. WITH respect to the first and subsequent elections of Boards, the following provisions shall have effect:—

Provisions for first and subsequent elections of Boards.
Ibid., s. 32.

(1.) Every Board shall consist of such equal number of persons as the Governor may determine, being not more than six nor less than four persons, who shall be chosen by the industrial unions of employers and of workers in the industrial districts respectively, such unions voting separately and electing an equal number of such members

(2.) The chairman of such Board shall be in addition to the number of members before mentioned, and shall be elected as hereinafter provided.

(3.) Each industrial union shall be deemed to be in the industrial district wherein its registered office is situate, and shall exercise its right of voting at the election of the Board of that district accordingly, or in any industrial district in which such industrial union carries on its business, or any branch or part of its business; and for such purpose any such union may be also registered in any or every of such industrial districts.

Where industrial union deemed to be situate.

N.Z. Industrial, etc., Act, 1895, as amended by Act, 1896, No. 57, s. 7.

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(4.) Every Board shall be elected in the following manner:—

- (a.) The clerk shall act as Returning Officer and do the acts and things hereinafter required of him.
- (b.) First elections of a Board shall be held within thirty days after the constitution of the district, and the Returning Officer shall give fourteen days' notice in one or more newspapers circulating in the district of the day and place of election, which shall be so arranged that the industrial unions of employers shall vote at one time, and the industrial unions of workers at another time of the day fixed: Provided that the Governor may from time to time extend for such time as he thinks fit the period within which any election shall be held.
- (c.) Persons shall be nominated for election in such manner as the rules of the industrial union may prescribe, or, if there be no such rule, nominations shall be made in writing by the chairman of the union, and lodged with the Returning Officer at least three days before the date of election. Each nomination shall be accompanied by the written consent of the person nominated, and forms of nomination shall be provided by the Returning Officer on application to him for that purpose.
- (d.) No person whilst holding a seat on one Board shall be qualified for nomination or election to a seat on any other Board, and if he is so elected his election shall be void. N.Z. Industrial, etc., Act, 1896, pt. s. 2.
- (e.) If any person allows himself to be nominated for election as a member of more Boards than one, both nominations shall be void. N.Z. Industrial, etc., Act, 1896, pt. s. 2.
- (f.) When all the nominations have been received, the Returning Officer shall give notice of the names of persons nominated, by affixing a list thereof on the door of his office at least one clear day before the day of election. N.Z. Industrial, etc., Act, 1894, s. 32 (d).
- (g.) If it appears that no more persons are nominated than are required to be elected, the Returning Officer shall at once declare such persons elected; if the number of persons so nominated exceeds the number required to be elected, then votes shall be taken as hereinafter provided.

- (h.) The Returning Officer shall preside at the election by each division of industrial unions entitled to vote, and the vote of each such union shall be signified in writing in the prescribed manner, and on being tendered by the chairman of the union, or by some person appointed by the union for that purpose, in accordance with the rules, the Returning Officer shall record the vote in such manner as he thinks fit.
- (i.) Each industrial union of employers shall have as many votes as there are persons to be elected by such industrial unions; and the persons having the highest aggregate amount of such votes, not exceeding the number of persons to be elected, shall be deemed elected by such industrial unions. Each industrial union of workers shall have as many votes as there are persons to be elected by such industrial unions; and the persons having the highest aggregate amount of such votes, not exceeding the number of persons to be elected, shall be deemed elected by such last mentioned industrial unions.
- (j.) If it shall happen that two or more candidates have an equal number of votes, the Returning Officer, in order to complete the election, shall give a vote to one or more of such candidates as he thinks fit: Provided any candidate may in any such case withdraw from the election.
- (k.) As soon as possible after the votes of each division of industrial unions have been recorded, the Returning Officer shall ascertain what persons have been elected, as before provided, and shall state the result in writing, and forthwith post the same in some public place at the place of the election.
- (l.) In case of any dispute touching the sufficiency of the nomination, the mode of election or the result thereof, or any matter incidentally arising in or in respect of such election, the same shall be decided by the Returning Officer, whose decision shall be final.
- (m.) In case any election is not completed for any cause on the day appointed, the Returning Officer may adjourn the election, or the completion thereof, to the next or any subsequent day, and may then proceed with the election.

(n.) The whole of the voting papers shall be securely kept by the Returning Officer during the election, and thereafter shall be put in a packet and kept for one month, when he shall cause the whole of them to be effectually destroyed.

(o.) Neither the Returning Officer nor any person employed by him shall (except in discharge of his duty) disclose for whom any vote has been given or tendered, either before or after the election is completed, or retain possession of or exhibit any voting paper used at the election, or give any information to any person as to any of the matters herein mentioned; and if any person shall commit a breach of this provision he shall be liable to a penalty not exceeding Twenty pounds; but nothing herein contained shall be deemed to forbid the disclosure of any fact or the doing of any act hereby prohibited if the same be required in obedience to the process of any court of law.

(5.) The clerk shall, after the completion of the election, appoint a day for the first meeting of the members elected, and shall give at least three days' notice in writing to each member. At such meeting the members shall elect some impartial person, willing to act and not being one of their number, to be chairman of the Board: Provided that if the members shall not have agreed upon a chairman within one month after such first meeting, it shall be lawful for the Governor to nominate some person as chairman, who shall thereupon become the chairman of the Board.

34. IF and so often as for any reason the prescribed number of members of the Board is not duly elected, as provided by this Act, the Governor shall, by notice in the *Government Gazette*, appoint as many fit persons to be members of the Board as may be necessary in order to make the prescribed number. The notice of such appointment in the *Gazette* shall be conclusive evidence of the happening of the events entitling the Governor to make the appointment.

If members of Board are not elected, Governor to appoint.
N.Z. Industrial, etc., Act, 1895, pt. s. 6.

35. AS soon as may be after the election of the chairman, the clerk shall transmit to the Governor a list of the persons appointed and of the persons elected as members and chairman of the Board respectively, and the Governor shall cause notice thereof to be published in the *Government Gazette*; and the date on which the notice is so published shall be deemed to be the date of election, and such notice shall be final and conclusive for all purposes.

Notice of appointments and elections to be gazetted.
N.Z. Industrial, etc., Act, 1894, s. 33.

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Members to hold
office for three years.
Ibid., s. 34.

36. THE members of the Board and the chairman shall hold office for three years from the date of the publication of such notice in the *Government Gazette*, and until their successors are elected.

When fresh elections
to be held.
Ibid., s. 35.

37. ON the expiration of every third year after the first election of members of a Board or of a chairman thereof, a new election shall be held on such day as the Governor may appoint, and new members and a chairman shall be elected in the manner hereinbefore provided in respect of first elections. Any retiring member or chairman shall be eligible for re-election, and all proceedings in and about such new election may be had and taken accordingly.

In what events
vacancy to occur.
Ibid., s. 36.

38. IF the chairman or any member of a Board shall die, resign, or be disqualified or incapable to act, his office shall be vacant, and the vacancy shall be supplied in the same manner as the original election, and the person so elected shall hold office in the Board only for the residue of the term of his predecessor therein. Members shall resign office by letter addressed to the chairman, and the chairman by letter to the Board.

Provision in case of
vacancy.
Ibid., s. 37.

39. UPON any casual vacancy in the office of a member of the Board being reported to the clerk, he shall take all such proceedings as may be necessary to have an election by the class of industrial union entitled to vote in the election of such member, and the provisions as to general elections shall apply accordingly as far as applicable. In the case of a casual vacancy in the office of chairman, the Board shall meet on such day and at such time as they may appoint, and elect a chairman to supply such vacancy.

Quorum of Board.

40. (1.) ANY even number of members of the Board in addition to the chairman shall constitute a quorum for the transaction of business, provided that such even number is composed equally of representatives of employers and representatives of workers.

Absence of
chairman.

(2.) In the case of the absence of the chairman, the members present may elect one of their own number to be chairman during such absence.

Mode of voting.

(3.) In all matters coming before any Board the decision of the Board shall be determined by a majority of the votes of the members present, exclusive of the chairman, except in the case of an equality of such votes, in which case only the chairman shall vote, and his vote shall decide the question.

Provision in case of
no election.
Ibid., s. 39.

41. IF at any time the industrial unions entitled to vote shall neglect or refuse to vote at the election of a member of a Board, whether in respect of a general election or of a casual vacancy, or if

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the members of a Board shall refuse to elect a chairman, or if any person's election shall become void, the Governor shall fill the vacancy by appointment.

N.Z. Industrial, etc.,
Act, 1896, s. 2 (3).

42. (1.) NO act of a Board shall be questioned on the ground of any informality in the election of a member, nor on the ground that the seat of any member is vacant, or that any supposed member thereof is incapable of being a member

Act of Board not to
be questioned for
informality in
election, etc.
Ibid., s. 40 (1).

(2.) In the event of the period of office of any Board expiring while such Board is engaged in the investigation of any industrial dispute, the Governor may, by notice in the *Government Gazette*, continue such Board in office for any time not exceeding one month, in order to enable its members to take part in the settlement of such dispute, and on the expiration of such month an election of a new Board shall be held in the manner hereinbefore provided.

If office of Board ex-
pires during hearing,
Governor may con-
tinue Board in office.

Ibid., s. 40 (2).

43. (1.) WHERE no district has been constituted, or where a dispute extends into two or more districts, a special Board of Conciliators may be appointed by the Governor from time to time, to meet any case of emergency or any special case of industrial dispute. Such Board shall consist of an equal number of persons, not exceeding six.

Special Board may
be created in certain
cases.

Ibid., s. 41 (1).

(2.) The members of any such special Board, together with a chairman, to be elected as provided in section thirty-three, shall, except in respect of the duration of their office, possess all the jurisdiction and powers of a Board elected for an industrial district.

Powers of such
Boards.

44. EVERY person appointed by the Governor to be member or chairman of a Board shall be deemed to be elected within the meaning and for the purpose of section thirty-three of this Act.

Members appointed
by Governor deemed
elected.

N.Z. Industrial, etc.,
Act, 1896, s. 3.

45. ANY industrial dispute may be referred for settlement to a Board either by or pursuant to an industrial agreement, or in the manner hereinafter provided:—

Mode of referring
disputes.

N.Z. Industrial, etc.,
Act, 1894, s. 42.

(1.) Any party to such dispute may, in the prescribed manner, lodge an application with the clerk requiring that such dispute be referred for settlement to a Board, which application shall set out in full the matters involved in the industrial dispute to be referred to the Board, and such reference shall not, without the consent of the Board or Court, extend beyond the scope of the matters set out in such notice.

Provided always, that no union of employers or workers which has not satisfied the judgment of a Court

in all matters of costs of an award or penalty can again move the Court under any circumstances or under any other name until such judgment be satisfied.

But no such dispute shall be so referred for settlement by an industrial association, or industrial union, and no application shall be made to the Court for the enforcement of any award, except in pursuance of a resolution passed by a majority of the members on the rolls of such association or union, voting by ballot or by proxy, at a meeting specially summoned by at least three clear days' notice served upon each member, stating the nature of the proposal to be submitted to the meeting.

(2.) The parties to such dispute may comprise:—

- (a.) An individual employer, or several employers, and an industrial union, or association of workers.
- (b.) An industrial union, or association of employers, and an industrial union, or association of workers.

N.Z. Industrial, etc.,
Act, 1896, pt. s. 4.

Any employer, association, or industrial union may, on application, if the Board think it equitable, be joined as a party at any stage of the proceedings, and on such terms as the Board deems just.

N.Z. Industrial, etc.,
Act, 1894, s. 42, con-
tinued.

But the mention of the various kinds of parties shall not be deemed to interfere with any arrangement thereof that may be necessary to insure an industrial dispute being brought in a complete shape before the Board; and a party or parties may be withdrawn or removed from the proceedings, and another or others substituted after the reference to the Board and before any report is made, as the Board shall allow or think best adapted for the purpose of giving effect to this Act, and the Board may make any recommendation or give any direction for any such purpose accordingly.

- (3.) An employer, being a party to a reference, may appear in person or by his agent duly appointed in writing for that purpose, or by counsel or solicitor, where allowed, as hereinafter provided.
- (4.) An association, or industrial union, being party to a reference, may appear by its chairman or secretary, or by any number of persons (not exceeding three) appointed in writing by the chairman of the association or union for that purpose, or by counsel or solicitor, where allowed as hereinafter provided.

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- (5.) Every party appearing by a representative or representatives shall be bound by his or their acts.
- (6.) The clerk, on receipt of any application for a reference to a Board, shall forthwith lay the same before the Board mentioned in such application at a meeting of such Board to be convened by him in the prescribed manner, and, subject to the provisions of this Act, shall carry out all directions of the Board in order to effect a settlement of the industrial dispute referred to.
- (7.) No counsel or solicitor shall be allowed to appear before a Board or any committee thereof unless all the parties to the reference, or interested in the matter referred to a committee, shall expressly consent thereto.

46. (1.) THE sittings of the Board shall be held at such time and place as are from time to time fixed by the chairman. Sittings of Board.

(2.) It shall be the duty of the clerk to give to each member of the Board at least forty-eight hours' previous notice of the time and place of each sitting. N.Z. Industrial, etc., Act, 1898, ss. 14, 15.

(3.) The Board may be adjourned from time to time and from place to place in manner following, that is to say:— Adjournment of Court.

(a.) By the Board or the chairman at any sitting thereof, or, if the chairman is absent from such sitting, then by any other member present, or, if no member is present, then by the clerk; and

(b.) By the chairman at any time before the time fixed for the sitting, and in such case the clerk shall notify the members of the Board and all parties concerned.

47. EVERY Board shall, in such manner as it shall think fit, carefully and expeditiously inquire into and investigate any industrial dispute of which it shall have cognisance, and all matters affecting the merits of such dispute or the right settlement thereof, and for the purposes of any such inquiry shall have all the powers of summoning witnesses, and hearing and receiving evidence, and preserving order at any inquiry which are by this Act conferred on the Court of Arbitration. Mode of inquiry by Board.
N.Z. Industrial, etc., Act, 1894, s. 43.

48. THE Board and, on being authorised in writing by the chairman, any member or officer of the Board or any other person may at any time— View by, or by direction of the Board.

- (a.) Enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatsoever, wherein or in respect of which any industry is carried on or any work

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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 the Board, and inspect and view any work, material, machinery, appliances, or article therein ; and

- (b.) Interrogate any person in any such building, mine, mine-workings, ship, vessel, place, or premises as aforesaid, in respect of or in relation to any such matter or thing.

And any person who hinders or obstructs the Board, or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, or who refuses to answer any question put to him as aforesaid, shall, for every such offence be liable to a penalty not exceeding Fifty pounds.

Powers and duties of Board.

N.Z. Industrial, etc., Act, 1894, s. 44.

49. IN the course of any such inquiry and investigation, the Board shall make all such suggestions and do all such things as shall appear to them as right and proper to be made or done for securing a fair and amicable settlement of the industrial dispute between the parties, and may adjourn the proceedings for any period the Board thinks reasonable, to allow the parties to agree upon some terms of settlement ; and, if no such settlement shall be arrived at, shall resolve the question according to the merits and substantial justice of the case, and make their report or recommendation in writing under the hand of the chairman of the Board, which shall be delivered to and filed by the clerk in his own office with all papers and proceedings relating to the reference. Such report or recommendation shall be delivered as aforesaid within one month of the day on which the application was lodged with the clerk.

Reference to committee of Board or to Court.

Ibid., s. 45.

50. IN particular, but without limiting the general power given to a Board by the last preceding section, any Board may :—

- (1.) Refer the matters in dispute, upon such terms as the Board thinks fit, to a committee of their number, consisting of an equal number of representatives of employers and workers, who shall endeavour to reconcile the parties ; or,
- (2.) Refer any matter before them to be settled by the Court.

In case Board fails to effect settlement, disputes may be referred to Court.

Ibid., s. 46.

51. IF the Board shall report that they have been unable to bring about any settlement of any dispute referred to them satisfactorily to the parties thereto, the clerk, on the receipt of such report, shall transmit a copy (certified by him) of such report to each party to the industrial dispute ; whereupon any such party may, in the manner prescribed, require the clerk to refer the said dispute to the Court. The clerk shall thereupon transmit all the papers and proceedings in the reference to the Court.

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52. NOTWITHSTANDING any of the foregoing provisions, it shall be lawful for the parties to any industrial dispute to refer such dispute to the Court in the first instance; provided both parties to the dispute assent to such reference.

Disputes may be referred to Court in first instance.

(3.)—*The Court of Arbitration.*

53. THERE shall be one Court of Arbitration for the whole Colony for the settlement of industrial disputes pursuant to this Act. The Court shall be a Court of Record and have a seal which shall be judicially noticed, and impressions thereof shall be admitted in evidence in all Courts of Judicature and for all purposes.

Creation of Court.

Ibid., s. 47.

54. (1.) THE Court shall consist of three members, to be appointed by the Governor, one to be so appointed on the recommendation of the councils, or a majority of the councils of the industrial associations of workers in the Colony, and one to be so appointed on the recommendation of the councils, or a majority of the councils of the industrial associations of employers in the Colony: Provided that, if there shall be no industrial associations of employers or workers, then, in their stead, the recommendation shall be made by the industrial unions of employers or workers, as the case may be.

Constitution of Court.

Ibid., s. 48.

No recommendation shall be made as to the third member, who shall be a Judge of the Supreme Court, and shall be appointed from time to time by the Governor, and shall be president of the Court of Arbitration, and, in case of the illness or unavoidable absence of such president, the Governor may appoint some other Judge of the Supreme Court to be and act as president, who shall hold office only during the illness or unavoidable absence of the president.

(2.) The procedure for the purpose of giving effect to this section shall be as follows:—

Procedure to constitute Court.

- (a.) Each such council respectively shall, within one month after being requested to do so by the Governor, submit the name of one person to the Governor, and from the names of the persons so recommended the Governor shall select two members, one from each set recommended, and appoint them to be members of the Court.

In the event of the majority of the councils not having made recommendation as aforesaid, or in case such majority of recommendations are not

received by the Governor within the period of one month after each council has been requested to submit a name as aforesaid, or in case any person so recommended declines to act as a member of the Court, the Governor shall forthwith appoint such person as he thinks fit to be a member of the Court; and such member shall be deemed to be appointed on the recommendation of the said councils, as the case may be.

(b.) For the purposes of this section, the expression "council" means the governing body of the association or industrial union entitled to vote, by whatever name such authority may be designated.

(c.) As soon as practicable after a full Court has been appointed by the Governor, the names of the members of the Court shall be notified in the *Government Gazette*.

Term of office of members.

Ibid., s. 49.

55. (1.) EVERY member of the Court shall hold office for three years from the date of his appointment, and shall be eligible for re-appointment, and any casual vacancy occurring in the membership by death, disqualification, resignation, or removal shall be supplied in the same manner by which the original appointment was made; but every person so appointed to fill a casual vacancy shall hold office only for the period for which his predecessor would have held office.

Power of removal by Governor.

(2.) If any member of the Court has been absent without sufficient cause for three consecutive sittings of the Court, the Governor may remove that member from office.

(3.) Save as aforesaid, the president and members of the Court shall hold office on the same terms as to removal as a Judge of the Supreme Court.

Provision for secrecy of evidence.

Ibid., s. 50, as amended by Act of 1898, s. 13.

56. EXCEPT the presiding Judge, every member of the Court and every officer thereof, on entering upon his duties, shall subscribe a promissory declaration that he will not disclose any evidence adduced or offered before him during his term of office to any one, except as provided by this Act, under a penalty not exceeding Five hundred pounds, to be recovered in manner prescribed by section eighty-eight.

Power to appoint and remove clerks, etc.

Ibid., s. 51.

57. THE Governor may also from time to time appoint and remove such clerks and other officers of the Court as may be necessary, who shall hold office during pleasure, and receive such salary or other remuneration as the Governor thinks fit.

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58. SUBJECT to the provisions of this Act, the Court shall have jurisdiction for the settlement and determination of any industrial dispute referred to it by any Board, pursuant to sections forty-nine or fifty, or by industrial agreement, or by any party to an industrial dispute which has arisen in a district where no Board has been constituted, and for such purpose may summon any party to an industrial dispute to appear before it.

Jurisdiction of Court.
Ibid., s. 52.

59. (1.) ANY party to the dispute may at any time take out a summons, in the prescribed form, returnable before the president of the Court sitting in chambers.

Summons for directions.

At the hearing of the summons the president may make such order as may be just with respect to all the interlocutory proceedings to be taken before the hearing by the Court of the dispute, and as to the costs thereof, and with respect to the issues to be submitted to the Court, the persons to be served with notice of the proceedings of the Court, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions, examination of witnesses, and the place and mode of hearing. The Court may, at the hearing of any dispute, revoke or amend any such order of the president, and may make any order which the president may make under this section.

(2.) In addition to the powers conferred by this section, the president of the Court sitting in chambers for the purpose of administering this Act shall have all the powers of a Judge of the Supreme Court sitting in chambers for the purpose of any matter before that Court.

Additional powers.

60. EVERY party to the dispute may appear personally or by agent, or by counsel or solicitor, and may produce before the Court such witnesses, books, and documents as such party may think proper; and the Court shall have power to permit any other party who has or may appear to have a common interest in the matter, and be willing to be joined in the proceedings, to be so joined on such terms as it thinks fit.

Appearance of parties.
Ibid., s. 53.

The Court shall have full and exclusive jurisdiction to hear and receive evidence, on oath or otherwise, as may be allowed by law, and to hear and determine the matters in dispute in such manner as it thinks fit, and shall be at liberty to receive any such evidence as it may think fit, whether it be strictly legal evidence or not, with full power to adjourn the consideration of any matter, wholly or in part, for any period, or without stating any period.

Formal matters which have been proved or admitted before a Board need not be again proved or admitted before the Court.

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Sittings of Court.

61. (1.) THE sittings of the Court shall be held at such time and place as are from time to time fixed by the president.

N.Z. Industrial, etc.,
Act, 1898, s. 14.

(2.) The sittings may be fixed either for a particular case or generally for all cases then before the Court and ripe for hearing, and it shall be the duty of the clerk to give to each member of the Court at least forty-eight hours' previous notice of the time and place of each sitting.

Adjournment of
Court.

(3.) The Court may be adjourned from time to time and from place to place in manner following, that is to say:—

(a.) By the Court or the president at any sitting thereof, or, if the president is absent from such sitting, then by any other member present, or if no member is present, then by the clerk; and

(b.) By the president at any time before the time fixed for the sitting, and in such case the clerk shall notify the members of the Court and all parties concerned.

Parties before Court
to be those before
Board.

N.Z. Industrial, etc.,
Act, 1894, s. 55.

62. THE parties to the proceedings before the Court shall be those before the Board, and the provisions hereinbefore contained, as to the appearance of parties before a Board, shall apply to proceedings before the Court.

Joinder of other
parties.

N.Z. Industrial, etc.,
Act, 1896, s. 4.

Provided that any employer, association, or industrial union may on application, if the Court think it equitable, be joined as party to the proceedings at any stage thereof, and on such terms as the Court thinks equitable.

Notice of sittings.

N.Z. Industrial, etc.,
Act, 1894, s. 55.

At least three days' notice shall be given to each party to the proceedings of the time and place appointed for the meeting of the Court, except where a party is joined on his own application or with his own consent.

Summons to witness.

N.Z. Industrial, etc.,
Act, 1894, s. 56.

63. THE clerk shall, at the request of any party, issue a summons in the prescribed manner to any person to appear and give evidence in any matter before the Court, and to produce any books, deeds, papers, or writings relating to such matter in his possession or under his control. Such books, deeds, papers, or writings may be inspected by the members of the Court for the purposes of this Act; but the information obtained therefrom shall not in any form be made public. And every person upon whom such summons has been served, and to whom at the same time payment or a tender of his travelling expenses on the scale hereinafter mentioned has been made, and who neglects or refuses, without sufficient cause, to appear or to produce any books, deeds, papers, or writings required by such

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summons to be produced, shall be liable to a fine not exceeding Twenty pounds, or, in default of payment, to be imprisoned for not more than one month; but the payment of such fine or the undergoing of such imprisonment shall not exempt any person from liability to an action for disobeying such summons.

64. WHERE it is shown to the satisfaction of the Court that certain parts of books or documents to be adduced in evidence do not relate to the matter before the Court, the party producing the same shall be allowed to seal up such parts.

Parts of books, etc., irrelevant to case may be sealed up.

Ibid., s. 57.

65. EVERY person who is summoned and appears as a witness shall be entitled to an allowance or compensation for expenses and loss of time, according to the scale for the time being in force in the Local Courts.

Allowances to witnesses.

Ibid., s. 58.

66. EVERY member of the Court and the clerk shall have power to administer oaths to and take the affirmations of all witnesses who testify orally or by affidavit in matters before the Court, and all wilful false swearing or false affirmation in any proceeding before the Court under this Act shall be deemed to be wilful and corrupt perjury, and indictable and punishable as such; and on any indictment or information it shall be sufficient to prove that the oath or affirmation was administered by such member or clerk as aforesaid.

Power to administer oaths.

Ibid., s. 59.

67. THE Court, and on being authorised by the Court, any member or officer thereof, or any other person may at any time exercise the powers to view and interrogate given by section forty-eight, and any person who hinders or obstructs the Court or any such member, officer, or person, as aforesaid, in the exercise of any powers conferred by this section, or who refuses to answer any question put to him under such power, shall for every such offence be liable to a penalty not exceeding Fifty pounds.

View by, or by the direction of the Court.

68. THE Court may refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical matters, and to accept the report of such experts as evidence.

The Court may refer accounts, etc., to an expert.

69. WHENEVER the Court deems it necessary for the purpose of just and equitable decision to examine a witness who is going out of the Colony, or who from age, illness, or infirmity, or some other cause, is likely to be unable to attend the Court, or to examine a witness who is already out of the Colony, the Court shall have the powers of the Supreme Court in that behalf, and may adopt, *mutatis mutandis*, the procedure followed and the forms used by that Court for the like purposes respectively.

Provision for obtaining evidence at a distance.

(New) *see ibid.*, s. 60.

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Majority of Court to
decide matters
referred.

Ibid., s. 61.

70. THE Court may sit and conduct its proceedings in open Court, and a majority of the members present may decide and finally determine any matters referred to them. The decision of the president shall prevail in case of difference of opinion of the other members of the Court.

Failure of member to
attend Court.

Ibid., s. 62.

71. IF a member, other than the president, fails to attend a sitting of the Court without good cause shown to the satisfaction of the president, the other members present and the president may nevertheless act as fully as if all the members were present.

Contempt of Court.

Ibid., s. 64.

72. IF any person wilfully insults the Court or any member thereof during the sitting of the Court, or wilfully interrupts the proceedings of the Court, or is guilty in any other manner of any wilful contempt in the face of the Court, any officer of the Court, with or without the assistance of any other person, may take such offender into custody and remove him from the Court, to be detained in custody until the rising of the Court, and the person so offending shall be liable to a fine not exceeding Ten pounds for such offence, to be recovered in a summary way as hereinafter provided.

On failure of party to
attend, Court may
proceed *ex parte*.

Ibid., s. 65.

73. IF any party to a proceeding before the Court fails, after receiving notice to attend or be represented before the Court without good cause shown to the Court, the Court may proceed and act as fully in the matter before it as if such party had duly attended or been represented. Any person who is a party to any such proceedings may be required to give evidence before the Court by the means hereinbefore provided with respect to a witness.

Power to refer
matters to a Board
for investigation.

Ibid., s. 66.

74. THE Court may from time to time refer any matters before it to a Board for investigation and report, if the Court thinks that the Board will arrive more easily at a settlement thereof, and the award of the Court shall be based on the report of such Board.

Dismissal of
frivolous claims.

Ibid., s. 67.

75. THE Court may at any time dismiss any matter referred to it which it thinks frivolous or trivial, and the award in such case may be limited to an order upon the party bringing the matter before the Court for payment of costs.

Award how made
and dealt with.

Ibid., s. 68.

76. THE award shall be made within one month after the Court has begun to sit for the hearing of any reference, and shall be signed by the president of the Court, and shall have the seal of the Court attached thereto, and shall be deposited in the office of the

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clerk of the district wherein the reference arose, and shall be open during office hours to inspection, without charge, by all persons interested therein.

77. THE Court, by its award, may order any party to pay to any other party costs and expenses (including the expenses of witnesses), and may apportion such costs between the parties or any of them, as it thinks fit, and may at any time vary or alter any such order in such manner as appears to the Court reasonable; and such costs, or any other costs ordered by the Court to be paid, may be recovered in any Court of competent jurisdiction as a debt due to the party entitled thereto from the party liable therefor; but no costs shall in any case be allowed on account of any agent, solicitor, or counsel appearing for any party.

Court may award costs and apportion them.

Ibid., s. 69, as amended by Act of 1898, s. 7.

The Court shall state in its award or order, the amount of costs or expenses so ordered to be paid, and may either itself ascertain the amount thereof, or may require the amount to be ascertained by taxation, by the taxing officer of the Supreme Court, before being inserted in the award, and such officer shall have, in relation to such taxation all such duty and authority as he would have in regard to taxation of costs in a case within the ordinary jurisdiction of the Supreme Court.

78. THE award shall be framed in such manner as shall best express the decision of the Court, avoiding all technicality where possible, but shall state in clear terms what is or is not to be done or performed by each party or person affected by the decision, and may provide for an alternative course to be taken by any party to the proceedings, or by any person affected thereby; but no award shall be void or vitiated in any way because of any informality or want of form.

Award not to be framed in technical manner.

Ibid., s. 70.

79. THE Court shall have power, by order, at any time during the currency of the award, to amend the provisions of the award for the purpose of remedying any defect therein or of giving fuller effect thereto.

Court may amend award.

80. THE Court shall have power to grant injunctions and prohibitions and issue writs of mandamus and provide all ancillary remedies, and generally to exercise the powers of the Supreme Court in the administration of this Act.

The Court may grant injunctions, etc.

81. IN all legal and other proceedings it shall be sufficient to produce the award with the seal of the Court thereto, and it shall not be necessary to prove any conditions precedent entitling the Court to make such award.

Award under seal to be evidence.

Ibid., s. 71.

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Proceedings shall not be impeached for want of form.

Ibid., s. 72.

82. PROCEEDINGS in the Court shall not be impeached or held bad for want of form, nor shall the same be removable to any Court by *certiorari* or otherwise; and no award or proceeding of the Court shall be liable to be challenged, appealed against, reviewed, quashed, or called in question by any Court of Judicature on any account whatsoever.

Court to fix what shall constitute breach of award and penalty therefor.

N.Z. Industrial, etc., Act, 1898, s. 3.

See s. 85 (4).

83. THE Court, in its award, or by order made on the application of any of the parties at any time during the currency of the award, may fix and determine what shall constitute a breach of the award and what sum, not exceeding Five hundred pounds, shall be the maximum penalty payable by any party or person in respect of any breach: Provided, however, that the aggregate amount of penalties and costs payable under any award or order shall not exceed Five hundred pounds.

Age for apprenticeship not to be fixed.

Ibid., s. 4.

84. THE Court shall not, by any award, fix any age for the commencement or termination of apprenticeship.

Minimum rate of wages.

Ibid., s. 6.

85. THE Court, in its award, or by order made on the application of any of the parties at any time during the currency of the award, may prescribe a minimum rate of wages or other remuneration, with special provision for a lower rate being fixed in the case of any worker who is unable to earn the prescribed minimum.

Provided that such lower rate shall in every case be fixed by the Court in such manner and subject to such provisions as are specified in that behalf in the award or order.

Proceedings not to abate by reason of death, etc.

N.Z. Industrial, etc., Act, 1894, s. 73.

86. NO proceedings in the Court shall abate by reason of the death of any member of the Court or of any party to such proceedings, but the same may be continued and disposed of by the successor in office of such member, and the legal personal representative of the party so dying shall become party to the reference and award.

(4.)—*Enforcement of Awards.*

What award shall contain.

Period for which it is to be in force, etc.

Ibid., s. 74.

87. EVERY award of the Court shall specify each industrial union, association, person, or persons on which or on whom it is intended that it shall be binding, and the period, not exceeding two years from the making thereof, during which its provisions may be enforced; and during the period within which the provisions of such award may be enforced, such award shall be binding upon every industrial union, association, or person upon which it shall be thereby declared that such award shall be binding: Provided that, if the

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members of any industrial union are mentioned generally in any such award, all persons who are members at the date thereof, or may thereafter become so during its subsistence, shall be deemed to be included in the direction given or made by the award.

88. FOR the purpose of enforcing any award or order of the Court, the following provisions shall apply:—

Provisions for
enforcing awards.

(1.) In so far as the award itself directs the payment of money, it shall be deemed to be an order of the Court, and payment shall be enforceable accordingly under the subsequent provisions of this section relating to orders of the Court.

N.Z. Industrial, etc.,
Act, 1898, s. 8.

(2.) If any party or person on whom the award is binding commits any breach thereof by act or default, then, subject to the provisions of the last preceding subsection hereof, any party to the award may by application in the prescribed form (if any) apply to the Court for the enforcement of the award.

(3.) On the hearing of such application the Court may by order either dismiss the application or impose such penalty for the breach of the award as it deems just, and, in either case, with or without costs.

(4.) If the order imposes a penalty or costs, it shall specify the parties or persons liable to pay the same, and the parties or persons to whom the same are payable:

Provided that the amount payable by any party or person shall not exceed Five hundred pounds:

Provided, also, that the aggregate amount of penalties and costs payable under any award or order shall not exceed Five hundred pounds.

(5.) For the purpose of enforcing payment of the amount payable under any order of the Court, not being an order under the enactment hereinafter contained for dealing with offences against this Act, a certificate in the prescribed form, under the hand of the clerk and the seal of the Court, specifying the amount payable and the respective parties or persons by and to whom the same is payable, may be filed in any Court having jurisdiction to the extent of such amount, and shall thereupon, according to its tenor, operate and be enforceable in all respects as a judgment of such last mentioned Court in its civil jurisdiction.

Provided that, for the purpose of enforcing satisfaction of such judgment where there are two or more judgment creditors thereunder, process may be issued separately by

each judgment creditor against the property of his judgment debtor, in like manner as in the case of a separate and distinct judgment.

- (6.) All property belonging to the judgment debtor (including therein, in the case of an industrial union, all property held by trustees for the judgment debtor) shall be available in or towards satisfaction of the judgment debt, and, if the judgment debtor is an industrial union, and its property is insufficient to satisfy the judgment debt, the members shall be liable for the deficiency:

Provided that no member shall be liable for more than Ten pounds under this sub-section.

- (7.) For the purpose of giving full effect to the last preceding sub-section, the Court or the president may, on the application of the judgment creditor, make such order or give such directions as are deemed necessary, and the trustees, the judgment debtor, and all other persons concerned shall obey the same.

Jurisdiction of Court
to deal with offences.
Ibid., s. 10.

89. THE Court shall have full and exclusive jurisdiction to deal with all offences against this Act, and, for the purpose of this section, the following provisions shall apply:—

- (1.) Proceedings to recover the penalty imposed in respect of any offence shall be taken in the Court in a summary way under the procedure provided by the Act of the fourteenth year of Her now Majesty numbered five, and those provisions shall, *mutatis mutandis*, apply in like manner as if the Court were a Court of summary jurisdiction:

Provided that in the case of an offence of contempt of Court, the Court, if it thinks fit so to do, may deal with it without an information being taken or a summons issued.

Contempt of Court
(see sec. 70) may be
dealt with without
summons, etc.

- (2.) For the purpose of enforcing any order of the Court made under this section (except so far as enforced by the Court itself in cases of contempt of Court) a duplicate of such order shall be filed by the clerk in the office of the nearest Resident or Police Magistrate, and shall thereupon, according to its tenor, operate and be enforced in all respects as a final decision, conviction, or order duly made by such Magistrate under the said Act of the fourteenth year of Her present Majesty.
- (3.) All penalties recovered under this section shall be paid into the Colonial Treasury to the credit of the Consolidated Revenue Fund.

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- (4.) Nothing in this section shall apply to the breach of any award or to any order of the Court, save as in this section mentioned, or to the penalty in respect of any such breach.
- (5.) Every penalty imposed under this Act for non-compliance with any decision of the Board or Court may be recovered on any application to a Judge of the Supreme Court, and when so recovered shall be paid into the funds of unions of employers or employees, as the case may be.

90. IN order to enable the Court more effectually to dispose of any matter before it according to the substantial merits and equities of the case, it may, at any stage of the proceedings, of its own motion or on the application of any of the parties, and upon such terms as it thinks fit, by order—

Further powers of Court as to matters before it.

Ibid., s. 11.

- (1.) Direct parties to be joined or struck out ;
- (2.) Amend or waive any defect or error in the proceedings ;
- (3.) Extend the time within which anything is to be done by any party ; and
- (4.) Generally give such directions as are deemed necessary and expedient in the premises.

91. THE powers by the last preceding section conferred upon the Court may, when the Court is not sitting, be exercised by the president.

Exercise of certain powers when Court not sitting.

Ibid., s. 12.

(5.)—*Supplemental.*

92. (1.) WHENEVER an industrial dispute involving technical questions is referred to a Board or the Court for settlement, two experts may be nominated, one by each party to the dispute ; and such experts shall sit as assessors with and be deemed to be members of the Board or Court for the purposes of such dispute.

Experts to assist Board in technical cases.

N.Z. Industrial, etc., Act, 1895, s. 4.

(2.) If there are more than two parties to any such dispute, one assessor shall be nominated by the parties whose interests are with the employers, and the other by the parties whose interests are with the workers.

(3.) The assessors shall be nominated in the prescribed manner and subject to the prescribed conditions.

93. THE Board, or the Court, at any stage of the proceedings before it, and either of its own motion or at the request of any of the parties, may direct that the proceedings be conducted in private, and in such case all persons other than the parties, their representatives, and any witnesses under examination, shall withdraw.

Proceedings may be in private.

N.Z. Industrial, etc., Act, 1898, s. 16.

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Provision where
dispute relates to
employment or
wages.

Ibid., s. 5.

94. WHERE an industrial dispute relates to employment or wages, the jurisdiction of the Board or Court to deal therewith shall not be voided or affected by the fact that the relationship of employer and employed has ceased to exist, unless it so ceased at least six weeks before the industrial dispute was first referred under this Act, whether such reference was to the Board or to the Court.

The Commissioner of
Railways may refer
disputes between him
and the Railway
Servants' Associa-
tions to Court.

95. THE management of Government Railways shall be deemed to be an industry within the meaning of this Act. The Commissioner of Railways may make an industrial agreement with any association or society of Railway servants to be registered under this Act, and either the said Commissioner or the association or society may refer any industrial dispute between them to the Court established under this Act; and the Commissioner may give effect to any terms of an award made by such Court.

Association or society
may be registered
under this Act.

Any association or society of Railway Servants may be registered as an industrial union under this Act; and the Commissioner shall be deemed to be an employer within the meaning and for the purposes of this Act.

The foregoing provisions shall apply to any reconstruction of such association or society in case of its dissolution, and shall extend to any similar association or society taking the place of such first-mentioned association or society, and registered under this Act.

If Commissioner
refuse to agree to
reference, associa-
tion or society may
petition Court.

Power of Court to
compel a reference.

96. IN case the Commissioner shall neglect or refuse to agree with the said association or society to refer any industrial dispute to the Court, the association or society may, by petition lodged with the clerk, refer such dispute to the Court to hear and determine the same; and the Court upon such petition, and if it shall consider the dispute sufficiently grave to require it, may require the Commissioner to appear before the Court, and to submit the matters in dispute to its decision, and for that purpose the Court shall have all such jurisdiction and authority, and may do all such acts and things as may be necessary for such purpose, in accordance with the preceding provisions of this Act.

Commissioner of
Railways may be
represented by officer
of his Department.

97. IN any proceedings before the Court, the Commissioner of Railways may be represented by any officer of the department whom he appoints on his behalf.

Expenses.

98. ALL expenses incurred and moneys payable by the Commissioner of Railways in any proceedings under this Act shall be payable out of moneys to be appropriated by Parliament for the purpose.

Board not to have
any jurisdiction in
such cases.

99. NOTWITHSTANDING anything in this Act contained, no Board constituted under this Act shall have any jurisdiction in

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any matter of dispute between the Commissioner and the said association or society.

PART IV.—MISCELLANEOUS.

100. ANY notification made or purporting to be made in the *Government Gazette* by or under the authority of this Act may be given in evidence in all Courts of Justice, in all legal proceedings, and for any of the purposes of this Act, by the production of a copy of the *Government Gazette*, printed by the Government Printer for the time being.

Notifications in
Government Gazette
to be evidence.

N.Z. Industrial, etc.,
Act, 1894., s. 85.

101. EVERY instrument, or document, copy or extract of an instrument or document, bearing the seal of the Court, shall be received in evidence without further proof, and the signature of the president of the Court, or the chairman of any Board, or of the registrar, or of the clerk of awards, shall be judicially noticed in or before any Court or person or officer acting judicially or under any power or authority contained in this Act: Provided such signature be attached to some award, order, certificate, or other official document made or purporting to be made under this Act.

Documents under
seal of Court, or
signed by president
or chairman, to be
judicially noticed,
etc.

Ibid., s. 86.

No proof shall be required of the handwriting or official position of any person acting in pursuance of this section.

102. THE Governor from time to time may make, alter, or revoke such regulations not inconsistent with this Act as may be necessary or desirable to carry out all or any of the following purposes:—

Power to Governor
to make regulations
for purposes of Act.

Ibid., s. 87.

- (1.) Prescribing the forms of certificates or other instruments to be issued by the registrar, and of any certificate or other proceeding of any Board, or any officer thereof;
- (2.) Prescribing the duties of clerks of awards and of all other officers and persons acting in the execution of this Act;
- (3.) Providing for anything necessary to carry out the first or any subsequent election of members of Boards, or on any vacancy therein, or in the office of Chairman of any Board, including the forms of any notice, proceeding, or instrument of any kind to be used in or in respect of any such election;
- (4.) Providing for the mode in which recommendations of members of the Court shall be made and authenticated;
- (5.) Prescribing any act or thing necessary to supplement or render more effectual the provisions of this Act as to the conduct of proceedings before a Board or the Court, or

the transfer of such proceedings from one of such bodies to the other ;

- (6.) Providing generally for any other matter or thing necessary to give effect to this Act, or to meet any particular case ;
- (7.) Prescribing what fees shall be paid in respect of any proceedings before a Board, or in the Court, and the party by whom such fees shall be paid ; and what fees shall be paid to the chairman and members of a Board and to the members of the Court, other than the President ;
- (8.) For any other purpose for which it is by this Act provided regulations may be prescribed.

Saving of fees payable in Supreme Court.

Nothing in any such regulations shall supersede any fees for the time being in force in the Supreme Court, or any other Court, in relation to any proceedings therein, otherwise than is herein expressly provided.

Expenses of Act (except in certain cases) to be paid out of moneys appropriated by Parliament.
Ibid., s. 88.

103. ALL charges and expenses connected with the administration of this Act, exclusive of expenses incurred by industrial unions, or associations, under Parts I. or II. of this Act, or of the parties and witnesses concerned in any industrial dispute referred to a Board or the Court, shall be defrayed out of such annual appropriations as shall from time to time be made for that purpose by Parliament.

Stamp duty not payable in certain cases.
Ibid., s. 89.

104. NO stamp duty shall be payable upon or in respect of any registration, certificate, agreement, award, or instrument effected, issued, or made under this Act. But nothing herein shall apply to the fees of any Court payable by means of stamps.

Act not to apply to Crown or Government departments except as expressly provided.
Ibid., s. 90.

105. SAVE as aforesaid, nothing in this Act shall apply to Her Majesty the Queen or any department of Her Government in Western Australia.

In the name and on behalf of the Queen I hereby assent to this Act.

ALEX. C. ONSLOW, Administrator.