

Rt. Hon. R. J. Seddon.

## INDUSTRIAL CONCILIATION AND ARBITRATION.

### ANALYSIS.

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## A BILL INTITULED

Title.

AN ACT to consolidate and amend the Law relating to 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:—

Short Title

1. The Short Title of this Act is "The Industrial Conciliation and Arbitration Act, 1900."

(1.) PRELIMINARY.

*Interpretation.*

Interpretation.  
1894, Sec. 2.

2. In this Act, if not inconsistent with the context,—

"Board" means a Board of Conciliation for an industrial district constituted under this Act:

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

"Employer" includes persons, firms, companies, and corporations:

"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:

"Industrial matters" means all matters affecting or relating to work done or to be done by workers, or the privileges, rights, and duties of employers or workers in any industry, 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 matters relating to—

(a.) The wages, allowances, or remuneration of workers 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, or of any person or persons or class of persons, in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein ;

(d.) The claim of members of industrial unions of workers to be employed in preference to non-members ;

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

“ Industrial association ” means an industrial association registered under this Act :

“ Industrial union ” means an industrial union registered under this Act :

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

“ Prescribed ” means prescribed by regulations under this Act :

“ Registrar ” means the Registrar of Industrial Unions under this Act :

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

“ Worker ” means any person of any age or either sex employed by any employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry.

*Administration.*

3. The Minister for Labour shall have the general administration of this Act.

Minister for Labour to administer Act.

4. The Registrar shall be the person who for the time being holds the office of Secretary for Labour, or such other person as the Governor from time to time appoints to be Registrar.

Secretary for Labour to be Registrar.

(2.) REGISTRATION.

*Industrial Unions.*

5. Subject to the provisions of this Act, any society consisting of not less than *five* persons in the case of employers, or *ten* in the case of workers, lawfully associated for the purpose of protecting or furthering the interests of employers or workers in or in connection

What societies may be registered. Mode of application and terms of rules. 1894, s. 3, altered. 1896, s. 1 (2).

with any specified industry or industries in the colony, may be registered as an industrial union under this Act on compliance with the following provisions:—

- (1.) An application for registration shall be made to the Registrar in writing, stating the name of the proposed industrial union, and signed by two or more officers of the society. 5
- (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 of employers, or, as the case may be, of workers. 10
- (3.) Such rules shall specify the purposes for which the society is formed, and shall provide for— 15
  - (a.) The appointment of a committee of management, a chairman, secretary, and any other necessary officers, and, if thought fit, of a trustee or trustees:
  - (b.) The powers, duties, and removal of the committee, and of any chairman, secretary, or other officer or trustee, and the mode of supplying vacancies: 20
  - (c.) The manner of calling general or special meetings, the quorum thereat, the powers thereof, and the manner of voting thereat: 25
  - (d.) The mode in which industrial agreements and any other instruments shall be made and executed on behalf of the society, and in what manner the society shall be represented in any proceedings before a Board or the Court: 30
  - (e.) The custody and use of the seal, including power to alter or renew the same:
  - (f.) The control of the property, the investment of the funds, and an annual or other shorter periodical audit of the accounts: 35
  - (g.) The inspection of the books and the names of the members by every person having an interest in the funds: 40
  - (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, except pursuant to a clearance card duly issued in accordance with the rules, 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 under the rules: 45
  - (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:
  - (j.) The amendment, repeal, or alteration of the rules, but so that the foregoing requisites of this subsection shall always be provided for: 50
  - (k.) Any other matter not contrary to law.
6. (1.) On being satisfied that the society is qualified to register

under this Act, and that the provisions of the last preceding section hereof have been complied with, the Registrar shall, without fee, register the society as an industrial union, pursuant to the application, and shall issue a certificate of registration, which, unless proved  
5 to have been cancelled, shall be conclusive evidence of the fact of such registration, and of the validity thereof.

(2.) The Registrar shall at the same time record the rules, and also the situation of the registered office.

7. (1.) Every society registered as an industrial union shall, as  
10 from the date of registration, but solely for the purposes of this Act, become a body corporate by the registered name, having perpetual succession and a common seal, until the registration is cancelled as hereinafter provided. Incorporation of society. 1894, s. 6.

(2.) There shall be inserted in the registered name of every  
15 industrial union the word "employers" or "workers," according as such union is a union of employers or workers, and also (except in the case of an incorporated company) the name of the industry in connection with which it is formed, and the locality in which the majority of its members reside or exercise their calling, as thus:  
20 "The [*Christchurch Grocers*] Industrial Union of Employers,"  
"The [*Wellington Tram-drivers*] Industrial Union of Workers."

8. With respect to trade unions registered under "The Trade Union Act, 1878," the following special provisions shall apply, anything hereinbefore contained to the contrary notwithstanding:— Special provisions as to registering trade unions.

25 (1.) Any such trade union may be registered under this Act by the same name (with the insertion of such additional words as aforesaid). 1894, s. 8.

(2.) For the purposes of this Act every branch of a trade union shall be considered a distinct union, and may be  
30 separately registered as an industrial union under this Act.

(3.) For the purposes of this Act the rules for the time being of the trade union, with such addition or modification as may be necessary to give effect to this Act, shall, when re-  
35 corded by the Registrar, be deemed to be the rules of the industrial union.

9. With respect to the registration of societies of employers the following special provisions shall apply:— Special provisions as to registering societies of employers. 1895, s. 2 (2).

(1.) In any case where a copartnership firm is a member of the  
40 society, each individual partner residing in the colony shall be deemed to be a member, and the name of each such partner (as well as that of the firm) shall be set out in the list of members accordingly, as thus: "Watson, Brown, and Company, of Wellington, boot manufacturers; the firm consisting of four partners, of whom  
45 the following reside in New Zealand, that is to say, John Watson, of Wellington, and Charles Brown, of Christchurch:"

Provided that this subsection shall not apply where the society to be registered is an incorporated company.

(2.) Except where its articles or rules expressly forbid the same,  
50 any company incorporated under any Act may be registered as an industrial union of employers, and in such case the provisions of section *five* hereof shall be deemed to be 1895, s. 2 (3). 1896, s. 5.

sufficiently complied with if the application for registration is made under the seal of the company, and pursuant to a resolution of the board of directors, and is accompanied by—

- (a.) A copy of such resolution; 5
- (b.) Satisfactory evidence of the registration or incorporation of the company;
- (c.) Two copies of the articles of association or rules of the company;
- (d.) A list containing the names of the directors, and of the manager or other principal executive officer of the company; 10
- (e.) The situation of the registered office of the company.

(3.) In so far as the articles or rules of any such incorporated company are repugnant to this Act, they shall, on the registration of the company as an industrial union of employers, be construed as applying exclusively to the company and not to the industrial union. 15

Societies not to be registered under similar names. 1894, s. 9.

10. In no case shall a society be registered under a name identical with that by which any other society 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. 20

Provision to prevent multiplicity of unions.

11. In order to prevent the needless multiplication of industrial unions connected with the same industry in the same locality, the following special provisions shall apply:— 25

- (1.) The Registrar may refuse to register a society in any case where he is of opinion that in the same locality and connected with the same industry there exists an industrial union to which the members of such society might conveniently belong. 30
- (2.) Such society, if dissatisfied with the Registrar's refusal, may in the prescribed manner appeal therefrom to the Board of the district, whereupon the Board, after making full inquiry, shall report to the Registrar whether in its opinion his refusal should be insisted on or waived, and the Registrar shall be guided accordingly: 35

Provided that it shall lie on the society to satisfy the Board that, owing to distance, diversity of interest, or other substantial reason, it will be more convenient for the members to register separately than to join any existing industrial union. 40

Effect of registration. 1894, s. 10.

12. (1.) The effect of registration shall be to render the industrial union, and all persons who are members thereof at the time of registration, or who after such registration become members thereof, 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 their membership. 45

(2.) Nothing in this Act, or in the registration of an industrial union under this Act, shall be construed to authorise any industrial union to carry on trading, manufacturing, or mercantile operations, or any operations for pecuniary gain. 50

13. (1.) Copies of all amendments or alterations of the rules of an industrial union shall, after being verified by the secretary or some other officer of the industrial union, be sent to the Registrar, who shall record the same upon being satisfied that the same are not  
5 in conflict with the requirements of this Act.

Amendment of rules.  
1894, s. 4.

(2.) A printed copy of the rules of the industrial union shall be delivered by the secretary to any person requiring the same on payment of a sum not exceeding *one shilling*.

Printed copies to be supplied.

10 (3.) In all proceedings affecting the industrial union, *prima facie* evidence of the rules and their validity may be given by the production of what purports to be a copy thereof, certified as a true copy under the seal of the union and the hand of the secretary or any other officer thereof.

15 (4.) (1.) In addition to its registered office, an industrial union may also have a branch office in any industrial district in which any of its members reside or exercise their calling.

Registered office and branch office of industrial union.  
In lieu of 1896, s. 7.

(2.) Upon application in that behalf by the union, under its seal and the hand of its chairman or secretary, specifying the situation of the branch office, the Registrar shall record the same, and  
20 thereupon the branch office shall be deemed to be registered.

(3.) The situation of the registered office and of each registered branch office of the industrial union may be changed from time to time by the committee of management, or in such other manner as the rules provide.

25 (4.) Every such change shall be forthwith notified to the Registrar by the secretary of the union, and thereupon the change shall be recorded by the Registrar.

30 (5.) All fees or dues payable to an industrial union by any member thereof under its rules may, in so far as they are owing for any period of membership subsequent to the registration of the society under this Act, be sued for and recovered in the name of the union in any Court of competent jurisdiction by the secretary or the treasurer of the union, or by any other person who is authorised in that behalf by the committee of management, or by the rules.

Members may be sued for fees or dues.  
1894, s. 3 (h), altered.

35 (6.) An 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 not exceeding one acre, and may sell, mortgage, exchange, or let the same, or any part thereof; and no person shall be bound to inquire whether the union or the trustees have authority for such sale, mortgage, exchange, or letting; and the receipt  
40 of the union or the trustees shall be a discharge for the money arising therefrom.

Power to purchase or lease land.  
1894, s. 7.

45 (7.) (1.) In the months of January and July in every year there shall be forwarded to the Registrar by every industrial union a list of the members and officers (including trustees) of such union, as at the close of the last-preceding month:

Industrial unions of send half-yearly list of members and officers to Registrar.  
1894, s. 13, altered.  
1895, s. 7 (2).

Provided that in the case of an incorporated company it shall be sufficient if the list contains the names of the directors, and of the manager or other principal executive officer of the company.

50 (2.) Each such list shall be verified by the statutory declaration of the chairman or secretary of the union.

(3.) Such statutory declaration shall be *prima facie* evidence of the truth of the matters herein set forth.

Penalty.

(4.) Every industrial union making default in duly forwarding such list commits an offence against this Act and is liable to a penalty not exceeding *two* pounds for every week during which such default continues.

(5.) Every member of the committee of management of any such union who wilfully permits such default commits an offence against this Act, and is liable to a penalty not exceeding *five* shillings for every week during which he wilfully permits such default. 5

1894, s. 15.

(6.) Proceedings for the recovery of any such penalty shall be taken in a summary way under "The Justices of the Peace Act, 1882," on the information or complaint of the Registrar, and the amount recovered shall be paid into the Public Account and form part of the Consolidated Fund. 10

Industrial union  
may sue in regis-  
tered name.  
Service of notices.

18. Every 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 by leaving the same at its registered office (not being a branch office), or by posting the same to such registered office in a duly registered letter addressed to the secretary of the union. 15 20

Mode of executing  
deeds and instru-  
ments.  
1894, s. 16.

19. Deeds and instruments to be executed by an industrial union for the purposes of this Act may be made and executed under the seal of the union and the hands of the chairman and secretary thereof, or in such other manner as the rules of the union prescribe.

Procedure for can-  
cellation of registra-  
tion.  
1894, s. 11, altered.

20. Any industrial union may at any time apply to the Registrar in the prescribed manner for a cancellation of the registration thereof, and thereupon the following provisions shall apply:— 25

(1.) The Registrar, after giving six weeks' public notice of his intention to do so, may, by notice in the *Gazette*, cancel such registration: 30

Provided that in no case shall the registration be cancelled during the progress of any conciliation or arbitration proceedings affecting such union until the Board or Court has given its decision or made its award, nor unless the Registrar is satisfied that the cancellation is desired by a majority of the members of the union. 35

(2.) The effect of the cancellation shall be to dissolve the incorporation of the union, but in no case shall the cancellation or dissolution relieve the industrial union, or any member thereof, from the obligation of any industrial agreement, or award or order of the Court, nor from any penalty or liability incurred prior to such cancellation. 40

#### Industrial Associations.

Councils represent-  
ing unions may be  
registered.  
1894, s. 12, altered.

21. Any council or other body, however designated, representing not less than *four* industrial unions of either employers or workers may be registered as an industrial association of employers or workers under this Act. 45

Application of prior  
provisions.

22. Subject to prescribed regulations, all the provisions of this Act relating to industrial unions, their officers and members, shall, *mutatis mutandis*, extend and apply to an industrial association, its officers and members, and these provisions shall be read and construed accordingly in so far as the same are applicable: 50

Provided that an industrial association shall not be entitled to nominate or vote for the election of members of a Board.



(3.) INDUSTRIAL AGREEMENTS.

23. (1.) The parties to industrial agreements under this Act shall in every case be industrial unions or industrial associations or 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.
- (2.) Every industrial agreement shall be for a term to be specified therein, not exceeding *three* years from the date of the making thereof, as specified therein, and shall commence as follows : " This industrial agreement, made in pursuance of ' The Industrial Conciliation and Arbitration Act, 1900,' this            day of            , between            , " and then the matters agreed upon shall be set out.
- (3.) The date of the making of the industrial agreement shall be the date on which it is executed by the party who first executes it ; and such date, and the names of all the original parties thereto, shall be truly stated therein.
24. A duplicate original of every industrial agreement shall, within *thirty* days after the making thereof, be filed in the office of the Clerk of the industrial district where the agreement is made.
25. At any time during the currency of an industrial agreement any industrial union or industrial association or employer may become party thereto for the residue of the term thereof, by filing in the office wherein such agreement is filed a notice in the prescribed form, signifying concurrence with such agreement.
26. Every industrial agreement duly made, executed, and filed, shall be binding on the parties thereto, and also on every member of any industrial union or industrial association which is party thereto.
27. (1.) Every industrial agreement, whether made under this Act or under any Act repealed by this Act, may be varied, renewed, or cancelled by any subsequent industrial agreement made by and between all the parties thereto, but so that no party shall be deprived of the benefit thereof by any subsequent industrial agreement to which he is not a party.
- (2.) Industrial agreements shall be enforceable in manner provided by section *ninety-four* of this Act, and not otherwise.

Parties to industrial agreements defined. 1894, s. 17.

Term and form of agreement. 1894, s. 19.

Date of agreement. 1894, s. 19.

Duplicate to be filed. 1894, s. 20, altered.

Parties to agreement may be added.

On whom agreement binding. 1894, s. 21.

Agreements may be varied, renewed, or cancelled. 1894, s. 18, altered.

Enforcement of agreements. 1898, s. 9.

(4.) CONCILIATION AND ARBITRATION.

*Districts and Clerks.*

28. (1.) The Governor may from time to time, by notice in the *Gazette*, constitute and divide New Zealand or any portion thereof into such industrial districts, with such names and boundaries as he thinks fit.
- (2.) All industrial districts constituted under any Act repealed by this Act, and existing at the time of such repeal, shall be deemed to be constituted under this Act.
29. If any industrial district is constituted by reference to the limits or boundaries of any other portion of the colony defined or created under any Act, then, in case of the alteration of such limits or boundaries, such alteration shall take effect in respect of the district constituted under this Act without any further proceeding, unless the Governor otherwise determines.

Constitution of industrial districts. 1894, s. 24 (1).

Alteration of boundaries. 1894, s. 24 (2).

Clerk of Awards for each district.  
1894, s. 25, altered.

30. (1.) In and for every industrial district the Governor shall appoint a Clerk of Awards (elsewhere in this Act referred to as "the Clerk"), who shall be paid such salary or other remuneration as the Governor thinks fit, and shall be subject to the control and direction of the Registrar.

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(2.) Every Clerk appointed under any Act repealed by this Act, and in office at the time of such repeal, shall be deemed to be appointed under this Act.

May hold office in conjunction with other office.  
1894, s. 25, altered.

31. The office of Clerk may be held either separately or in conjunction with any other office in the public service, and in the latter case, the Clerk may, if the Governor thinks fit, be appointed not by name but by reference to such other office, whereupon the person who for the time being holds such office, or performs its duties, shall by virtue thereof be the Clerk.

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Duties of Clerk.  
1894, s. 26, altered.

32. It shall be the duty of the Clerk—

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(1.) To receive, register, and deal with all applications within his district lodged for reference of any industrial dispute to the Board or to the Court;

(2.) To convene the Board or Court for the purpose of dealing with any such dispute;

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(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, awards, and orders, made to and by the Court;

(4.) To forward from time to time to the Registrar copies of or abstracts from the register;

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(5.) To issue all summonses to witnesses to give evidence before the Board or Court, and to issue all notices and perform all such other acts in connection with the sittings of the Board or Court as are prescribed, or as the Court, the Board, or the Registrar directs; and

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(6.) Generally to do all such things and take all such proceedings as are prescribed by this Act or the regulations thereunder, or as the Court, the Board, or the Registrar directs.

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#### *Boards of Conciliation.*

District Boards to be constituted.  
1894, s. 30.

33. In and for every industrial district there shall be established a Board of Conciliation, which shall have jurisdiction for the settlement of any industrial dispute which arises in such district and is referred to the Board under the provisions in that behalf hereinafter contained.

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Number of members of Board and election.  
1894, s. 32.

34. The Board of each industrial district shall consist of such unequal number of persons as the Governor determines, being not more than seven nor less than five, of whom—

(1.) One (being the Chairman) shall be elected by the other members in manner hereinafter provided; and

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(2.) The other members shall, in manner hereinafter provided, be elected by the respective industrial unions of employers and of workers whose registered offices or branch offices as recorded by the Registrar, are situate in the industrial district, such unions voting separately and electing an equal number of such members:

50

Provided that an industrial union shall not be entitled to vote unless its registered office or branch office, as the case may be, has been recorded as aforesaid for at least three months next preceding the date fixed for the election.

55

35. The ordinary term of office of the members of the Board shall be three years from the date of the election of the Board, or until their successors are elected as hereinafter provided, but they shall be eligible for re-election.

Term of office.  
1894, ss. 34 and 35.

5 36. Every Board established under any Act repealed by this Act, and existing at the time of such repeal, shall be deemed to be established under this Act, and the members thereof who are then in office shall so continue until the expiry of their ordinary term of office under such repealed Act, or until their successors are elected under  
10 this Act, but they shall be eligible for re-election.

Existing Boards  
continued in office.

37. With respect to the ordinary election of the members of the Board (other than the Chairman) the following provisions shall apply:—

Provisions for  
ordinary elections.  
1894, s 32 (3).

- 15 (1.) The Clerk shall act as Returning Officer, and shall do all things necessary for the proper conduct of the election.
- (2.) The first ordinary election shall be held within not less than twenty nor more than thirty days after the constitution of the district, in the case of districts hereafter constituted, and before the expiry of the current ordinary term  
20 of office, in the case of existing Boards.
- (3.) Each subsequent ordinary election shall in every case be held within not less than twenty nor more than thirty days before the expiry of the current ordinary term of office.
- 25 (4.) The Governor may from time to time extend the period within which any election shall be held for such time as he thinks fit, anything hereinbefore contained to the contrary notwithstanding.
- 30 (5.) The Returning Officer shall give fourteen days' notice, in one or more newspapers circulating in the district, of the day and place of election.
- 35 (6.) For the purposes of each election the Registrar shall compile and supply to the Returning Officer a roll, setting forth the name of every industrial union entitled to vote, and every such union, but no other, shall be entitled to vote accordingly.
- 40 (7.) The roll shall be supplied as aforesaid not less than *ten* days before the day fixed for the election, and shall be open for free public inspection at the office of the Clerk during office hours, from the day on which it is received by the Clerk until the day of the election.
- 45 (8.) Persons shall be nominated for election in such manner as the rules of the nominating industrial union prescribe, or, if there is no such rule, nominations shall be made in writing under the seal of the union and the hand of its chairman or secretary.
- (9.) An industrial union not entitled to vote shall not be entitled to nominate
- 50 (10.) Each nomination shall be lodged with the Returning Officer not later than five o'clock in the afternoon of the *fourth* day before the day of election, and shall be accompanied by the written consent of the person nominated.
- (11.) Forms of nomination shall be provided by the Returning Officer on application to him for that purpose.

- (12.) The Returning Officer shall give notice of the names of all persons validly nominated, by affixing a list thereof on the outside of the door of his office during the *three* days next preceding the day of election.
- (13.) If it appears that the number of persons validly nominated does not exceed the number to be elected, the Returning Officer shall at once declare such persons elected. 5
- (14.) If the number of persons validly nominated exceeds the number to be elected, then votes shall be taken as hereinafter provided. 10
- (15.) The vote of each industrial union entitled to vote shall be signified by voting-paper, in such manner as the rules prescribe, or, if there is no such rule, then under the seal of the union and the hand of the chairman or secretary. 15
- (16.) The voting-paper shall be lodged with or transmitted by post or otherwise to the Returning Officer at his office, so as to reach his office not later than five o'clock in the afternoon of the day of the election; and the Returning Officer shall record the same in such manner as he thinks fit. 20
- (17.) Every voting-paper with respect to which the foregoing requirements of this section are not duly complied with shall be deemed to be informal.
- (18.) Each industrial union shall have as many votes as there are persons to be elected by its division. 25
- (19.) Such votes may be cumulative, and the persons, not exceeding the number to be elected, having the highest aggregate number of valid votes in each division shall be deemed elected. 30
- (20.) In any case where two or more candidates in the same division have an equal number of valid votes, the Returning Officer, in order to complete the election, shall give a casting-vote.
- (21.) As soon as possible after the votes of each division of industrial unions have been recorded, the Returning Officer shall reject all informal votes and ascertain what persons have been elected as before provided, and shall state the result in writing, and forthwith affix a notice thereof on the door of his office. 40
- (22.) If any question or dispute arises touching the right of any industrial union to vote, or the validity of any nomination or vote, or the mode of election or the result thereof, or any matter incidentally arising in or in respect of such election, the same may in the prescribed manner be referred to the Returning Officer at any time before the gazetting of the notice of the election of the members of the Board as hereinafter provided, and the decision of the Returning Officer shall be final. 45
- (23.) Except as aforesaid, no such question or dispute shall be raised or entertained. 50
- (24.) In case any election is not completed 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. 55

(25.) The whole of the voting-papers used at the election shall be securely kept by the Returning Officer during the election, and thereafter shall be put in a packet and kept until the gazetting of the notice last aforesaid, when he shall cause the whole of them to be effectually destroyed.

(26.) Neither the Returning Officer nor any person employed by him shall at any time (except in discharge of his duty or in obedience to the process of a Court of law) disclose for whom any vote has been tendered, or retain possession of or exhibit any voting-paper used at the election, or give to any person any information on any of the matters herein mentioned.

(27.) If any person commits any breach of the last-preceding subsection hereof he is liable to a penalty not exceeding *twenty* pounds, to be recovered and applied as specified in subsection *six* of section *seventeen* hereof.

38. (1.) As soon as practicable after the election of the members of the Board, other than the Chairman, the Clerk shall appoint a time and place for the elected members to meet for the purpose of electing a Chairman, and shall give to each such member at least three days' written notice of the time and place so appointed.

Meeting for election of Chairman.  
1894, s. 32 (4).

(2.) At such meeting the members shall, by a majority of the votes of the members present, elect some impartial person who is willing to act, not being one of their number, to be Chairman of the Board.

39. (1.) As soon as practicable after the election of the Chairman, the Clerk shall transmit to the Registrar 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 gazetted.

Notice of election of Board to be gazetted.  
1894, s. 33.

(2.) Such notice shall be final and conclusive for all purposes, and the date of gazetting of such notice shall be deemed to be the date of the election of the Board.

1894, s. 34.

40. Any member of the Board may resign, by letter to the Registrar, and the Registrar shall thereupon report the matter to the Clerk.

Resignation of member.  
1894, s. 36.

41. If any member of the Board—

(1.) Dies; or

(2.) Resigns; or

(3.) Becomes bankrupt; or

(4.) Is convicted of any offence punishable by imprisonment for six months or upwards; or

(5.) Is absent during any period of *thirty* days from all meetings of the Board held during such period,—

his office shall thereby become vacant, and the vacancy thereby caused shall be deemed to be a casual vacancy.

Casual vacancies.  
1894, s. 36, altered.

42. (1.) Every casual vacancy shall be filled by the same electing authority, and, as far as practicable, in the same manner and subject to the same provisions as in the case of the vacating member.

How casual vacancy to be filled.  
1894, s. 37, altered.

(2.) Upon any casual vacancy being reported to the Clerk, he shall take all such proceedings as may be necessary in order that the vacancy may be duly supplied by a fresh election:

Provided that the person elected to supply the vacancy shall hold office only for the residue of the term of the vacating member.

43. If any person, being a member of one Board, allows himself to be nominated for election as a member of another Board, his nomination shall be void; and if he is so elected, his election shall be void.

No member of a Board to be nominated for another Board.  
1896, s. 2.

Governor may  
appoint on failure to  
elect Chairman or  
member.  
1894, s. 39.

44. In any case where the Registrar is satisfied that for any reason the proper electing authority has failed or neglected to duly elect a Chairman or other member of the Board, or that his election is void, the Governor may by notice in the *Gazette* appoint a fit person to be such Chairman or other member, and, for the purposes of this Act, every Chairman or other member so appointed shall be deemed to be elected, and shall hold office for the unexpired residue of the ordinary term of office. 5

Quorum of Board.  
1894, s. 38 (1).

45. The presence of the Chairman and of not less than one-half in number of the other members of the Board shall be necessary to constitute a quorum at every meeting of the Board subsequent to the election of the Chairman: 10

Absence of  
Chairman.

Provided that in the case of the illness or absence of the Chairman the other members may elect one of their own number to be Chairman during such illness or absence. 15

Mode of voting.  
1894, s. 38 (2).

46. In all matters coming before the 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 the Chairman shall have a casting-vote.

Acts of Board not  
to be questioned for  
informality.  
1894, s. 40 (1).

47. The Board may act notwithstanding any vacancy in its body, and in no case shall any act of the Board be questioned on the ground of any informality in the election of a member, or on the ground that the seat of any member is vacant, or that any supposed member is incapable of being a member. 20

Term of office of  
Board may be  
extended if engaged  
in hearing dispute.  
1894, s. 40 (2).

48. In any case where the ordinary term of office expires, or is likely to expire, whilst the Board is engaged in the investigation of any industrial dispute, the Governor may, by notice in the *Gazette*, extend such term for any time not exceeding one month, in order to enable the Board to dispose of such dispute, but for no other purpose: 25

Provided that all proceedings for the election of the Board's successors shall be taken in like manner in all respects as if such term were not extended, and also that any member of the Board whose term is extended shall be eligible for nomination and election to the new Board. 30

#### *Special Boards of Conciliators.*

Special Boards may  
be created in certain  
cases.  
1894, s. 41 (1).

49. Notwithstanding anything hereinbefore contained, it is hereby declared that in any part of the colony, whether included in a district or not, and whether a Board of Conciliation has been duly constituted or not, a special Board of Conciliators may in the prescribed manner be constituted from time to time to meet any case of emergency or any special case of industrial dispute. 40

Preceding provisions  
applied subject to  
certain modifica-  
tions.  
1894, s. 41 (2).

50. All the provisions of this Act relating to a Board of Conciliation, its constitution, election, jurisdiction, and powers, shall, *mutatis mutandis*, apply to a special Board of Conciliators, subject nevertheless to such modifications as are prescribed, and also to the modifications following, that is to say:— 45

- (1.) The Returning Officer shall be appointed by the Governor.
- (2.) The members of the special Board (other than the Chairman) shall, in the prescribed manner, be elected in equal numbers by the employers and industrial unions of employers directly interested in the dispute, and by the industrial unions of workers so interested. 50
- (3.) All or any of the members of the special Board may be members of an existing Board of Conciliation. 55
- (4.) The term of office of the members of the special Board shall in each case be fixed by the Governor.

*Functions and Procedure of Conciliation Boards.*

51. Any industrial dispute may be referred for settlement to a Board by application in that behalf made by any party thereto, and with respect to such application and reference the following provisions shall apply:—

Procedure for  
reference of  
industrial dispute to  
Board.  
1894, s. 42.

(1.) The application shall be in the prescribed form, and shall be filed in the office of the Clerk for the industrial district wherein the dispute arose.

(2.) If the application is made pursuant to an industrial agreement, it shall specify such agreement by reference to its date and parties, and the date and place of the filing thereof.

(3.) The parties to such dispute shall in every case be industrial unions, or industrial associations, or employers:

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 the industrial dispute being brought in a complete shape before the Board; and a party may be withdrawn, or removed, or joined at any time before the final report or recommendation of the Board is made, and the Board may make any recommendation or give any direction for any such purpose accordingly.

(4.) As soon as practicable after the filing of the application, the Clerk shall lay the same before the Board at a meeting thereof to be convened in the prescribed manner.

(5.) An employer, being a party to the 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.

(6.) An industrial union or association, being a party to the reference, may appear by its chairman or secretary, or by any number of persons (not exceeding three) appointed in writing by the chairman, or in such other manner as the rules prescribe, or by counsel or solicitor where allowed as hereinafter provided.

(7.) Except where hereinafter specially provided, every party appearing by a representative shall be bound by the acts of such representative.

(8.) No counsel or solicitor shall be allowed to appear or be heard before a Board, or any committee thereof, unless all the parties to the reference expressly consent thereto.

52. In every case where an industrial dispute is duly referred to a Board for settlement, the following provisions shall apply:—

Powers and duties of  
Board for hearing  
dispute.  
1894, s. 43.

(1.) The Board shall, in such manner as it thinks fit, carefully and expeditiously inquire into the dispute, and all matters affecting the merits thereof and the right settlement thereof.

(2.) For the purposes of such inquiry the Board shall have all the powers of summoning witnesses, administering oaths, hearing and receiving evidence, and preserving order, which are by this Act conferred on the Court.

(3.) In the course of such inquiry the Board may make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the

1894, s. 45.

- proceedings for any period the Board thinks reasonable, to allow the parties to agree upon some terms of settlement.
- (4.) The Board may also, upon such terms as it thinks fit, refer the dispute to a committee of its members, consisting of an equal number of the representatives of employers and workers, in order that such committee may facilitate and promote an amicable settlement of the dispute. 5
- (5.) If a settlement of the dispute is arrived at by the parties it shall be set forth in an industrial agreement, which shall be duly executed by all the parties (not by their representatives) and a duplicate original whereof shall be filed in the office of the Clerk within such time as is named by the Board in that behalf. 10 15
- (6.) If such industrial agreement is duly executed and filed as aforesaid, the Board shall report that the dispute has been settled by industrial agreement.
- (7.) If such industrial agreement is not duly executed and filed as aforesaid, the Board shall make such recommendation for the settlement of the dispute, according to the merits and substantial justice of the case, as the Board thinks fit. 20
- (8.) The Board's recommendation shall deal with each item of the dispute, and shall state in plain terms, avoiding as far as possible all technicalities, what, in the Board's opinion, should or should not be done by the respective parties concerned. 25
- (9.) The Board's recommendation shall also state the period during which the proposed settlement should continue in force, being in no case less than *six months* nor more than *two years*, and also the date from which it should commence, being not sooner than *one month* nor later than *three months* after the date of the recommendation. 30
- (10.) The Board's report or recommendation shall be in writing under the hand of the Chairman, and shall be delivered by him to the Clerk within *two months* after the day on which the application for the reference was filed, or within such extended period, not exceeding *one* additional month, as the Board thinks fit. 35 40

Report or recommendation of Board to be filed.  
In lieu of  
1894, s. 46.

Procedure if parties accept Board's recommendation.

Memorandum of settlement.

53. Upon receipt of the Board's report or recommendation the Clerk shall (without fee) file the same, and allow all the parties to have free access thereto for the purpose of considering the same and taking copies thereof.

54. If all the parties to the reference are willing to accept the Board's recommendation, either as a whole or with modifications, they may, at any time before the dispute is referred to the Court under the provisions in that behalf hereinafter contained, either execute and file an industrial agreement in settlement of the dispute, or file in the office of the Clerk a memorandum of settlement. 45 50

55. With respect to such memorandum of settlement the following provisions shall apply:—

- (1.) It shall be in the prescribed form, and shall be executed by all the parties (not by their representatives).
- (2.) It shall state whether the Board's recommendation is accepted as a whole, or with modifications, and, in the 55



latter case, the modifications shall be clearly and specifically set forth therein.

(3.) Upon the memorandum of settlement being duly executed and filed, the Board's recommendation shall, with the modifications (if any) set forth in such memorandum, operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

56. At any time before the Board's recommendation is filed, all the parties to the reference (but not less than all) may by memorandum of consent in the prescribed form, executed by themselves (not by their representatives), and filed in the office of the Clerk, agree to accept the recommendation of the Board, and in such case the Board's recommendation, when filed, shall operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

57. With respect to every industrial dispute which, having been duly referred to the Board, is not settled under the provisions for settlement hereinbefore contained, the following special provisions shall apply:—

(1.) At any time within one month after the filing of the Board's recommendation, any of the parties may, by application in the prescribed form filed in the office of the Clerk, refer such dispute to the Court for settlement, and thereupon such dispute shall be deemed to be before the Court.

(2.) If at the expiration of such month no such application has been duly filed, then on and from the date of such expiration the Board's recommendation shall operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

Memorandum of consent to accept Board's recommendation.

Reference to Court if dispute not settled by Board.

*The Court of Arbitration.*

58. There shall be one Court of Arbitration (hereinafter called "the Court") for the whole colony for the settlement of industrial disputes pursuant to this Act.

59. The Court shall have a seal, which shall be judicially noticed in all Courts of judicature, and for all purposes.

60. The Court shall consist of three members, who shall be appointed by the Governor.

61. (1.) Of the three members of the Court one shall be appointed on the recommendation of the industrial associations of employers, and one on the recommendation of the industrial associations of workers.

(2.) No recommendation shall be made as to the third member, who shall be a Judge of the Supreme Court, and shall be President of the Court.

(3.) In case of the illness or unavoidable absence of the President at any time, the Governor may appoint another Judge of the Supreme Court to act as President during such illness or absence.

62. For the purposes of the appointment of the members of the Court (other than the President), the following provisions shall apply:—

(1.) Each industrial association may, within one month after being requested so to do by the Governor, recommend the name of one person to the Governor, and from the

Court of Arbitration 1894, s. 47.

Seal. 1894, s. 47.

Constitution of Court. 1894, s. 48 (1).

Mode of appointment. 1894, s. 48 (1).

Judge of Supreme Court to be President.

Procedure for appointment of members. 1894, s. 48 (2).

names so recommended the Governor shall select two members, one from the persons recommended by the associations of employers, and one from the persons recommended by the associations of workers, and appoint them to be members of the Court.

(2.) The recommendation shall in each case be made in the name and under the seal of the association, by the committee of management or other governing authority thereof, however designated.

(3.) If either of the divisions of associations fails or neglects to duly make any recommendation within the aforesaid period, the Governor shall, as soon as conveniently may be thereafter, appoint a fit person to be a member of the Court; and such member shall be deemed to be appointed on the recommendation of the said division of associations.

(4.) 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 *Gazette*, and such notification shall be final and conclusive for all purposes.

Term of office.  
1894, s. 49.

63. Every member of the Court shall hold office for three years from the date of the gazetting of his appointment, or until the appointment of his successor, and shall be eligible for reappointment.

Existing Court and members continued in office.

64. The Court as constituted under any Act repealed by this Act shall be deemed to be constituted under this Act, and the President and other members thereof in office at the commencement of this Act shall so continue until the expiry of the term of their appointment, or until the appointment of their successors under this Act, and shall be eligible for reappointment under this Act.

Resignations.  
1894, s. 49, altered.

65. If any member of the Court resigns by letter to the Governor, or, in the case of the President, if he ceases to be a Judge of the Supreme Court, his office as member or President of the Court shall thereby become vacant, and the vacancy shall be deemed to be a casual vacancy.

Power of removal by Governor.  
1894, s. 49 (2), altered.

66. The Governor may remove any member of the Court from office who becomes bankrupt, or is convicted of any crime or offence punishable by death or by imprisonment for *six* months or upwards, or becomes of unsound mind, or is absent during any period of *thirty* days from all sittings of the Court held during such period; and every vacancy thereby caused shall be deemed to be a casual vacancy.

Mode of filling casual vacancy.  
1894, s. 49 (1).

67. Every casual vacancy in the membership of the Court shall be supplied in the same manner as in the case of the original appointment; but every person appointed to fill a casual vacancy shall hold office only for the residue of the term of his predecessor.

Oath of office and secrecy.  
894, s. 50.  
1898, s. 13.

68. Before entering on the exercise of the functions of their office, the members of the Court, other than the President, shall make oath or affirmation before the President that they will faithfully and impartially perform the duties of their office, and also that, except in the discharge of their duties, they will not disclose to any person any evidence or other matter brought before the Court.

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

Clerk and officers  
may be appointed.  
1894, s. 51.

5 *Jurisdiction and Procedure of the Court.*

70. The Court shall have jurisdiction for the settlement and determination of any industrial dispute referred to it under the provisions of this Act.

Jurisdiction.  
1894, s. 52, altered.

71. Forthwith after any dispute has been duly referred to the Court for settlement under the provisions in that behalf hereinbefore contained, the Clerk shall notify the fact to the President.

Clerk to notify Pre-  
sident when dispute  
referred.

72. Subject to provisions hereinafter contained as to the joining or striking out of parties, the parties to the proceedings before the Court shall be the same as in the proceedings before the Board, and the provisions hereinbefore contained as to the appearance of parties before a Board shall apply to proceedings before the Court.

Parties to proceed-  
ings before Court.  
1894, s. 55.

73. With respect to the sittings of the Court the following provisions shall apply:—

Sittings of Court.  
1893, s. 14.

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

(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, and also to all parties concerned, at least forty-eight hours' previous notice of the time and place of each sitting.

(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 Court shall notify the members of the Court and all parties concerned.

74. Any party to the proceedings before the Court 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 thinks proper.

Appearance of  
parties.  
1894, s. 53.

75. The Court shall in all matters before it have full and exclusive jurisdiction to determine the same in such manner in all respects as in equity and good conscience it thinks fit.

Powers of Court.  
1894, s. 53.

76. With respect to evidence in proceedings before the Court the following provisions shall apply:—

Evidence.

(1.) Formal matters which have been proved or admitted before the Board need not be again proved or admitted before the Court but shall be deemed to be proved.

1894, s. 53.

(2.) On the application of any of the parties, and on payment of the prescribed fee, the Clerk shall issue a summons to any person to appear and give evidence before the Court.

1894, s. 56.

(3.) The summons shall be in the prescribed form, and may require such person to produce before the Court any

- books, papers, or other documents in his possession, or under his control, in any way relating to the proceedings.
- (4.) All books, papers, and other documents produced before the Court, whether produced voluntarily or pursuant to summons, may be inspected by the Court, and also by such of the parties as the Court allows; but the information obtained therefrom shall not be made public, and such parts of the documents as, in the opinion of the Court, do not relate to the matter at issue, may be sealed up. 5
- 1894, s. 53. (5.) Every person who is summoned and duly attends as a witness shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil suits under "The Magistrates' Courts Act, 1893." 10
- (6.) If any person who has been duly served with such summons, and to whom at the same time payment or tender has been made of his reasonable travelling-expenses according to the aforesaid scale, fails to duly attend or to duly produce any book, paper, or document as required by his summons, he commits an offence and is liable to a penalty not exceeding *twenty* pounds, or to imprisonment for any term not exceeding *one* month, unless he shows that there was good and sufficient cause for such failure. 20
- 1894, s. 60. (7.) For the purpose of obtaining the evidence of witnesses at a distance, the Court, or, whilst the Court is not sitting, the President, shall have all the powers and functions of a Stipendiary Magistrate under "The Magistrates' Courts Act, 1893," and the provisions of that Act relative to the taking of evidence at a distance shall, *mutatis mutandis*, apply in like manner as if the Court were a Magistrate's Court. 25
- 1894, s. 59 (8.) The Court may take evidence on oath, and for that purpose any member or the Clerk may administer an oath.
- (9.) On any indictment for perjury it shall be sufficient to prove that the oath was administered as aforesaid. 35
- 1894, s. 53. (10.) The Court may accept and admit such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.
- 1894, s. 65. (11.) Any party to the proceedings shall be competent and may be compelled to give evidence as a witness. 40
- Quorum.**  
1894, s. 62, altered. 77. The presence of the President and at least one other member shall be necessary to constitute a sitting of the Court.
- Decision to be of majority of Court.  
1894, s. 61, altered. 78. The decision of a majority of the members present at the sitting of the Court, or, if the members present are equally divided in opinion, then the decision of the President, shall be the decision of the Court. 45
- President to deliver decision. 79. The decision of the Court shall in every case be delivered by the President.
- Matters may be referred to a Board for investigation.  
1894, s. 66, altered. 80. The Court may refer any matters before it to a Board for investigation and report, and in such case the award of the Court may, if the Court thinks fit, be based on the report of the Board. 50
- Court may dismiss frivolous cases.  
1894, s. 67. 81. The Court may at any time dismiss any matter referred to it which it thinks frivolous or trivial, and in such case the award may be limited to an order upon the party bringing the matter before the Court for payment of costs of bringing the same. 55

82. The Court in its award may order any party to pay to the other party such costs and expenses (including expenses of witnesses) as it deems 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:

Court may award costs and apportion same.  
1894, s. 69 (1).

Provided that in no case shall costs be allowed on account of agents, solicitors, or counsel.

83. The award of the Court on any reference shall be made within one month after the Court began to sit for the hearing of the reference, or within such extended time as in special circumstances the Court thinks fit.

When award to be made.  
1894, s. 68.

84. The award shall be signed by the President, 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 during office-hours by all persons interested therein.

Award to be signed, sealed, and deposited in office.  
1894, s. 68.

85. (1.) The award shall be framed in such manner as shall best express the decision of the Court, avoiding all technicality where possible, and shall specify,—

Terms of award.  
1894, s. 70.

(a.) Each original party on whom the award is binding, being in every case each industrial union, industrial association, or employer who is party to the proceedings at the time when the award is made;

(b.) The industry to which the award applies;

(c.) The industrial district to which the award relates, being in every case the industrial district in which the proceedings were commenced;

(d.) The currency of the award, being any specified period not exceeding two years from the date of the award.

(2.) The award shall also state in clear terms what is or is not to be done by each party on whom the award is binding, or by the workers affected by the award, and may provide for an alternative course to be taken by any party:

Provided that in no case shall the Court have power to fix any age for the commencement or termination of apprenticeship.

1898, s. 4.

(3.) The award, by force of this Act, shall extend to and bind as subsequent party thereto every industrial union, industrial association, or employer who, not being original party thereto, is at any time during its currency connected with or engaged in the industry to which the award applies within the industrial district to which the award relates.

86. With respect to every award, whether made before or after the commencement of this Act, the following special powers shall be exercisable by the Court by order at any time during the currency of the award, that is to say:—

Special powers to extend, or join parties to, an award.

(1.) Power to amend the provisions of the award for the purpose of remedying any defect therein or of giving fuller effect thereto.

(2.) Power to extend the currency of the award, but so, nevertheless, that the unexpired currency shall in no case exceed two years.

Application may be made to Court by any party.

Award under seal to be evidence.  
1894, s. 71.

Proceedings not to be impeached for want of form.  
1894, s. 72.

Court to fix what constitutes breach of award and penalty therefor.  
1898, s. 3.

Court may prescribe minimum rate of wages.  
1898, s. 6.

Amount of costs or expenses to be fixed.  
1898, s. 7.

Provisions for enforcing awards.  
1898, s. 8.

(3.) Power to extend the award so as to join and bind as party thereto any specified industrial union, industrial association, or employer not then bound thereby or party thereto, but connected with or engaged in the same industry as that to which the award applies.

87. (1.) The powers by the *last-preceding* section hereof conferred upon the Court may be exercised on the application of any party bound by the award.

(2.) At least seven days' notice of the application shall be served on all other parties, including, in the case of an application under subsection *three* of that section, every industrial union, industrial association, or employer to whom it is desired that the award should be extended.

(3.) The application may be made to the Court direct, without previous reference to the Board.

88. In all legal and other proceedings on the award 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 the award.

89. 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, order, 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.

90. 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 in respect of any breach.

91. 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 such tribunal, in such manner, and subject to such provisions as are specified in that behalf in the award or order.

92. In every case where the Court in its award or other order directs the payment of costs or expenses it shall fix the amount thereof, and specify the parties or persons by and to whom the same shall be paid.

93. For the purpose of enforcing any award or order of the Court, whether made before or after the commencement of this Act (but not being an order under section *ninety-five* hereof), the following provisions shall apply:—

(1.) In so far as the award itself imposes a penalty or costs 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.

(2.) If any party 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, the Registrar or any party to the award may, by application in the prescribed form, apply to the Court for the enforcement of the award.

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- (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 :

5            Provided that in no case shall costs be given against the Registrar.

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

10            Provided that the aggregate amount of penalties payable under any award or order of the Court shall not exceed *five hundred* pounds.

- (5.) For the purpose of enforcing payment of the penalty and costs payable under any order of the Court, 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 civil jurisdiction to the extent of such amount, and shall thereupon, according to its tenor, be enforceable in all respects as a final judgment of such Court in its civil jurisdiction :

15            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 or industrial association, 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 or an industrial association, and its property is insufficient to fully satisfy the judgment debt, its members shall be liable for the deficiency :

25            Provided that no member shall be liable for more than *ten* pounds under this subsection.

- (7.) For the purpose of giving full effect to the *last-preceding* subsection hereof, the Court or the President thereof 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.

30            94. (1.) For the purpose of enforcing industrial agreements, whether made before or after the commencement of this Act, the provisions of subsections *two* to *seven* of the *last preceding* section hereof shall, *mutatis mutandis*, apply in like manner in all respects as if an industrial agreement were an award of the Court, and the Court shall accordingly have full and exclusive jurisdiction to deal therewith.

35            95. The Court shall have full and exclusive jurisdiction to deal with all offences under either subsection *six* of section *seventy-six* or section *one hundred* of this Act, and for that purpose the following provisions shall apply :—

Provisions for enforcing industrial agreements. 1898, s. 9.

Jurisdiction of Court to deal with offences. 1898, s. 10.

- (1.) Proceedings to recover the penalty by this Act imposed in respect of any such offence shall be taken in the Court in a summary way under the provisions of "The Justices of the Peace Act, 1882," and those provisions shall, *mutatis mutandis*, apply in like manner as if the Court were a Court of Justices exercising summary jurisdiction under that Act: 5

Provided that in the case of an offence under section *one hundred* of this Act (relating to contempt of Court) the Court, if it thinks fit so to do, may deal with it forthwith without the necessity of an information being taken or a summons being issued. 10

- (2.) For the purpose of enforcing any order of the Court made under this section a duplicate thereof shall, by the Clerk of Awards, be filed in the nearest office of the Magistrate's Court, and shall thereupon, according to its tenor, be enforced in all respects as a final judgment, conviction, or order duly made by a Stipendiary Magistrate under the summary provisions of "The Justices of the Peace Act, 1882." 15 20

- (3.) The provisions of sections *eighty-eight* and *eighty-nine* of this Act shall *mutatis mutandis* apply to all proceedings and orders of the Court under this section.

- (4.) All penalties recovered under this section shall be paid into the Public Account and form part of the Consolidated Fund. 25

*General Provisions as to Board and Court.*

References to Board or Court to be approved by resolution of union.  
In lieu of 1898, s. 5.

96. An industrial dispute shall not be referred for settlement to a Board by an industrial union or association, nor shall any application be made to the Court by any such union or association for the enforcement of any industrial agreement or award or order of the Court, unless and until the proposed reference or application has been approved by the members in manner following, that is to say,— 30

- (1.) In the case of an industrial union, by resolution passed at a special meeting of the union; and 35

- (2.) In the case of an industrial association, by resolution passed at a special meeting of the members of the governing body of the association, and confirmed at special meetings of a majority of the unions represented by the association. 40

Special meeting for such purpose.

97. (1.) Each such special meeting shall be duly constituted, convened, and held in manner provided by the rules, save that notice of the proposal to be submitted to the meeting shall be posted or given to all the members, and that the proposal shall be deemed to be carried if, but not unless, a majority of the members present vote in favour of it. 45

Certificate of Chairman evidence.

(2.) A certificate under the hand of the chairman of any such special meeting shall, until the contrary is shown, be sufficient evidence as to the due constitution and holding of the meeting, the nature of the proposal submitted, and the result of the voting. 50

Appointment of experts as Assessors to Board or Court.  
1895, s. 4.

98. Whenever an industrial dispute involving technical questions is referred to the Board or Court the following special provisions shall apply:—



- (1.) At any stage of the proceedings the Board or the Court, on its own motion or on the application of any of the parties, may direct that two experts be nominated by the parties to sit as Assessors.
- 5 (2.) One of the Assessors shall be nominated by the party, or, as the case may be, by all the parties, whose interests are with the employers; and one by the party, or, as the case may be, by all the parties, whose interests are with the workers.
- 10 (3.) The Assessors shall be nominated in such manner as the Board or Court directs, or as is prescribed by regulations, and shall be deemed to be members of the Board or Court for the purpose of disposing of such dispute.
- 15 (4.) The powers by this section conferred upon the Board and the Court respectively shall, whilst the Board or the Court is not sitting, be exerciseable by the Chairman of the Board and the President of the Court respectively.

99. (1.) In order to enable the Board or Court the 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,—

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

(2.) The powers by this section conferred upon the Board may, when the Board is not sitting, be exercised by the Chairman.

(3.) The powers by this section conferred upon the Court may, when the Court is not sitting, be exercised by the President.

100. If in any proceedings before the Board or Court any person wilfully insults any member of the Board or Court or the Clerk, or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the Board or Court, it shall be lawful for any officer of the Board or Court, or any member of the Police Force, to take the person offending into custody and remove him from the precincts of the Board or Court, to be detained in custody until the rising of the Board or Court, and the person so offending shall be liable to a penalty not exceeding *ten* pounds.

101. If, without good cause shown, any party to proceedings before the Board or Court fails to attend or be represented, the Board or Court may proceed and act as fully in the matter before it as if such party had duly attended or been represented.

102. (1.) Proceedings before the Board or Court shall not abate by reason of the seat of any member of the Board or Court being vacant for any cause whatever, or of the death of any party to the proceedings; and, in the latter case, the legal personal representative of the deceased party shall be substituted in his stead.

(2.) A recommendation or order of the Board, or an award or order of the Court, shall not be void or in any way vitiated by reason merely of any informality or error of form, or non-compliance with this Act.

Powers of Board or Court as to joinder, waiver, and extension of time.  
1898, s. 11.

Exercise of powers when Board or Court not sitting.  
1898, s. 12.

Penalty for contempt of Board or Court.  
1894, s. 64.

Power to proceed if any party fail to attend.  
1894, s. 65.

Proceedings not to abate by reason of death.

Recommendation or award not void for informality.  
1894, s. 70.

Proceedings of Board  
or Court to be public.  
1894, s. 61.  
1898, s. 16.  
Proviso.

103. (1.) The proceedings of the Board or Court shall be conducted in public :

Provided that, at any stage of the proceedings before it, the Board or Court, of its own motion, or on the application 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, the officers of the Board or Court, and the witness under examination) shall withdraw. 5

When sittings held.

(2.) The Board or Court may sit during the day or at night, as it thinks fit. 10

(5.) SPECIAL AS TO GOVERNMENT RAILWAYS.

Provisions as to  
Government rail-  
ways.  
1894, ss. 82, 83, and  
84, altered.

104. With respect to the Government railways open for traffic, the following special provisions shall apply, anything elsewhere in this Act to the contrary notwithstanding :—

Amalgamated  
Society of Railway  
Servants deemed  
registered.

(1.) The society of railway servants called "The Amalgamated Society of Railway Servants," and now registered under the Acts repealed by this Act, shall be deemed to be registered under this Act. 15

(2.) In the case of the dissolution of the said society, any reconstruction thereof, or any society of Government railway servants formed in its stead, may register under this Act as an industrial union of workers. 20

May enter  
into industrial  
agreement with  
Minister.

(3.) The Minister for Railways may from time to time enter into industrial agreements with the registered society in like manner in all respects as if the management of the Government Railways were an industry, and he were the employer of all workers employed therein. 25

Procedure in case of  
disputes.

(4.) If any industrial dispute arises between the Minister and the society it may be referred to the Court for settlement if the Minister so agrees. 30

(5.) If the Minister refuses or neglects to so agree, then the society may, by petition filed with the Clerk and setting forth the particulars of the matters in dispute, pray the Court to hear and determine the same.

(6.) Such petition shall be under the seal of the society and the hands of two members of the committee of management. 35

(7.) No such petition shall be filed except pursuant to a resolution of a special meeting of the society duly called for the purpose in accordance with its rules. 40

Jurisdiction of  
Court.

(8.) Such petition when duly filed shall be referred to the Court by the Clerk, and the Court, if it considers the dispute sufficiently grave to call for investigation and settlement, shall notify the Minister thereof, and appoint a time and place at which the dispute will be investigated and determined in like manner as in the case of a reference, and the Court shall have jurisdiction to hear and determine the same accordingly and to make award thereon. 45

(9.) In making any award under this section, the Court shall have regard to the Schedule to "The Government Railways Department Classification Act, 1896." 50

(10.) In any proceedings before the Court under this section the Minister may be represented by any officer of the Department whom he appoints in that behalf.

- (11.) All expenses incurred and moneys payable by the Minister under this section shall be payable out of moneys to be appropriated by Parliament for the purpose.
- 5 (12.) In no case shall the Board have any jurisdiction over the society, nor shall the society or any branch thereof have any right to nominate or vote for the election of any member of the Board.
- (13.) Except for the purposes of this section the Court shall have no jurisdiction over the society.
- 10 (14.) For the purposes of the appointment of members of the Court, the society shall be deemed to be an industrial association of workers, and may make recommendations to the Governor accordingly.

## (6.) MISCELLANEOUS.

15 105. 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*.

Notifications in *Gazette* to be evidence. 1894, s. 85.

20 106. (1.) Every 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 the 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

25 any power or authority contained in this Act :

Documents under seal of Court and certain signatures to be judicially noticed. 1894, s. 86.

Provided such signature is attached to some award, order, certificate, or other official document made or purporting to be made under this Act.

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

30 107. The Governor from time to time may make regulations for any of the following purposes :—

Regulations. 1894, 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 ;
- 35 (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 ;
- 40 (4.) Providing for the mode in which recommendations by industrial associations as to the appointment of members of the Court shall be made and authenticated ;
- 45 (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 ;
- 50 (6.) Providing generally for any other matter or thing necessary to give effect to this Act, or to meet any particular case ;
- 55 (7.) Prescribing what fees shall be paid in respect of any proceeding before a Board, or the Court, and the party by whom such fees shall be paid ;

Altered.

(8.) Prescribing what respective fees shall be paid to the members of the Court (other than the President) and to the members of the Board;

(9.) Prescribing what respective travelling-expenses shall be payable to the members of the Court (including the President) and to the members of the Board; and 5

(10.) For any other purpose for which regulations are contemplated or required in order to give full effect to this Act.

Regulations to be laid before Parliament.  
1894, s. 87.

108. All such regulations shall come into force on the date of the gazetting thereof, and shall be laid before Parliament within 10 fourteen days after such gazetting, if Parliament is then in session, or, if not in session, then within fourteen days after the beginning of the next session.

Saving of fees payable in other Courts.  
1894, s. 87.

109. Nothing in this Act or the regulations thereunder shall supersede any fees payable by law in respect of proceedings under 15 "The Justices of the Peace Act, 1882," or in any Court of judicature.

Expenses (except in certain cases) payable out of moneys appropriated.  
1894, s. 88.

110. All charges and expenses incurred by the Government in connection with the administration of this Act shall be defrayed out of such annual appropriations as from time to time are made for that purpose by Parliament. 20

Stamp duty not payable in certain cases.  
1894, s. 90.

111. No stamp duty shall be payable upon or in respect of any registration, certificate, agreement, award, statutory declaration, or instrument effected, issued, or made under this Act:

Provided that nothing in this section contained shall apply to the fees of any Court payable by means of stamps. 25

Repeal.  
Saving.

112. The Acts specified in the Schedule hereto are hereby repealed: Provided nevertheless as follows:—

(1.) Every person appointed to any office under such repealed Acts, and holding office at the time of the repeal, shall be deemed to have been duly appointed under this Act; 30

(2.) Every union or association registered and incorporated under such repealed Acts at the time of the repeal shall be deemed to be registered and incorporated under this Act;

(3.) All registers, records, certificates, and official documents existing under such repealed Acts at the time of the repeal shall enure and continue for the purposes of this Act; 35

(4.) All proceedings pending under such repealed Acts at the time of the repeal may be continued and completed under this Act.

Act not to apply to Crown or Government Departments.

113. Except as provided by section *one hundred and four* 40 hereof nothing in this Act shall apply to the Crown, or to any department of the Government of New Zealand.

Schedule.

## SCHEDULE.

## ACTS REPEALED.

1894, No. 14.—"The Industrial Conciliation and Arbitration Act, 1894."

1895, No. 30.—"The Industrial Conciliation and Arbitration Act Amendment Act, 1895."

1896, No. 57.—"The Industrial Conciliation and Arbitration Act Amendment Act, 1896."

1898, No. 40.—"The Industrial Conciliation and Arbitration Act Amendment Act, 1898."