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Hon. Mr. Reeves.

INDUSTRIAL CONCILIATION.

ANALYSIS.

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A BILL INTITLED

Title.	AN Act to encourage the Formation of Industrial Unions and Associations, and to facilitate the Settlement of Industrial Disputes.	
Preamble.	WHEREAS it is desirable to provide for adjustment of labour disputes and for the settlement of differences between employers and employed :	5
	BE IT THEREFORE 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 Act, 1892.”	10
Commencement.	It shall come into force on the <i>first</i> day of October , <i>January</i> , one thousand eight hundred and ninety-two- <i>three</i> .	
Act not to affect “ Trade Union Act, 1878.”	2. Nothing in this Act contained shall be construed to repeal or in any way affect or supersede any provisions of “ The Trade Union Act, 1878.”	15
Interpretation.	3. In this Act, unless the context otherwise requires,— “ Association ” means any association of unions registered pursuant to this Act :	
	<i>Struck out.</i>	
	“ Certified ” means certified in manner prescribed :	20
	“ Committee ” means the committee of any union :	
	“ Council ” means the council of any association :	
	“ Court ” means the Court of Arbitration constituted under this Act :	
	“ Industrial agreement ” means an industrial agreement made pursuant to this Act :	25
	“ Industrial dispute ” means any dispute arising between <i>one or more employers or unions of employers and one or more unions of employes</i> in relation to industrial matters as herein defined.	
	“ Industrial matters ” includes all <i>or any</i> matters relating to pay , <i>the remuneration of any kind</i> , wages, hours of employment, sex or <i>age</i> , <i>qualification or status</i> of employes, the employment of children or young persons, dismissals, refusals to employ any particular <i>person or persons</i> or class of persons, <i>and all other matters or things affecting or relating to the nature of work, privileges, rights, or duties of employers or employes</i> in any industry :	30
	“ Industry ” means any business, trade, <i>manufacture</i> , undertaking, calling, or employment of an industrial character :	
	“ Minister ” means the Minister of Labour, or such other member of the Executive Council as shall for the time being be exercising the functions of such Minister :	35
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“Person” includes every person, company, and corporate body:

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

5 “President” means the President of the Court of Arbitration constituted under this Act:

“Public notice” means a notice by advertisement published in the *Government Gazette*:

“Registrar” means the Registrar of Friendly Societies:

10 ~~“Secretary” means secretary of a union:~~

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

15 “Union” ~~means an industrial union registered pursuant to this Act.~~ means any trade union as defined by section two of “*The Trade Union Act, 1878*,” and capable of being registered under that Act:

20 *New subsection.*

“Registered union” means any union registered as an industrial union pursuant to this Act.

25 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 UNIONS AND ASSOCIATIONS.

30 (1.) *Unions.*

4. Any number of persons residing within the colony lawfully associated for the purpose of protecting or furthering the interests of employers or employes in or in connection with any industry in the colony may register their society as an industrial union pursuant to this Act in manner prescribed, and in compliance with the following requisites:—

(1.) An application for registration shall be forwarded to the Registrar signed by two or more officers of the society.

40 (2.) Such application shall be accompanied by a statement of the name by which it is desired that the union shall be registered, and by a copy of the rules by which it is desired that the affairs of the union shall be regulated.

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

45 (a.) The appointment and continuance of a committee of management and a chairman and secretary, and the supplying any vacancy occurring through any cause prescribed by the rules, or by death or resignation:

50 (b.) The powers of the committee, and the control of the committee by general meetings, and the mode of the exercise of the powers of the committee, and of the control of general meetings, and the mode in which industrial agreements and any other deeds or documents respectively shall be made and by whom executed on behalf of the union:

(c.) The mode in 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 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. 5

(d.) The conduct of the business of the union at some convenient address to be specified, and to be called the registered office of the union. 10

The rules may also provide for any other matters not contrary to law desired by the persons making the application for registration, and the rules may provide for their repeal or alteration, but so that the requisites of subsection *three* of this section shall always be provided for. 15

Name.

5. There shall be inserted in the registered name of every industrial union the word employers or employés, according to whether such union shall be a union of employers or employés. 20

Registration.

6. On being satisfied that registration is desired by a majority of the members of the union, and that the provisions of section *four* 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, which, unless proved to have been cancelled, shall be conclusive evidence of the fact of such registration and of the validity thereof. 25

Trade unions may be registered under this Act.

7. Any trade union registered under "The Trade Union Act, 1878," may be registered by the same name under this Act by making a formal application to the Registrar for the purpose, without complying with the requirements of section *four* of this Act; and the Registrar shall register such trade union accordingly, and issue a certificate of registration forthwith. 30

No unions to be registered by similar names.

8. 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 nearly resembling any such name as to be likely to deceive the members or the public. 35

~~No trade union may make an industrial agreement under this Act unless such union is registered under this Act, notwithstanding its registration under "The Trade Union Act, 1878."~~ 40

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. 45

Effect of registration.

9. The effect of registration shall be to render the union, and all persons who may be members thereof at the time of registration, or who may thereafter become members thereof, subject to the jurisdiction hereby given to Boards of Conciliation and Courts of Arbitration respectively, and liable to all the provisions of this Act, and bound— 50

(a.) By the rules of the union during the continuance of the membership.

(b.) By all industrial agreements and industrial awards made by or affecting the union at any time during the membership.

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10. Any union may at any time through the committee apply to the Registrar in manner prescribed 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
 5 no registration shall be cancelled during the progress of any conciliation or arbitration affecting such union until the Board or Court has made its decision or 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
 10 relieve any union, or any member thereof, from the obligation of any industrial agreement or industrial award.

Cancellation of registration.

(2.) *Associations.*

11. Any council or other body, however designated, representing any number of unions established within the colony may register
 15 itself as an industrial association, pursuant to this Act in manner prescribed, and on compliance with the following requisites:—

Application for registration.

- (1.) An application for registration shall be forwarded to the Registrar, signed by a majority of the members of such council:
- 20 (2.) Such application shall be accompanied by a statement of the name by which it is desired that the unions shall be associated, and by a copy of the rules by which it is desired that the affairs of the association shall be regulated:
- 25 (3.) Such rules shall specify the purposes for which the associa-

Rules.

(a.) The appointment and continuance of council of management and chairman, secretary, or other officers; and the supplying any vacancy occurring through any cause prescribed by the rules, or by death or resignation;

30 (b.) The powers of the council, and the control of the council by general meetings, and the mode of the exercise of the powers of the council, and of the control of general meetings, and the mode in which industrial agreements and any other deeds or documents respectively shall be made and by whom executed on behalf of the association;

35 (c.) The mode in which unions shall become or cease to be members, but so that no union shall discontinue their membership without giving at least six months' previous written notice to the chairman of intention so to do, nor until such union has paid all fees or other dues payable by it to the association under the rules thereof, and which fees or dues 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;

40 (d.) The conduct of the business of the association at some convenient address to be specified, and to be called the registered office of the association.

50 The rules may also provide for any other matters not contrary to law desired by the persons making the application for registration, and the rules may provide for their repeal or alteration, but so that the requisites of subsection *three* of this section shall always be provided for.

Name.	12. There shall be inserted in the registered name of every industrial association the word "employers," or "employés," according to whether such associations shall be a union of employers or employés.	
Registration.	13. On being satisfied that the provisions of section <i>eleven</i> in relation to an application for registration have been complied with, the Registrar shall register, without fee, the council representing the unions applying for association as an industrial association pursuant to their application; and shall issue a certificate of registry which, unless proved to have been cancelled, shall be conclusive evidence of the fact of such registration and of the validity thereof.	5 10
Effect of registration.	14. The effect of registration shall be to render the association and all unions and all persons who may be members thereof at the time of registration, or who may thereafter become members thereof, or of any associated union, subject to the jurisdiction hereby given to Boards of Conciliation and Courts of Arbitration respectively, and liable to all the provisions of this Act, and bound— (a.) By the rules of the association during the continuance of the membership; (b.) By all industrial agreements and industrial awards made or affecting the association at any time during the membership.	15 20
Withdrawal.	15. Any union desiring to withdraw from any association may, on compliance with the rules of the association relating to withdrawal, procure from the Registrar a certificate of withdrawal.	25
Cancellation.	16. Any association may at any time, through the council, apply to the Registrar in manner prescribed 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 association until the Board or Court has made its decision or award, nor in any case unless the Registrar shall be satisfied that the cancellation is desired by a majority of the members of the associated unions; and no cancellation of any registration shall relieve any association or associated union, or any member thereof, from the obligation of any industrial agreement or industrial award.	30 35
	(3.) <i>General.</i>	
Half-yearly lists of associations.	17. Every half-year, in the months of April <i>January</i> and October <i>July</i> , there shall be forwarded to the Registrar by every association a certified list of the unions constituting such association.	40
Half-yearly lists of unions.	18. Every half-year, in the same months, there shall be forwarded to the Registrar by every union a certified list of the members of such union.	
Alterations of rules.	19. Certified copies of all alterations of the rules of any union or association shall forthwith as such alterations are made be forwarded to the Registrar.	45
Penalty on non-compliance.	20. Every association or union making default in forwarding to the Registrar any list or copy required to be forwarded by either of the <i>three last-preceding</i> sections shall be guilty of an offence against this Act, punishable by a penalty not exceeding <i>two</i> 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	50

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a penalty not exceeding *five* shillings for every week during which he wilfully permits such default.

Struck out.

5 21. The Registrar, on the request of any person interested, shall investigate and decide in such manner as he shall think fit any matter relating to the rules or repeal or alteration of the rules, or any membership or cesser of membership of any union or association, and a certificate of the Registrar dealing with any such question shall be conclusive evidence of the matter therein stated, unless such certificate shall be varied by a subsequent certificate of the Registrar, in which case the subsequent certificate shall prevail.

10 22. The Registrar shall only once reopen, for the purpose of varying, any matter which he shall have disposed of by a certificate, and then only with the previous written consent of the Minister.

15 23. The Minister may review, annul, rescind, or vary any act or decision of the Registrar in any manner which he shall think fit, and if the Minister shall annul, rescind, or vary any such act or decision he shall, within fourteen days thereafter, if Parliament be then sitting, or if Parliament be not then sitting, then within fourteen days after the first meeting of Parliament thereafter, lay before both Houses of Parliament a return showing the mode in which he has annulled, rescinded, or varied such act or decision, and his reasons for such annulment, rescission, or variation.

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Matters may be decided by Registrar.

Reopening of matters decided by Registrar.

Minister may review decision of Registrar.

PART II.

INDUSTRIAL AGREEMENTS.

25 24. Industrial agreements may be made between unions and associations, or between unions or associations and any other persons, regulating or in relation to industrial matters, or for the prevention or settlement of disputes and differences in any wise relating thereto, or for any other object or purpose for which any industrial agreement may be made under this Act.

30 25. 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 be in a form commencing as follows: "This industrial agreement made in pursuance of 'The Industrial Conciliation Act, 1891,' this day of , between , and the date of the making of such agreement shall be the date when such agreement shall be first executed by any party thereto, and such date and the names of all unions, associations, or persons parties to such agreement shall be truly stated therein.

40 26. A duplicate of every industrial agreement shall be filed in the Supreme Court office of the district within thirty days of the making thereof, and a fee of *five* shillings shall be paid in respect of every agreement so filed.

45 27. 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 union or association party thereto, and on every person who in manner prescribed shall signify to the Registrar of the Supreme Court where such agreement is filed concurrence therein, and all such persons shall be entitled to the benefit thereof.

50 28. Every industrial agreement may be varied, renewed, or cancelled by any subsequent industrial agreement made by the persons bound thereby, but so that no person shall be deprived of the benefit of any industrial agreement by any subsequent industrial agreement by which he shall not be bound.

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Industrial agreements.

Term and form.

Duplicate to be filed.

Effect of industrial agreement.

Alteration of agreement.

Penalty for default
of agreement.

29. If any union or association or person bound by any industrial agreement shall in any particular make default in compliance therewith, or commit or suffer a breach thereof, such union or association or person shall for every such default or 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 ~~in the case of an union or association not exceeding five hundred pounds, and in the case of an individual not exceeding fifty pounds.~~ 5

Rules may define
a default.

Nothing herein contained shall deprive any person who may be damnified of his right of action for redress or compensation in respect of any default or breach of an agreement. 10

30. ~~The rules of any association or any industrial agreement or award may fix and determine what shall constitute a default or breach of an agreement by a union or association or person within the meaning of this Act.~~ 15

Enforcement of
agreement.

31. All provisions hereinafter in Part III. of this Act contained with reference to the enforcement of awards shall apply to the enforcement of industrial agreements and of penalties thereunder in like manner as if agreements had been mentioned in such provisions whenever awards are referred to. 20

New clause.

31A. 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. 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 or law, 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, unless the Governor shall otherwise determine. 25 30

PART III.

CONCILIATION AND ARBITRATION.

(1.) *Preliminary.*

Office of Clerks
of Awards.

32. In and for every ~~provincial~~ *industrial* district the Governor shall appoint a Clerk of Awards, 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 said Registrar all proceedings and matters commenced, taken, or done by or before him. The office of Clerk of Awards may be held either separately or in conjunction with any other office in the public service, as the Governor may determine. 35 40

Duties, &c., of
Clerks of Awards.

33. It shall be the duty of the Clerk of Awards—
- (1.) To receive and register, and, subject to the provisions of this Act, to deal with all applications and petitions within his district lodged by employers or workmen, or on their behalf, for reference to the Board of Conciliation for the district, or to the Court of Arbitration, of any dispute or claim within the meaning of this Act; 45 50
 - (2.) To convene the said Board or Court for the purpose of dealing with any such dispute or claim;
 - (3.) To keep a register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by the said Board, and of all references and awards made to and by the Court of Arbitration; and 55

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5 (4.) Generally to do all such things and take all such proceedings as may be required in the performance of his duties in accordance with the regulations to be made under this Act, or, in the absence of regulations, with the directions of the Registrar.

The Clerk of Awards shall be the officer to issue all summonses to witnesses to attend to give evidence, with or without the production of papers and documents, before the said Board or Court, and to issue all notices and perform all other acts in connection with the sittings of the said Board or Court in the prescribed manner.

Clause struck out.

15 34. No claim or dispute shall be the subject of conciliation or arbitration under this Act in any case in which the workmen or employes affected by such claim or dispute shall be fewer in number than ten. And in every case referred to a Board of Conciliation or to the Court of Arbitration constituted under this Act such Board or Court shall have power to require any party to the claim or dispute so referred to, being workmen, to name so many persons not exceeding three, who shall for all purposes of the reference and the decision, or award thereon, be the representatives of and be responsible for such party, and be bound by any award to be made upon such reference.

Provisions as to parties and representatives.

25 35. Any Board of Conciliation and the Court of Arbitration, and any member of such Board or Court, without any other warrant than this Act, at any time between sunrise and sunset—

Powers of entry for purpose of viewing.

30 May enter upon any manufactory, building, workshop, factory, mine, mine-workings, shed, or premises of any kind whatsoever, wherein or in respect of which any work is being or has been done or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such Board or Court; and

35 May inspect and view any work, material, machinery, appliances, matter, or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine-workings, shed, or premises.

40 And any person who shall hinder or obstruct any other person in the exercise of any power conferred on such last-mentioned person by this section, or who shall refuse to such person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine-workings, shed, or premises, shall for every such offence be liable to a penalty not exceeding fifty pounds.

45 36. The following persons shall be disqualified from being appointed or elected, or from holding office as members or chairmen of any District or other Board of Conciliation or of the Court of Arbitration, and if so elected or appointed shall be incapable of continuing to be such members or chairmen:—

Disqualification.

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

(2.) Boards of Conciliation.

37. In and for every provincial industrial district there may be established a District Board of Conciliation, to have jurisdiction for

District Boards for industrial districts.

the settlement of industrial disputes occurring in such district which may be referred to them by ~~any unions or associations of employers and employes respectively by resolution of the unions or associations concerned, or be referred to them~~ *one or more of the parties to any industrial dispute* or by industrial agreement. 5

(1.) Every District Board shall consist of not more than six nor less than four persons chosen by the *registered* unions of employers and of employes respectively in the *provincial industrial* district :

(2.) The members of the Board shall hold office for three years, and shall be elected triennially, subject to section *thirty-six*, in manner prescribed by the *registered* unions of employers and employes engaged in industries in the district, such unions separately voting for and electing an equal number of such members : 10

(3.) The persons so chosen shall, at their first meeting, elect some impartial person, not being one of their number, to be chairman of the Board, who shall hold office for three years from the date of his election ; and any casual vacancy in the chairmanship shall be supplied in the same manner at some subsequent meeting. 15 20

On the petition of any number of ~~unions of employers and or unions of employes respectively,~~ in a *provincial an industrial* district where no District Board of Conciliation exists, the Governor by warrant may direct a District Board to be constituted for such district. 25

Constitution of Boards to be notified to Supreme Court.

38. The chairman of every District Board shall deposit in the Supreme Court office forthwith after his own election to the Board a statutory declaration of his election and of the appointment of the members constituting the said Board. For every such deposit there shall be paid to the Supreme Court a fee of *two shillings and sixpence*. 30

Power to continue member in office.

39. The ~~Minister,~~ *Governor*, by any writing under his hand, in the event of the period of office of the members of any District Board expiring whilst such Board shall be seized of any matters in dispute, may continue such members in office for any time not exceeding altogether one month, in order to enable such members to take part in the settlement of such matters in dispute. 35

Casual vacancies.

40. Any casual vacancy occurring among the members of any Board by death, disqualification, or resignation by letter addressed to the Board, shall be supplied in the same manner as the original appointment or election was made, and the person so appointed or elected shall hold office in the Board only for the residue of the term of his predecessor therein. 40

Quorum.

41. The presence of the chairman and of not less than one-half in number of the other members of a District Board of Conciliation shall be necessary to constitute a quorum. 45

Decision of questions.

In all matters coming before any District Board of Conciliation 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. 50

Special Boards of Conciliation.

42. (1.) The appointment for any *provincial industrial* district of a District Board of Conciliation under the provisions hereinbefore contained shall not prevent the appointment from time to time, as occasion may require, of a special Board of ~~four~~ conciliators, *two an* 55

equal number by each party to any dispute or claim arising within such district, by or on behalf of any employer or the workmen of any employer, for the purpose of dealing with any reference of such dispute or claim; or prevent the parties, as last aforesaid, from each
 5 selecting ~~two~~ *an equal number of* members of the District Board of Conciliation to form the special Board to deal with such reference.

(2.) The members of any such Board, together with a Chairman, to be elected as provided in section *thirty-seven*, shall, for all purposes of this Act, except in respect of the duration of their office, be deemed
 10 to be and to possess all the powers of a District Board of Conciliation appointed as hereinbefore provided.

43. Any industrial dispute or claim within the meaning of this Act may be referred for settlement to a District or Special Board of Conciliation by industrial agreement, or in manner following:—

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

20 (2.) Either party to a dispute or claim may, for the purposes of this Act, be represented by one or more persons *not being barristers or solicitors of the Supreme Court* (not exceeding three) authorised in writing by such party to represent him or them, and shall be bound by the acts of every such representative or representatives. ~~And where the persons interested in any such dispute or claim as a party number more than twenty, they may appoint or elect, in such manner as they may think proper, any one or more persons (not exceeding three) to represent them as aforesaid. And such person or persons may be designated the manager or managers of the case.~~

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

35 (4.) The Clerk of Awards shall file in his own office a copy, and transmit the original report of the result of every such reference, certified under the hand of the chairman of the Board, together with all papers relating to the reference, to the Registrar, which report and papers shall be filed of record by such Registrar.

40 (44.) Every Board of Conciliation 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
 45 powers of a Board of Commissioners appointed by the Governor in Council under "The Commissioners' Powers Act, 1867."

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

Procedure.

Boards may compel witnesses to attend, &c.

Settlement of
dispute.

45. 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 matters in dispute by agreement between the parties; 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 recommendation or decision in writing, which shall be under the hand of the chairman of the Board. 5

Reference to sub-
committee or to
Court of Arbitration.

46. In particular, but without limiting the general power given Boards generally by the *last-preceding* section, any District Board may 10

(1.) Temporarily refer the matters in dispute to a committee of their number, consisting of an equal number of representatives of employers and employés, who shall endeavour to reconcile the parties; or

(2.) Absolutely refer any matter before them for settlement by the Court of Arbitration. 15

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

47. If the Board of Conciliation shall, by writing signed by the Chairman thereof, report to the Clerk of Awards that they have been unable to bring about any settlement or adjustment of any dispute or claim referred to them satisfactory to the parties thereto (and it shall be the duty of such Board in every such case to make such report), the Clerk of Awards on the receipt of such report shall transmit a copy (certified by him) of such report to each party to the dispute or claim, whereupon either party may, in the prescribed manner, require the Clerk of Awards to refer the said dispute or claim to the Court of Arbitration for settlement by award. The Clerk of Awards shall thereupon transmit all the papers in the reference to the Registrar for submission to the Court of Arbitration in the prescribed manner. 20 25

Clause struck out.

48. If either party to a dispute or claim is dissatisfied with the decision of the District or Special Board of Conciliation, as may be the case, on any matter brought before such Board under the provisions hereinbefore contained, such party may bring such matter before the Court of Arbitration by petition lodged with the Clerk of Awards, and such Court shall have power and jurisdiction to review such decision, in the same manner as if the original question on which such decision was given had been initiated in the said Court by industrial agreement.

(3.) *The Court of Arbitration.*

Court of Arbitration
established. Seal.

49. There shall be one Court of Arbitration for the whole colony for the settlement by award of disputes and claims pursuant to this Act. Such Court shall have a seal which shall be judicially noticed, and impressions thereof admitted in evidence. 30

Appointment of
members of Court.

50. 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 associations of unions of employés of the colony, and one to be appointed by him on the recommendation of the ~~councils~~ unions or a majority of the ~~councils~~ of the associations of unions of employers thereof. No recommendation shall be made as to the third member, who shall be the President of the Court, and be an impartial person not personally connected with or interested in any trade or industry, or likely by reason of his former occu- 35 40

5 pation, business, vocation, or other influence to be biassed in favour of or against either employers or workmen and shall be a Judge of the Supreme Court, who shall be appointed to such office from time to time by the Governor; and, in case of the illness or unavoidable absence of such Judge at any time, the Governor may appoint some fit person to be, and act as, President of the Court, who shall hold office only during the illness or unavoidable absence of such Judge.

The procedure for the purpose of giving effect to this section shall, subject to section *thirty-six*, be as follows:—

10 ~~(1.) Each such Council shall submit to the Minister a list containing at least four names, and on the request of the Minister shall submit a fresh or supplementary list containing at least four new names, until an appointment shall be made.~~

15 (1.) Each such council and union 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 respectively 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 said councils or unions, or in the event of the majority of any council or union 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 or unions, as the case may be.

20 (2.) As soon as practicable after a full Court shall have been appointed by the Governor, the names of the members of the Court of Arbitration so appointed shall be notified in the *Gazette*. ~~by the Minister.~~

25 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. Tenure of office.

30 The Governor may remove any member of the Court from office, for any reason he shall think sufficient, or for continued absence from the sittings of the Court.

Struck out.

51. The Court of Arbitration shall have jurisdiction for the settlement of all such industrial disputes as shall be referred to it by any Board of Conciliation, or by any industrial association, or by petition under sections *forty-eight* ~~seven~~ or *seventy-five* ~~or by way of compulsory arbitration pursuant to section sixty-eight~~, or by industrial agreement; and for such purpose may summon any party to a dispute to appear before it. Jurisdiction of Court.

The Court shall have full and exclusive jurisdiction to determine the matters in dispute, and it shall proceed to hear, consider, and Procedure.

Struck out.

determine such matters in such manner and time as it thinks fit, with full power to adjourn the consideration of any matter, wholly or in part, for any period, or without stating any period.

References to arbitration, how made.

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

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

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

Provided that in the last-mentioned case, if the award of the Court of Arbitration shall not be complied with or carried out by the parties to any dispute or claim as aforesaid, or for any reason shall have proved abortive, the parties to the reference, or either of them, shall not thereby be precluded from referring the same to the Board of Conciliation.

New clause.

51A. The Court of Arbitration shall have jurisdiction for the settlement and determination of all such industrial disputes as shall be referred to it by any Board of Conciliation, pursuant to sections *forty-six* or *forty-seven*, or by petition under section *seventy-five*, or by reference under section *seventy-four*, or by industrial agreement, or by either party to an industrial dispute which has arisen in a district where no District Board of Conciliation has been constituted pursuant to this Act, and for such purpose may summon any party to a dispute to appear before it. 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 and time as it thinks fit, with full power to adjourn the consideration of any matter wholly or in part, for any period or without stating any period.

Fixing of time and place for settlement of dispute.

53. Within five days after any dispute has been submitted by the Registrar Clerk of Awards to the Court the President thereof 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.

President to have power to administer oaths and affirmations.

54. The President shall have power to administer oaths and affirmations to all witnesses who shall appear before the said 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 the person acting as President aforesaid.

Powers of President as to contempt.

55. For the purpose of enabling the Court to carry out the provisions and intention of this Act, the President shall, for the purpose

of preserving order during any sitting of the Court, and in relation to the requiring and compelling the attendance of any person or party to a dispute to appear before it, the requiring and compelling of the attendance of witnesses and the receiving or hearing of evidence, or
 5 *obtaining the evidence of witnesses at a distance*, the punishment of contempt, and the enforcement of the orders of the Court, be deemed to have and may exercise all the powers and duties of a Resident Magistrate under "The Resident Magistrates Act, 1867," and "The Resident Magistrates' Evidence Act, 1870;" and the
 10 provisions of the said Acts, *mutatis mutandis*, shall be applicable to all proceedings in the Court of Arbitration under this Act.

56. The Court shall sit and conduct its proceedings in open Court, and a majority of the members present may decide and finally
 15 determine any matters referred to them in such manner as they shall find to stand with equity and good conscience.

Voting at sittings of Court.

57. 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 mem-
 20 bers were present.

Non-attendance at Court sittings.

58. 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.

Adjournment of sitting.

Struck out.

59. In any case referred to the Court of Arbitration for its award, where a Board of Conciliation has been unable to bring about a settlement or adjustment of the same, it shall be lawful for the members of such Board of Conciliation, subject to the consent in writing of both parties to the said dispute or claim having been first obtained, to sit as assessors upon such reference to the Court of Arbitration, two members of such Board on behalf of each such party: Provided always that no such assessor shall take any part in the hearing or determination of the reference, other than as an assessor sitting to inform the Court when called upon to do so.

60. Either party to the dispute may appear personally or by
 25 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 President shall have power to summon any person to give evidence before the Court, or to produce any books, papers, and documents before the Court.

Appearance of parties concerned.

30 The Court shall be at liberty to receive or require any such evidence as it shall think fit, whether the same shall be strictly legal evidence or not.

Witnesses.

61. The Court may refer any matters referred to ~~them~~ *it* from time to time to a District Board of Conciliation for investigation and
 35 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.

Court may refer matters for inquiry by any B.ard of Conciliation.

62. 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.

Court may dismiss frivolous matters with costs.

Award, how to be made.

63. 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 under the hand of the President of the Court, and have the seal of the Court attached thereto. A copy of the award, certified under the hand of the President of the said Court, shall be deposited in the office of the Clerk of Awards of the district wherein the aforesaid reference arose. A duplicate of such copy shall be made under the direction of the said clerk and transmitted by him to the Registrar for filing in his office. Every copy of any award shall be open to inspection without charge during office-hours. 5

Costs.

64. The Court in its award may order either party to pay to the other party costs and expenses as it may deem reasonable, and the same or any other costs ordered by the Court to be paid may be recovered as a debt by the party entitled thereto under the award of the Court from the party liable therefor. 10

Validity of award.

65. In all legal and other proceedings it shall be sufficient to produce the award with the official seal of the Court thereto, and it shall not be necessary to prove any conditions precedent entitling the Court or President to make such award. 15

Proceedings of Court under this Act not to be impeached.

66. Proceedings in the Court of Arbitration under this Act 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 of Arbitration shall be liable to be challenged, appealed against, reviewed, quashed, or called in question by any Court on any account whatsoever. 20

No abatement.

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 representative of the party so dying. 25

Struck out.

(4.) *Compulsory Arbitration.*

67. If any industrial dispute shall hereafter arise between any unions and associations, the Minister may on petition of the unions or associations representing not less than forty employers or four hundred employes respectively, inquire into the nature and extent of such dispute, in such manner as he shall think fit, for the purpose of ascertaining whether or not it should be settled by compulsory arbitration.

68. If after such inquiry the Minister shall certify to the Governor that the dispute is one which should be settled by means of compulsory arbitration the Governor, by Proclamation published in the *Government Gazette*, may declare that all matters in dispute as aforesaid, to be mentioned in such Proclamation, or any of such matters, to be specified in such Proclamation, shall be referred to a District Board of Conciliation or to the Court of Arbitration to be mentioned in such Proclamation for settlement, and the same shall stand referred accordingly.

In every such case all the provisions of the Parts of this Act respectively applicable to the proceedings before a Board of Conciliation or the Court of Arbitration shall extend and apply accordingly as fully as if the matter had been originally referred to such Board or Court under the foregoing provisions of this Act.

(5.) *Enforcement of Awards.*

69. Every award of the Court shall specify the unions, associations, ~~and person or persons~~ on which or on whom it is intended that it shall be binding, and the period, not exceeding ~~three~~ two years from the making thereof, during which its provisions may be enforced. *Provided that the members of any union may be mentioned generally in any such award, and, when so mentioned, shall include all persons who are members at the date of such award, or may hereafter become so during its subsistence.*

Terms of awards.

70. The Court may order that a duplicate of any award shall be filed in the office of the Supreme Court, and, 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 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.

Court may order duplicate to be filed.

Thereafter during the period within which its provisions may be enforced, such award shall be binding upon all unions, associations, and persons upon which it shall be declared that it shall be binding, and upon all members of such unions and associations.

71. No process shall be issued for the enforcement of any such award by a payment from any 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.

Limitation of liability under award.

72. For the purpose of enforcing compliance with any such award and subsisting order or direction of the Supreme Court, or a Judge thereof, process may be issued and executed against the property of any union or association, or in which any 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 an incorporated company and the absolute owner of such property or interest.

Process against property of unions or associations.

73. All moneys which shall be received by virtue of any process for enforcing compliance with any award 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 of the Court of Arbitration may decide, for the benefit of those interested in the performance of the award.

Application of moneys received under process.

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PART IV.

GOVERNMENT RAILWAYS.

74. 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 Act in this section first mentioned, the Railway Commissioners appointed thereunder may make an industrial agreement with the Amalgamated Society of Railway Servants and

Railway Commissioners to be subject to jurisdiction of Court of Arbitration.

either the said Commissioners or the said society may refer any dispute between them to the Court of Arbitration established under this Act; and the said Commissioners, notwithstanding as aforesaid, may give effect to any terms of an award made by such Court.

The said Society may be registered as a union under this Act; and the Commissioners shall be deemed to be employers within the meaning and for the purposes of this Act. 5

On petition Court may compel Commissioners to submit to arbitration.

75. In case the Commissioners shall neglect or refuse to agree with the said society to refer any matter in dispute to the Court of Arbitration as aforesaid, the society may, by petition lodged with the Clerk of Awards, 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 issue a summons to the Commissioners requiring them to appear before the Court, and to submit the matters in dispute to its decision, and may compel the attendance of the said Commissioners for such purpose. 10 15

Notwithstanding anything in this Act contained, no Board of Conciliation constituted under this Act shall have jurisdiction in any matter of dispute between the Commissioners and the said society. 20

PART V.

MISCELLANEOUS.

Regulations.

76. The Governor from time to time may make all such rules or regulations not inconsistent with this Act, either applicable generally or to meet particular cases, as may be necessary or desirable to carry out the objects and purposes, or as he may consider convenient for the administration and execution thereof, or for establishing District Boards of Conciliation, and the election of the members thereof, and for any other purpose for which it is by this Act provided that regulations may be made; and by any such regulations may prescribe such fees to be paid (including fees to Presidents and other members of the Court of Arbitration, and by whom the same shall be paid) in relation to such administration as he shall think fit. 25 30

Nothing herein shall supersede any fees for the time being in force in the Supreme Court in relation to any proceedings or filing documents therein, otherwise than as is herein expressly provided. 35

Publication of regulations.

All such regulations shall be published in the Government Gazette, and within fourteen days after the making thereof shall be laid before both Houses of Parliament, if Parliament be then sitting, and if Parliament be not then sitting, then within fourteen days after the beginning of the next session of Parliament, and shall have the force of law from the date of such publication. 40

How unions or associations may sue.

77. Any union or association may sue or be sued for the purposes of this Act or otherwise in the name by which it is registered, and service of any process on the chairman or secretary, or at the registered office of the union or association shall be sufficient for all purposes. 45

Summary jurisdiction.

78. Every proceeding for any offence against this Act, not being an indictable offence, may be had and taken before and be heard and determined in a summary way by any Resident Magistrate or two Justices of the Peace under the provisions of "The Justices of the Peace Act, 1882." 50

Application of penalties.

79. All penalties recovered under this Act shall be paid into the Public Account and form part of the Consolidated Fund.