

377

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,  
28th August, 1893.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

*Hon. Mr. Reeves.*

## INDUSTRIAL CONCILIATION AND ARBITRATION.

### ANALYSIS.

- Title.  
1. Short Title. Commencement of Act.  
2. Interpretation.
- PART I.  
REGISTRATION OF INDUSTRIAL UNIONS AND ASSOCIATIONS.
- (1.) *Industrial Unions.*
3. What societies may be registered. Mode of application and terms of rules.  
4. Other provisions respecting rules.  
5. Registration of society.  
6. Incorporation of society.  
7. Power to purchase or take lease of land.  
8. Trade union may be registered.  
9. Unions not to be registered by similar names.  
10. Effect of registration.  
11. Cancellation of registration in certain events.
- (2.) *Industrial Associations.*
12. Councils representing trade unions may be registered. Application of prior provisions of Act.
- (3.) *General.*
13. Half-yearly lists of associations and unions to be sent to Registrar.  
14. Penalty for neglect to do so.  
15. Associations and unions may sue in registered name. How process may be served.  
16. Mode of executing deeds and instruments.
- PART II.  
INDUSTRIAL AGREEMENTS.
17. Industrial agreements between unions, associations, and persons.  
18. Agreements may be varied, renewed, or altered.  
19. Form and terms of agreement.  
20. Duplicate to be filed in the Supreme Court office.  
21. Effect of agreement.  
22. (1.) Penalty for default. (2.) Agreement may define what constitutes a breach of agreement.  
23. Provisions respecting enforcement of awards to apply to agreements.
- PART III.  
CONCILIATION AND ARBITRATION.
- (1.) *Preliminary.*
24. (1.) Constitution of districts. (2.) Alteration under any other Act of boundaries of districts to take effect as respects districts under this Act.
25. Clerk of Awards for each district.  
26. Duties of Clerk.  
27. Powers of entry to Board or Court for examination of manufactories, &c. Inspection of work, and interrogation of persons.  
28. Disqualification as members of Board or Court.  
29. When matter referred to Board or Court no strike or lock-out till decision given.
- (2.) *Boards of Conciliation.*
30. District Boards to be constituted.  
31. Governor to determine the number of each Board.  
32. Provision for first and subsequent elections of Boards.  
33. Notice of elections to be gazetted.  
34. Members to hold office for three years.  
35. When fresh elections to be held.  
36. In what events vacancy to occur.  
37. Provision in case of vacancy.  
38. (1.) Quorum of Board. (2.) Provision for absence of Chairman. (3.) Mode of voting.  
39. Provision in case of no election.  
40. Acts of Board not to be questioned for informality. If office of Board expires during hearing, Governor may continue Board in office.  
41. (1.) Special Boards may be created in certain cases. (2.) Powers of such Boards.  
42. Mode of referring disputes. Procedure as to parties, &c.  
43. Mode of inquiry by Board.  
44. Powers and duties of Board.  
45. Reference to committee of Board, or to Court.  
46. In case Board fails to effect settlement, dispute may be referred to Court.
- (3.) *The Court of Arbitration.*
47. Creation of Court. Seal.  
48. (1.) Constitution of Court. (2.) Procedure to constitute same.  
49. (1.) Term of office of members. (2.) Power of removal by Governor.  
50. Power to appoint and remove clerks and officers.  
51. Jurisdiction of Court.  
52. Appearance of parties. Evidence.  
53. Time and place of sitting of Court.  
54. Parties before Court to be those before Board.  
55. Summons to witness. Penalty for non-attendance.  
56. Portion of books, &c., not required in evidence to be sealed up.  
57. Allowances to witnesses.

58. Power to administer oaths.  
 59. Provision for obtaining evidence at a distance.  
 60. Court to decide in accordance with equity and good conscience.  
 61. In case member fails to attend, Court may sit.  
 62. Power to adjourn sitting of Court.  
 63. Person guilty of contempt of Court liable to penalty.  
 64. In case of failure of parties to attend, Court may proceed *ex parte*.  
 65. Power to refer matters to a Board for investigation.  
 66. Power to dismiss frivolous cases.  
 67. When award to be made. Procedure thereon.  
 68. (1.) Court may award costs, and apportion same. (2.) May order costs to be taxed.  
 69. Award not to be framed in technical manner.  
 70. Award under seal to be evidence.  
 71. Proceedings shall not be impeached for want of form.  
 72. Proceedings not to abate by reason of death, &c.
- (4.) *Enforcement of Awards.*
73. What awards shall contain. Period for which it is to be in force, &c.  
 74. (1.) Duplicate may be filed in Supreme Court office. (2.) If no such duplicate filed, no process to issue enforcing award.  
 75. Powers of Supreme Court when amount directed by award to be paid is within jurisdiction of District Court or Resident Magistrate's Court.  
 76. Limitation of amount for which award may be enforced.  
 77. Saving liability as against members of union or person.
78. Powers of Supreme Court to enforce award as against real or personal property of unions or associations.  
 79. Application in such cases to be made in a summary way.  
 80. Disposition of moneys recovered upon process to enforce award.

## PART IV.

## GOVERNMENT RAILWAYS.

81. Railway Commissioners may refer disputes between them and "The Amalgamated Society of Railway Servants" to Court. Society may be registered under this Act.  
 82. If Commissioners refuse to agree to reference, Society may petition Court, Power of Court to compel a reference.  
 83. Board not to have any jurisdiction in such cases.

## PART V.

## MISCELLANEOUS.

84. Notifications in *Gazette* to be evidence.  
 85. Documents under seal of Court, or signed by President or Chairman, to be judicially noticed, &c.  
 86. Power to Governor to make regulations for purposes of Act, Saving of fees payable in Supreme Court, Regulations to be laid before Parliament.  
 87. Expenses of Act (except in certain cases) to be paid out of moneys appropriated by Parliament.  
 88. Penalties, how recoverable.  
 89. Stamp duty not payable in certain cases.  
 90. Act not to apply to Crown or Government departments, except as expressly provided.

## A BILL INTITULED

AN ACT to encourage the Formation of Industrial Unions and Associations, and to facilitate the Settlement of Industrial Disputes by Conciliation and Arbitration.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Industrial Conciliation and Arbitration Act, 1893." It shall come into force on the first day of January, one thousand eight hundred and ninety-four.

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

"Association" means an industrial association registered pursuant to this Act:

"Board" means a Board of Conciliation for an industrial district constituted under this Act, and includes a special Board of Conciliation:

"Court" means the Court of Arbitration constituted under this Act:

"Industrial dispute" means any dispute arising between one or more employers or industrial unions, trade unions, or associations of employers and one or more industrial unions, trade unions, or associations of workmen 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,

Short Title.

Commencement of Act.

Interpretation.

10

15

20

25

rights, or duties of employers or workmen in any industry, and not involving questions which are or may be the subject of proceedings for an indictable offence, whether under common law or statute; 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 workmen, and the mode, terms, and conditions of employment;

(c.) The employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal or refusal to employ any particular person or persons or class of persons therein;

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

(e.) Any claim arising under 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 of an industrial character:

“Officer” of a trade union, industrial union, or association of workmen, means only the Secretary, President, Vice-President, or Treasurer of such body:

“Prescribed manner” means the manner prescribed by regulations made pursuant to this Act:

“Registrar” means the Registrar of Friendly Societies:

“Supreme Court office” means the office of the Supreme Court in the district constituted under “The Supreme Court Act, 1882,” wherein any matter arises to which such expression relates; and, where there are two such offices in any such district, it means that one of such offices which is nearest to the place or locality wherein any such matter arises:

“Trade union” means any trade union registered under “The Trade Union Act, 1878.”

Words in this Act referring to any clerk, person, officer, office, place, locality, union, association, or other matter or thing shall be construed distributively as referring to each clerk, person, officer, office, place, locality, union, 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 *seven*, residing within the colony, lawfully associated for the purpose of protecting or furthering the interests of employers or workmen in or in connection with any industry in the colony, and whether formed before or after the passing of this Act, may register their society as an industrial union pursuant to this Act, on compliance with the following provisions:—

What societies may be registered.

Mode of application  
and terms of rules.

- (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.
- (2.) Such application shall be accompanied by two copies of the rules of the society, and by a statutory declaration, signed by at least two officers of the society, verifying the rules, and accompanied by a copy of a resolution passed by a majority of the members present at a special general meeting of the society called in accordance with the rules for that purpose only, and desiring registration as an industrial union.
- (3.) Such rules shall specify the purposes for which the society is formed, and shall provide for—
  - (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 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 an annual or other periodical audit of the accounts :
  - (g.) The inspection of the books and the names of members of the society by every person having an interest in the funds thereof :
  - (h.) 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 union 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.

Other provisions  
respecting rules.

4. (1.) The rules may also provide for any other matters not contrary to law and for their amendment, repeal, or alteration, but so

that the requisites of subsection *three* of the *last-preceding* section shall always be provided for.

(2.) Copies of all amendments or 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.

5. On being satisfied that the provisions of section *three* in relation to an application for registration 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, shall be conclusive evidence of the fact of such registration and incorporation, and of the validity thereof.

Registration of society.

6. Upon receiving such certificate, every such industrial union shall become a body corporate, by the registered name, having perpetual succession until dissolved or the registration thereof is cancelled as hereinafter provided, and shall have a common seal. There shall be inserted in the registered name of every industrial union the word "employers" or "workmen" according to whether such union shall be a union of employers or workmen.

Incorporation of society.

7. Any industrial union may purchase or take on lease, in the name of the union or of a trustee for such union, any house or building, and any land, *not exceeding one acre in area*, 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 trustee have authority for such sale, mortgage, exchange, or letting; and the receipt of the chairman of the union or of any such trustee shall be a discharge for the money arising therefrom.

Power to purchase or take lease of land.

8. Any trade union registered under "The Trade Union Act, 1878," may be registered by the same name under this Act, by making application to the Registrar for the purpose; and the Registrar shall register such trade union as an industrial union accordingly, and issue a certificate of registration and incorporation as hereinbefore provided.

Trade union may be registered.

For the purposes of this Act every branch of a trade union shall be considered a distinct union, and may be separately registered under this Act; and the rules for the time being of any trade union, with such addition or modification as may be necessary to give effect to this Act, shall be deemed to be the rules of the industrial union when registered under this enactment. Provided that the Registrar shall not refuse to register a trade union the rules of which contain such addition or modification as aforesaid, unless such rules are distinctly contrary to some express provision of this Act.

9. 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 by which any other trade union has been registered under "The Trade Union Act, 1878," 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.

10. The effect of registration shall be to render the industrial union, and all persons who may be members of any society or trade union registered as an industrial union at the time of registration, or who after such registration may become members of any society or

Effect of registration.

trade union 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 the membership.

cancellation of registration in certain events.

11. 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 his intention so to do, may cancel such registration; but no registration shall be cancelled during the progress 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 award of the Court~~.

### (2.) Industrial Associations.

Councils representing trade unions may be registered.

12. Any council or other body, however designated, representing any number of trade unions established within the colony may be registered as an industrial association, pursuant to this Act.

Application of prior provisions of Act.

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

### (3.) General.

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

13. 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 industrial union a list of the members of such union. Each such list shall be verified by the statutory declaration of the president or chairman of each such association and union.

Penalty for neglect to do so.

14. 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. How process may be served.

15. 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 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.

Mode of executing deeds and instruments.

16. All deeds and instruments of any kind which the union or association 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 union or association and signed by the chairman and secretary thereof, or in such other manner as may be provided in the rules of the union or association.

## PART II.

## INDUSTRIAL AGREEMENTS.

17. Industrial agreements may be made between an industrial union or unions, or a trade union or trade unions, and an association or associations, or between one or more such unions or associations and any person or persons, providing for any matter or thing affecting any industrial matter, or in relation thereto, or for the prevention or settlement of an industrial dispute.
18. 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.
19. 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, 1893,' 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, trade unions, associations, or persons parties to such agreement, shall be truly stated therein.
20. A duplicate of every industrial agreement shall be filed in the Supreme Court office within thirty days of the making thereof, and a fee of *five* shillings shall be paid in respect of every agreement so filed.
21. 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, trade union, or association party thereto, and on every person who being an employer of labour in any industry shall in the prescribed manner signify to the Registrar of the Supreme Court where such agreement is filed concurrence therein, and every such last-mentioned person shall be entitled to the benefit thereof, and be deemed to be a party thereto.
22. (1.) If any industrial union, trade union, association, or person bound by any industrial agreement shall in any particular commit or suffer a breach thereof, such union, association, or person shall for every such breach be guilty of an offence against this Act, punishable by a penalty not exceeding such amount as shall be fixed by such industrial agreement, and, if no amount shall be so fixed, then not exceeding *five hundred* pounds.
- (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.
- Struck out.*
23. All provisions contained in Part III. of this Act with reference to the enforcement of awards shall, *mutatis mutandis*, apply to the enforcement of industrial agreements and of penalties thereunder

Industrial agreements between unions, associations, and persons.

Agreements may be varied, renewed, or altered.

Form and terms of agreement.

Duplicate to be filed in the Supreme Court office.

Effect of agreement.

Penalty for default.

Agreement may define what constitutes a breach of agreement.

Provisions respecting enforcement of awards to apply to agreements.

in like manner as if agreements had been mentioned in such provisions whenever awards are referred to.

## PART III.

## CONCILIATION AND ARBITRATION.

## (1.) Preliminary.

Constitution of districts.

24. (1.) The Governor may from time to time divide New Zealand, or any portion thereof, into such districts as he shall think fit, to be called "industrial districts," and notice of the constitution of every such district shall be given in the *Gazette* as occasion requires.

Alteration under any other Act of boundaries of districts to take effect as respects districts under this Act.

(2.) If any such district is constituted by reference to, or be included within, the limits or boundaries of any other portion of the colony defined or created under any Act, then, in case of the alteration of the boundaries of such portion of the colony, such alteration shall take effect in respect of the district constituted under this section without any further proceeding, unless the Governor shall otherwise determine.

Clerk of Awards for each district.

25. 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 the control and direction of that officer, and shall in the prescribed manner report to the Registrar all proceedings taken or done by or before him.

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 he shall be paid such salary or other remuneration as the Governor thinks fit.

Duties of Clerk.

26. 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;
- (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, with the directions of the Registrar.

Powers of entry to Board or Court for examination of manufactories, &c.

27. Any Board ~~and the Court~~, and, *being authorised in writing by the Board or Court* any member of such Board ~~or Court~~ respectively, ~~and or~~ any officer of such Board ~~or Court~~, without any other warrant than this Act, at any time between sunrise and sunset,—



385

- 5 (1.) May enter upon any manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises of any kind whatsoever, wherein or in respect of which any industry is carried on or 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 Board ~~or Court~~ ;
- 10 (2.) May inspect and view any work, material, machinery, appliances, article, matter, or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises as aforesaid ;
- 15 (3.) May interrogate any person or persons who may be in or upon any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises, as aforesaid, in respect of or in relation to any matter or thing hereinbefore mentioned.

Inspection of work, and interrogation of persons.

20 And any person who shall hinder or obstruct the Board ~~or Court~~, or any member or officer thereof respectively, in the exercise of any power conferred by this section, or who shall refuse to the Board ~~or Court~~, or any member or officer thereof respectively, entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises, or shall refuse to answer any question put to him as aforesaid, shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

30 28. 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 President or a member of the Court~~, and if so elected or appointed shall be incapable of continuing to be such member, ~~President~~, or Chairman :—

Disqualification as members of Board or Court.

- (1.) A bankrupt or insolvent who has not obtained his final order of discharge ;
- 35 (2.) Any person convicted of perjury or any felony ; or
- (3.) Any person of unsound mind.

40 29. Whenever an industrial dispute shall be referred to a Board ~~or the Court~~ as hereinafter provided, no industrial union or association, trade union, or society, whether of employers or workmen, 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 until the Board ~~or Court~~ shall have come to a final

45 decision in accordance with this Act.

When matter referred to Board or Court no strike or lock-out till decision given.

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.) *Boards of Conciliation.*

50 30. 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 them by one or more of the parties to an industrial dispute or by industrial agreement.

District Boards to be constituted.

Governor to determine the number of each Board.

31. 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 this Act, and such number shall be stated in the notice of the constitution of the district. 5

Provision for first and subsequent elections of Boards.

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

(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 workmen in the industrial district respectively, such unions voting separately and electing an equal number of such members. 10

(2.) The Chairman of such Board shall be in addition to the number of members before mentioned, and be elected as hereinafter provided. 15

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

(a.) The Clerk shall act as Returning Officer, and do the acts and things hereinafter mentioned.

(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 workmen at another time on the day fixed : Provided that the Governor may from time to time extend the period within which any election shall be held for such time as he thinks fit. 20 25

(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. 30 35

(d.) 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. 40

(e.) If it shall appear that no greater number of persons are nominated than require to be elected, the Returning Officer shall at once declare such persons elected. 45

If the number of persons so nominated exceeds the number required to be elected, then votes shall be taken as hereinafter provided.

(f.) 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 50

by the chairman of the union, or by some person appointed by the union for that purpose in accordance with its rules, the Returning Officer shall record the vote in such manner as he thinks fit.

5

(g.) Each industrial union shall have as many votes as there are persons to be elected by its division, and the persons having the highest aggregate number of votes in such division, not exceeding the number to be elected, shall be deemed elected.

10

(h.) 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 such votes to one or more of such candidates as he thinks fit: Provided that any candidate may in any such case agree to withdraw from the election.

15

(i.) 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 election.

20

(j.) 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.

25

(k.) 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.

30

(l.) 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.

35

(m.) 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 all or 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.

40

45

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.

50

(4.) 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, not being one of their number, and willing to act, to be Chairman of the Board.
- 33.** As soon as may be after the election of the Chairman the Clerk shall transmit to the Governor a list of the names of the respective persons elected as members and as Chairman of the Board, and the Governor shall cause notice thereof to be published in the *Gazette*, which shall be final and conclusive for all purposes. 5
- 34.** The members of the Board and the Chairman shall hold office for the period of three years from the date of the publication of such notice in the *Gazette*, and until their successors are elected. 10
- 35.** In every third year after the first election of members of a Board or 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. 15
- 36.** 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 was made, 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. 20 25
- 37.** Upon any casual vacancy being reported to the Clerk in the office of a member of a Board, 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. 30
- In the case of a casual vacancy in the office of Chairman, the Board shall meet on such day and time as they may appoint, and elect a Chairman to supply such vacancy.
- 38.** (1.) The presence of the Chairman and of not less than one-half in number of the other members of a Board shall be necessary to constitute a quorum. 35
- (2.) But in case of the illness or absence of a Chairman the members may elect one of their own number to be Chairman during such illness or absence.
- (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. 40
- 39.** 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 a casual vacancy, or if the members of a Board shall neglect or refuse to elect a Chairman, the Governor may in any such case appoint such fitting persons as members of the Board or as Chairman as may be necessary in any case to give effect to this Act. 45 50

40. (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.

Acts of Board not to be questioned for informality.

5 (2.) In the event of the period of office of any Board expiring whilst such Board is engaged in the investigation of any industrial dispute, the Governor may, by notice in the *Gazette*, continue such Board in office for any time not exceeding one month, in order to enable such members to take part in the settlement of such dispute.

If office of Board expires during hearing, Governor may continue Board in office.

10 41. (1.) Notwithstanding the election of a Board under the provisions hereinbefore contained, or where no district shall have been constituted, a special Board of conciliators may be appointed 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, all or any of whom may be members of the Board of the district, and shall be chosen separately in equal numbers by any employer or employers directly interested in such dispute and any industrial union or unions so interested.

Special Boards may be created in certain cases.

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

Powers of such Boards.

25 42. 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.

(1.) Either party to such dispute may, in the prescribed manner, lodge an application with the Clerk requesting that such dispute be referred for settlement to a Board.

Procedure as to parties, &c.

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

(a.) An individual employer, or several such employers of workmen in any industry, and an industrial union, trade union, or association of workmen;

35 (b.) An industrial union, trade union, or association of employers, or an individual employer, or several such employers, of workmen in any industry, and an industrial union, trade union, or association of workmen, or several such unions or associations;

40 (c.) The parties to and persons deemed to be bound by and under any industrial agreement, or such of these parties or persons as are directly interested or concerned in the claim arising under the agreement;

45 (d.) Generally any industrial union, trade union, or association, or any person resident in the colony having an interest being directly interested or concerned in the subject-matter of the industrial dispute pending.

50 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. 5
- (3.) An individual employer, company, or corporation, 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. 10
- (4.) An association, trade union, 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. 15
- (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 it. 20 25
- (7.) No counsel or solicitor shall be allowed to appear or be heard before a Board, or any committee thereof, unless the parties to the reference, or interested in the matter referred to a committee, shall expressly consent thereto. 30

*New clauses.*

42A. 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 Board, except where a party is added to the proceedings on his own application or with his own consent.

42B. The Clerk may, at the request of either party, issue a summons in the prescribed manner to any person to appear and give evidence in any matter before the Board, and to produce any books, deeds, papers, or writings relating to such matter, and in his possession or under his control; and such books, deeds, papers, and writings may be inspected by the members of the Board for the purposes of this Act, but the information obtained therefrom shall not in any form be made public; and if any person shall furnish or allow to be furnished or used any such information, he shall be liable to a penalty of not exceeding *one hundred* pounds, or, in the discretion of the Court, to imprisonment for a period not exceeding *six* months. Any person upon whom any such summons shall have been served, and to whom at the same time payment or a tender of his travelling- 35 40 45

expenses on the scale hereinafter mentioned shall have been made, and who shall neglect or refuse without sufficient cause to appear or to produce any books, deeds, papers, or writings required by such summons to be produced, shall be liable to a penalty not exceeding  
5 *twenty* pounds, or in default of payment to be imprisoned for a term not exceeding 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.

42c. Where it is shown to the satisfaction of the Board that  
10 certain parts of books or documents to be produced in evidence do not relate to the matter before the Board, the party producing the same shall be allowed to seal up such parts.

42d. Every person who shall be summoned and shall appear as a witness shall be entitled to an allowance or compensation for  
15 expenses and loss of time according to the scale for the time being in force and allowed to witnesses in civil suits under "The Resident Magistrate's Act, 1867."

42e. Any member of the Board, or the Clerk, shall have power to administer oaths or affirmations to all witnesses who shall appear  
20 before the Board, and all wilful false swearing or false affirmation in any proceedings in the Board under this Act shall be deemed and held to be wilful perjury, and shall be indictable and punishable as such; and on any indictment it shall be sufficient to prove that the oath or affirmation was administered by such member or Clerk  
25 aforesaid.

42f. For the purpose of obtaining the evidence of witnesses at a distance, the Board shall be deemed to have and may exercise all the powers and duties of a Resident Magistrate under "The Resident Magistrates' Evidence Act, 1870," or any Act passed in lieu thereof;  
30 and the provisions of the said Act, *mutatis mutandis*, shall be applicable to all proceedings of the Board under this Act to the same extent as if the Board were a Resident Magistrate's Court; and every Resident Magistrate, and every Resident Magistrate's Court, and every Clerk of such Court, shall have and may exercise all such  
35 duties and powers in respect of any matter or thing arising under this Act as such Magistrate, or Resident Magistrate's Court, or Clerk respectively could do or be required to do for the purpose of giving effect to "The Resident Magistrates' Evidence Act, 1870," or any Act passed in lieu thereof.

42g. The Board shall sit and conduct its proceedings in private  
40 unless both parties agree that the Board shall be open, and a majority of the members present may decide any matters referred to them in such manner as they shall find to stand with equity and good conscience, and their decision shall be made public if and in such  
45 manner as the Board may direct; and before proceeding to consider any case the members of the Board and the officers thereof shall respectively make a declaration that any evidence produced before them shall not be disclosed to any one except as provided by this Act.

42h. If any person shall wilfully insult any member of the Board  
50 or the Clerk during the sitting of the Board, or shall wilfully inter-

rupt the proceedings of the Board, or be guilty in any other manner of any wilful contempt in the face of the Board, it shall be lawful for any officer of the Board, with or without the assistance of any other person, to take such offender into custody and remove him from the Board, to be detained in custody until the rising of the Board, and the person so offending shall be liable to a penalty not exceeding ten pounds for such offence, to be recovered in a summary way as hereinafter provided. 5

42i. If any party to proceedings before the Board shall, after notice given to such party, fail to attend or be represented before the Board, without good cause shown to such Board, the Board 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 Board in the manner herein provided with respect to a witness. 10 15

42j. The Board may at any time dismiss any matter referred to it which it shall think frivolous or trivial, and any award in such case shall be limited to an order upon the party bringing the matter before the Board for payment of all costs of bringing the same.

42k. The Board may order either party to pay to the other party costs and expenses (including expenses of witnesses) as it may deem reasonable, 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 it thinks reasonable; and such costs or any other costs ordered by the Board to be paid may be recovered in any Court of competent jurisdiction by the party entitled thereto under the order of the Board as a debt due from the party liable therefor; but no costs shall in any case whatever be allowed on account of any agents, counsel, or solicitor appearing for either party. 20 25

Mode of inquiry by Board.

43. 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. 30 35

Powers and duties of Board.

44. 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 decide 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. 40 45

Reference to committee of Board, or to Court.

45. In particular, but without limiting the general power given to a Board by the *last-preceding* section, any Board may— 50



593

(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 workmen, who shall endeavour to reconcile the parties; or

(2.) ~~Refer any matter before them to be settled by the Court.~~

46. If the Board shall report that they have been unable to bring about any settlement of any dispute referred to them satisfactory 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 either 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.~~

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

*Struck out.*

(3.) *The Court of Arbitration.*

47. There shall be one Court of Arbitration for the whole colony for the settlement of industrial disputes pursuant to this Act. The Court shall have a seal which shall be judicially noticed, and impressions thereof admitted in evidence in all Courts of judicature, and for all purposes.

Creation of Court.

Seal.

48. (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 workmen in the colony, and one to be so appointed on the recommendation of the councils or a majority of the councils of the industrial unions of employers of the colony.

Constitution of Court.

No recommendation shall be made as to the third member, who shall be a Judge of the Supreme Court or a District Judge, and shall be appointed from time to time by the Governor, and shall be President of the Court, and, in case of the illness or unavoidable absence of such Judge at any time, the Governor may appoint some fit person being a Supreme Court or District Judge, to be and act as President, who shall hold office only during the illness or unavoidable absence of such Judge.

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

Procedure to constitute same.

(a.) Each such council respectively shall, within one month after being requested so to do 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.

Failing any such recommendation being received from a majority of the councils, or in the event of the majority of any council not having made a recommendation, or in case any person so recommended shall decline to act as a member of the Court, the Governor shall forthwith appoint such person as he shall think 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 authority of the association or indus-

*Struck out.*

trial union entitled to vote, by whatever name such authority shall be designated.

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

Term of office of members.

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

Power of removal by Governor.

(2.) The Governor may remove any member of the Court from office who shall become bankrupt, who may commit perjury or felony, who may become of unsound mind, or may be guilty of continued absence from the sittings of the Court.

Power to appoint and remove clerks and officers.

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

Jurisdiction of Court.

51. The Court shall have jurisdiction for the settlement and determination of any industrial dispute referred to it by any Board, pursuant to sections *forty-five* or *forty-six*, or by reference under section *eighty-one*, or by petition under section *eighty-two*, or by industrial agreement, or by either 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.

Appearance of parties.

52. Either party to the dispute may appear personally or by agent, or, with the consent of all the parties, 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.

Evidence.

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 shall 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.

Time and place of sitting of Court.

53. Within five days after any dispute has been submitted by the Clerk to the Court the President shall fix a suitable time and place for the Court to meet to hear and determine the dispute, and shall give at least forty-eight hours' written notice to the other members of the Court of such time and place.

Parties before Court to be those before Board.

54. 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.

575

*Struck out.*

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 added to the proceedings on his own application or with his own consent.

55. The Clerk may, at the request of either 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, and in his possession or under his control; and any person upon whom any such summons shall have been served, and to whom at the same time payment or a tender of his travelling-expenses on the scale hereinafter mentioned shall have been made, and who shall neglect or refuse without sufficient cause to appear or to produce any books, deeds, papers, or writings required by such summons to be produced, shall be liable to a penalty not exceeding *twenty* pounds, or in default of payment to be imprisoned for a term not exceeding *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.

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

57. Every person who shall be summoned and shall appear 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 and allowed to witnesses in civil suits under "The Resident Magistrates Act, 1867."

58. Any member of the Court, or the Clerk, shall have power to administer oaths or affirmations to all witnesses who shall appear before the Court, and all wilful false swearing or false affirmation in any proceedings in the Court under this Act shall be deemed and held to be wilful perjury, and shall be indictable and punishable as such; and on any indictment it shall be sufficient to prove that the oath or affirmation was administered by such member or Clerk aforesaid.

59. For the purpose of obtaining the evidence of witnesses at a distance, the Court shall be deemed to have and may exercise all the powers and duties of a Resident Magistrate under "The Resident Magistrates' Evidence Act, 1870;" and the provisions of the said Act, *mutatis mutandis*, shall be applicable to all proceedings in the Court under this Act to the same extent as if the Court were a Resident Magistrate's Court; and every Resident Magistrate, and every Resident Magistrate's Court, and every Clerk of such Court, shall have and may exercise all such duties and powers in respect of any matter or thing arising under this Act as such Magistrate, or Resident Magistrate's Court, or Clerk respectively could do or be required to do for the purpose of giving effect to "The Resident Magistrates' Evidence Act, 1870."

60. 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 in such manner as they shall find to stand with equity and good conscience.

Summons to witness.

Penalty for non-attendance.

Portion of books, &amp;c., not required in evidence to be sealed up.

Allowances to witnesses.

Power to administer oaths.

Provision for obtaining evidence at a distance.

Court to decide in accordance with equity and good conscience.

*Struck out.*

In case member fails to attend, Court may sit.

61. If either of the members other than the President shall neglect or fail to attend a sitting of the Court without good cause shown to the satisfaction of the President, the other member present and the President may nevertheless act as fully as if all the members were present.

5

Power to adjourn sitting of Court.

62. In the absence of the President any member may from time to time adjourn any sitting of the Court to such time and place as he may deem proper.

Person guilty of contempt of Court liable to penalty.

63. If any person shall wilfully insult any member of the Court or the Clerk during the sitting of the Court, or shall wilfully interrupt the proceedings of the Court, or be guilty in any other manner of any wilful contempt in the face of the Court, it shall be lawful for any officer of the Court, with or without the assistance of any other person, to 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 penalty not exceeding ten pounds for such offence, to be recovered in a summary way as hereinafter provided.

10

15

In case of failure of parties to attend, Court may proceed *ex parte*.

64. If any party to proceedings before the Court shall, after notice given to such party, fail to attend or be represented before the Court, without good cause shown to such 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 in the manner hereinbefore provided with respect to a witness.

20

25

Power to refer matters to a Board for investigation.

65. The Court may refer any matters referred to it from time to time to a Board for investigation and report, where it shall think such Board may arrive more easily at a settlement thereof, and the award of the Court shall be based on the report of such Board.

30

Power to dismiss frivolous cases.

66. The Court may at any time dismiss any matter referred to it which it shall think frivolous or trivial, and any award in such case shall be limited to an order upon the party bringing the matter before the Court for payment of all costs of bringing the same.

When award to be made. Procedure thereon.

67. The award of the Court shall be made within one month after the Court shall have begun to sit for the hearing of any reference, and shall be signed by the President of the Court, and have the seal of the Court attached thereto, and shall be deposited in the office of the Clerk of the district wherein the reference arose, and be open to inspection without charge by all persons interested therein during office-hours.

35

40

Court may award costs, and apportion same.

68. (1.) The Court in its award may order either party to pay to the other party costs and expenses (including expenses of witnesses) as it may deem reasonable, 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 it thinks reasonable; and such costs or any other costs ordered by the Court to be paid may be recovered in any Court of competent jurisdiction by the party entitled thereto under the award or order of the Court as a debt due from the party liable therefor; but no costs shall in any case whatever be allowed on account of any agents, counsel, or solicitor appearing for either party.

45

50

597

*Struck out.*

(2.) The Court may also order that the whole or any portion of any such costs as aforesaid shall be taxed by the proper officer of the Supreme Court, and such officer shall have in, about, and in relation to such taxation all such power, duty, and authority as he would have in any case within the ordinary jurisdiction of the Supreme Court in respect of taxation of costs.

May order costs to be taxed.

69. 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, or any non-compliance with the provisions of this Act.

Award not to be framed in technical manner.

70. 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.

71. 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.

Proceedings shall not be impeached for want of form.

72. 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 or legal personal representative of the party so dying.

Proceedings not to abate by reason of death, &c.

(4.) *Enforcement of Awards.*

73. Every award of the Court shall specify each industrial union, trade 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, trade union, association, or person upon which it shall be thereby declared such award shall be binding: Provided that if the members of any industrial union or trade union are mentioned generally in any such award, all persons who are members at the date thereof of such award, or may thereafter become so during its subsistence, shall be included in the direction given or made by the award.

74. (1.) The Court may order that a duplicate of any award shall be filed in the Supreme Court office, and, on filing of such duplicate, but not otherwise, by leave of that Court or a Judge thereof, such award may be enforced in the same manner as a judgment or order of the Supreme Court to the same effect, and either against the property of any industrial union, trade union, or association or against the property or person of any person named in or affected by any such award, and with the like consequences as such judgment or order could be enforced under the ordinary practice of the Supreme Court; and if there shall be any doubt as to the person, union, or association against

*Struck out.*

whom or which, or as to the amount for which, such award may be enforced, such Court or Judge shall have full power to make such orders and give such directions as may be necessary to give effect to this enactment upon such evidence as to it, or him, shall seem sufficient. 5

(2.) If no duplicate of an award be filed, the award shall be taken to be a direction only to the parties to the arbitration, and no proceedings shall be had or taken, and no process shall issue for the enforcement thereof. 10

75. When it is sought to enforce any award or any direction thereof for any amount which is within the jurisdiction of a District Court or a Resident Magistrate's Court, the Supreme Court or a Judge thereof may order that such award or such direction thereof shall be enforced in a District Court or Resident Magistrate's Court to be named in the order, and, upon an office-copy of the order of the Court or Judge being filed in the District Court or Resident Magistrate's Court so named, all proceedings may be had and taken therein for the purpose of enforcing payment of such amount as if such award were a judgment or order of such District Court or Resident Magistrate's Court for the recovery of such amount as aforesaid. 15 20

76. No process shall be issued for the enforcement of an award by a payment from any industrial union, trade union, association, or person of a greater sum than *five hundred* pounds, or from any individual on account of his membership of an union or association of any greater sum than *ten* pounds. 25

77. Notwithstanding anything herein contained, when any member of an industrial union or trade union, or any other person is liable under an award to pay or contribute to the payment of any money, he may be sued for such payment or contribution by any person or body entitled to enforce or obtain such payment in any Court of competent jurisdiction. 30

78. For the purpose of enforcing compliance with any award or any order of the Supreme Court, or a Judge thereof, process may be issued and executed against the property of any industrial union, trade union or association, or in which any such union, or association shall have any beneficial interest, and whether vested in trustees or howsoever otherwise the same may be held, in the same manner as if such union or association was the absolute owner of such property or interest. And, in addition to the power hereinbefore contained, the said Court, or a Judge thereof, may order any trustee or trustees in whom the property of any industrial union or trade union is vested, within such time as may be limited in that behalf, to sell or otherwise dispose of and realise any real or personal property so vested as aforesaid, and out of the clear proceeds thereof to pay or apply such sum as shall be necessary or required to satisfy or perform such award. 35 40 45

79. Any application made to the Supreme Court, or a Judge thereof, for the exercise of any of the powers conferred by this Act may be made in a summary way, and all orders made by such Court or Judge may be enforced in the way in which orders of the Court are enforced in its ordinary jurisdiction, and the said Court or Judge may on any such application make any order as to costs as to it or him shall seem just. 50

599

*Struck out.*

5 80. All moneys which shall be received by virtue of any process for enforcing compliance with any award, after payment of any costs or expenses mentioned in the award, or the costs of any order of the Supreme Court or a Judge thereof, or in enforcing any such process, shall be applied in such manner as the award may direct, and, in default of or subject to any such direction, in such manner as the President may decide, for the benefit of those interested in the performance of the award.

## PART IV.

## GOVERNMENT RAILWAYS.

10 81. The management of Government railways under "The Government Railways Act, 1887," shall be deemed to be an industry within the meaning of this Act; and, notwithstanding anything contained in the first-mentioned Act, the Railway Commissioners appointed thereunder may make an industrial agreement with the  
15 society now registered under "The Trade Union Act, 1878," and called "The Amalgamated Society of Railway Servants," and either the said Commissioners or the society may refer any industrial dispute between them to the Court established under this  
20 Act; and the Commissioners may give effect to any terms of an award made by such Court.

The society may be registered as an industrial union under this Act; and the Commissioners shall be deemed to be employers within the meaning and for the purposes of this Act.

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

30 82. In case the Commissioners shall neglect or refuse to agree with the said Society to refer any industrial dispute to the Court, the 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 Commissioners to appear before the  
35 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.

40 83. Notwithstanding anything in this Act contained, no Board constituted under this Act shall have any jurisdiction in any matter of dispute between the Commissioners and the said Society.

## PART V. IV.

## MISCELLANEOUS.

45 84. 47. Any notification made or purporting to be made in the *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 *Gazette*, printed by the Government Printer for the time being.

Notification in  
*Gazette* to be  
evidence.

Documents under seal of Court, or signed by President or Chairman, to be judicially noticed, &c.

85. 48. Every instrument or document, copy, or extract of an instrument or document bearing the seal of the *Court Board* 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. 5

No proof shall be required of the handwriting or official position of any person acting in pursuance of this section. 10

Power to Governor to make regulations for purposes of Act.

86. 49. 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:—

- (1.) Prescribing the forms of certificates to be issued by the Registrar, and of any certificate or other proceeding of any Board, or any officer thereof; 15
- (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; 20
- (4.) Providing for the mode in which recommendations of members of the *Court Board* shall be made and authenticated; 25
- (5.) Prescribing any act or thing necessary to supplement 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; 30
- (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 proceeding before a Board, ~~or in the Court,~~ and the party by whom such fees shall be paid, and such regulations may provide for the fees to be paid to the ~~President or~~ members of the *Court Board*; 35
- (8.) For any other purpose for which it is by this Act provided regulations may be prescribed. 40

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 as is herein expressly provided.

Regulations to be laid before Parliament.

All such regulations shall be published in the *Gazette*, and within fourteen days after the making thereof shall be laid before both Houses of the General Assembly if it shall be then sitting, and, if not then sitting, then within fourteen days after the beginning of the next session of such Assembly, and shall have the force of law from the date of such publication. 45

Expenses of Act (except in certain cases) to be paid

87. 50. All charges and expenses connected with the administration of this Act, exclusive of expenses incurred by industrial unions, trade 50



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 the General Assembly.

out of moneys appropriated by Parliament.

5 88. 51. Every penalty imposed under this Act may be recovered in a summary way before any Resident Magistrate or two or more Justices of the Peace under the provisions of "The Justices of the Peace Act, 1882," and where so recovered shall be paid into the Public Account and form part of the Consolidated Fund.

Penalties, how recoverable.

10 89. 52. 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.

Stamp duty not payable in certain cases.

15 90. 53. Nothing in this Act shall apply to Her Majesty the Queen, or any department of her Government in New Zealand, except as herein is otherwise expressly provided.

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

By Authority : SAMUEL COSTALL, Government Printer, Wellington.—1893.