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BULLETIN

OF THE

DEPARTMENT OF LABOR.

No. 33. WASHINGTON. MARCH, 1901.

FOREIGN LABOR LAWS. (a)

BY W. F. WILLOUGHBY.

AUSTRALASIA.

The seven Colonies of Australasia are Queensland, New South Wales, Western Australia, Victoria, and South Australia, in Australia proper, the two islands of New Zealand, and the island of Tasmania. All but Victoria, South Australia, and New Zealand were originally settled as penal colonies in the forty or fifty years following 1787. The necessity that this policy caused for a large measure of government control may partly explain the active interference of the government of the different Colonies in the industrial life of the people. Whatever be the cause, however, governmental intervention, or state socialism, as it is sometimes called, has proceeded further in the Australasian Colonies than anywhere else.

This action on the part of the State is shown to a certain extent in the following statement of the labor laws that are now in force there. As the scope of these papers on foreign labor laws is strictly limited, however, to certain well-defined classes of legislation, the most important of which are those concerning the employment of women and children, night and Sunday work, labor in factories and workshops, arbitration, etc., (b) a large proportion of the most radical and characteristic of the social laws of the Colonies will not be here considered. In point of fact, it will be seen that with a few notable exceptions,

a In Bulletin Nos. 25, 26, 27, 28, and 30 more or less detailed accounts have been given of the labor laws of Great Britain, France, Belgium, Switzerland, Germany, Austria, Russia, the Netherlands, Italy, Norway, Sweden, and Denmark. In the present Bulletin the series of articles on Foreign Labor Laws is concluded with a consideration of the labor laws of the Australasian Colonies and the Canadian Provinces.

b See Introduction, Bulletin No. 25, page 768.

such as that of the law of New Zealand providing for the compulsory arbitration of labor disputes, the policy of European countries, and especially Great Britain, has been closely followed.

In presenting these laws it is a matter of regret that sufficient material has not been available to permit of a historical account of prior legislation in relation to labor, and the motives dictating the enactment of particular laws at the time they were passed. Little more, therefore, will be done than to reproduce, either in extenso or in summary, the laws now in force, with such comments as seem necessary in order to call attention to their important features.

To have given the laws of all the Colonies in extenso would have required more space than could be given to the subject, and resulted in unnecessary duplication, as the laws of the different Colonies are in many instances very similar to each other, and largely reproductions of British legislation. It was deemed best, therefore, to give the legislation of one of the Colonies in considerable detail, and New Zealand has been selected for this purpose. The legislation of the other Colonies is given in more summary form. In regard to the summaries it should be distinctly understood that all essential parts of the acts are reproduced, usually in the language of the acts themselves. The omitted portions are those relating to temporary provisions, the determination of boundaries of inspection districts, and such matters as can not possibly be of interest to other nations.

Finally, a word should be said in regard to the possible omission of laws for some of the Colonies which properly fall within the scope of this report. Every effort was made to secure copies of all labor laws now in force, and the author is much indebted to various officials in Australia for their efforts in his behalf. It is quite likely, however, that some have been omitted, particularly in the field of legislation in relation to the labor contract, right of association, apprenticeship, and Sunday labor, as frequently provisions regarding these points are found in general enactments declaring British laws to be in force in the Colony, in the criminal code, etc. As regards the two most important branches of labor legislation, however—those relating to the regulation of work in factories, workshops, and stores, and the conciliation and arbitration of industrial disputes—it is believed that the presentation is complete, exception only being made for the Colony of Victoria, the labor laws of which the Department did not succeed in securing.

NEW ZEALAND.

APPRENTICESHIP.

The subject of apprenticeship is regulated by the law of October 30, 1865, entitled The Master and Apprentice Act, 1865. This law may be said to have three purposes, the extension of the laws of England regarding apprentices to New Zealand as far as they were applicable,

the determination of the conditions under which orphans, deserted children, etc., might be indentured as apprentices, and the making of a few special provisions as called for by the special conditions in the Colony. The first is accomplished by the following provision:

All masters of apprentices in New Zealand shall have such and the like powers over every such apprentice as the master of every apprentice has by the laws of England, and shall be amenable and responsible for the due performance of the contract entered into between or on the part of such apprentice and themselves respectively in such and the like manner as the master of any apprentice would be by the laws of England, so far as the same are applicable to New Zealand and are not inconsistent with any of the provisions of this act.

The remaining sections of the law, dealing as they do chiefly with the indenturing of orphan and deserted children, scarcely come within the purpose of the present report. Briefly, they provide that the directors of orphan schools may bind out their pupils to apprenticeship, and that any 2 justices of the peace may do the same in respect to deserted children. Generally the supervision of apprentices is intrusted to the justices of the peace. The law contains a drastic provision that if any apprentice absents himself from his master's service before his term has expired, the master may cause the apprentice to be arrested; and upon a hearing before 2 justices of the peace, in a summary way the latter may determine what satisfaction the apprentice shall make to his master, and in case the apprentice can not give security to make such satisfaction he may be committed to jail for a term of not exceeding 3 months, besides serving the period of time for which he was absent.

THE RIGHT OF ASSOCIATION: TRADE UNIONS.

New Zealand has followed very closely English legislation in relation to the right of workingmen to form organizations and the regulation of trade unions. The present law is contained in the act of August 31, 1878, entitled "An act for the regulation and management of trade unions in New Zealand." This act stands to-day as first passed with the exception that an act passed October 12, 1896, made 14 years the minimum age at which persons could be members of a registered trade union instead of 16 years as provided in the original act.

A trade union is defined to mean "any combination, whether temporary or permanent, for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if this act had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade."

The sections of the English act legalizing trade unions notwithstanding that they may be in restraint of trade have been adopted textually. It is thus provided that "the purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise," and "the purposes of any trade union shall not by reason merely that they are in restraint of trade be unlawful so as to render void or voidable any agreement or truth."

In like manner the British policy of requiring these organizations to settle their own disputes without recourse to the courts has been followed. The courts are expressly prohibited from entertaining any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements:

(1) Any agreement between members of a trade union as such concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ, or be employed; (2) any agreement for the payment by any person of any subscription or penalty to a trade union; (3) any agreement for the application of the funds of a trade union, (a) to provide benefits to members; or (b) to furnish contributions to any employer or workman not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union; or (c) to discharge any fine imposed upon any person by sentence of a court of justice; or (4) any agreement made between one trade union and another; or (5) any bond to secure the performance of any of the above-mentioned agreements: But nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful.

As regards the regulation of trade unions, the most essential provision is that whereby trade unions are encouraged to become registered. Such registration is not compulsory, but unions which elect to do so are given many privileges, such as the right to hold property in the name of trustees, to hold their officers to account, etc. The obligations of registry relate principally to the making of annual reports to the government, the filing of copies of their rules, etc. As these provisions are practically identical with those contained in the British acts already given they are not reproduced here.

In connection with this law legalizing the formation of permanent associations of workingmen, even though they are in restraint of trade, should be read the provisions of The Conspiracy Law Amendment Act, 1894, passed August 21, 1894. This law is almost the reproduction of the British Conspiracy and Protection of Property Act, 1875.(*a*) It repeals the old conspiracy acts of 5 Eliz., c. 4; 12 Geo. I, c. 34, and 6

a See Bulletin No. 25, p. 782.

Geo. IV, c. 129, which were in force in the Colony, and provides, as does the English act, that:

An agreement or combination by 2 or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be deemed to be unlawful so as to render such persons liable to criminal prosecution for conspiracy if such act committed by one person would not be unlawful. Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any crime against the State or the Sovereign. "A crime" for the purposes of this section means an offense punishable on indictment, or an offense which is punishable on summary conviction, and for the commission of which the offender is liable to be imprisoned, either absolutely, or, at the discretion of the court, as an alternative for some other punishment.

Then follows the special provision that no person employed by a local authority or contractor in connection with the furnishing of a supply of gas, electric light, or water shall enter into an agreement to leave the service without giving at least 14 days' notice, under a penalty of a fine of not more than £10 ($48.67) or imprisonment for not more than 1 month.

REGULATION OF LABOR IN FACTORIES AND WORKSHOPS.

The legal regulations concerning factory and workshop labor are contained in The Factories Act, 1894, passed October 18, 1894, and its amendment of October 12, 1896. The first act was in the nature of a consolidation of former legislation, while the latter relates to the regulation of the conditions that must be observed where work in connection with the textile industry is given to persons to be performed elsewhere than in the factory or workroom proper.

SCOPE OF ACT.

The word "factory" or "workroom" as used in the act is defined to mean:

Any office, building, or place in which 2 or more persons are engaged, directly or indirectly, in working for hire or reward in any handicraft, or in preparing or manufacturing articles for trade or sale, including all bakehouses; and any office, building, or place in which steam or other mechanical power or appliance is used for the purpose of manufacturing goods, or packing them for transit.

But where the operations of any manufacturer are carried on, for safety or convenience, in several adjacent buildings grouped together in one inclosure, these shall be classed and included as one factory for the purposes of registration and the computation of registration fees.

Except as hereinafter specially provided, nothing in this act shall apply to slaughterhouses and shearing sheds in bona fide use for slaughtering and shearing, respectively.

It is scarcely necessary to call attention to the comprehensive scope thus given to the act. It is made to apply to practically all places

where persons are employed for hire in making or preparing articles for trade or sale, the only limitation put upon the number of persons that must be employed in order to constitute the place a factory being that there must be at least 2, including the occupier or employer himself.

REGISTRATION OF FACTORIES AND WORKROOMS.

Every person occupying or intending to occupy a factory or workroom, as defined by the law, must serve on the inspector and on the local board of health a written application to have his establishment registered as a factory. Accompanying this application must be sent a notice "in such form and in such manner as may be prescribed by regulations, containing particulars of the name and a description of his factory or workroom, the place where it is situated, the nature of the work carried on or to be carried on therein, a description of the motive power (if any) therein, and, in case of a copartnership or incorporated company, the name of the firm or company under which the business of the factory or workroom is carried on, together with such further or other particulars as may be required by the regulations."

Especial precautions are taken to insure that buildings newly erected or transformed for factory purposes shall be suitable for such use. The law thus provides that:

Every person who is in occupation of any building or place which is about to become for the first time, or after a period of disuse is about to again become, a factory or workroom, shall, before the same is used as such, forward to the office of the inspector, together with his application for registration, and the particulars mentioned in the last preceding section, a complete plan of such building or place to the satisfaction of such inspector, with particulars of the same, and an estimate of the number of persons of each sex to be employed therein; and such building or place shall not be registered as a factory or workroom until such inspector has in writing approved of such building or place as suitable for a factory or workroom, or has within 10 days after the receipt of such plan and particulars omitted to notify to such person any objection thereto.

The remaining provisions regarding registration are that a fee for registration shall accompany each application, and that on the receipt of this fee the inspector must register the factory if he believes all the conditions of the act to have been complied with. If this is not the case, he must notify the applicant wherein default exists and refuse registry until the failure has been remedied.

PROTECTION OF HEALTH OF EMPLOYEES.

Following are the provisions in full regarding the protection of the health of employees:

Every factory or workroom shall be kept in a cleanly state, free from effluvia arising from any drain, privy, or other nuisance. When members of both sexes are working in the same factory or workroom,

unless members of the same family, there shall be sufficient water-closet or privy accommodation for each sex, separated in such manner as to insure privacy, to the satisfaction of the inspector. Where only members of one sex are employed in a factory or workroom, sufficient water-closet or privy accommodation shall be provided to the satisfaction of the inspector.

A factory or workroom shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, and shall be ventilated in such a manner as to render harmless, as far as is practicable, all the gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health. The owner or occupier of every factory or workroom shall provide a supply of fresh drinking-water.

A factory or workroom in which, in the opinion of the inspector, there is a contravention of this section, and which opinion is signified in writing under the hand of the inspector, shall be deemed not to be kept in conformity with this act.

The inspector may from time to time determine, as to each factory or workroom, what space of cubic and superficial feet shall be reserved, appropriated, and maintained for the use of each person working therein, according to the nature of the work, but so that such space shall not be less than that prescribed from time to time by regulations; and shall, by notice in writing to the occupier, require such space to be reserved and appropriated accordingly within a time to be fixed by such inspector, and shall in like manner require that every such space is properly lighted and ventilated, and maintained and kept free from any materials or goods or tools other than those in use or required by the person for whom such space is so reserved and appropriated.

If the occupier of any factory or workroom thinks that the determination or requirements of the inspector are in excess of what is necessary and reasonable, he may, in the manner prescribed by regulations, appeal to the board, who shall decide the question, and may confirm, alter, or vary the determination or requirements of the inspector in such manner and in such particulars as it deems fit, and every such decision of the board shall be final.

If the occupier of a factory or workroom shall, after 14 days' notice, neglect to comply with the determination or requirements of the inspector, or of the board in case of an appeal, or to observe and maintain such determination or requirements, or otherwise to comply with this section, he shall be liable to a penalty not exceeding £1 [$4.87] for every day during which such failure or want of compliance continues.

Where it appears to an inspector that any act, neglect, or default in relation to any drain, water-closet, earth closet, privy, ash pit, water supply, nuisance, or other matter in a factory or workroom is punishable or remediable under any law relating to the public health or any other law, but not under this act, such inspector shall give notice in writing to the board or other local authority in whose district the factory or workroom is situate; and it shall be the duty of such board or authority to make such inquiry into the subject of the notice, and take such action thereon, as to such board or authority may seem proper for the purpose of enforcing the law.

An inspector may, for the purposes of this act, or of any act or law relating to public health or the powers of any local authority, take with him into a factory or workroom an officer of health, inspector of

nuisances, surveyor, or other officer of the board or local authority, and any such officer, inspector, or surveyor may at all reasonable times enter and inspect any factory or workroom.

All the inside walls of the rooms of a factory or workroom, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of a factory or workroom, if they have not been painted with oil or varnished once at least within 7 years, shall be lime-washed or washed with some other wash, liquid, or material approved by the inspector, once at least within every 14 months, to date from the period when last lime-washed or washed; and, if they have been so painted or varnished, shall be washed with hot water and soap once at least within every 14 months, to date from the period when last so washed.

The occupier of any factory or workroom shall furnish evidence, to the satisfaction of the inspector, as to the dates of the last lime-washing, painting, or varnishing of each portion of such factory or workroom, and also of the date at which the last washing of all painted or varnished surfaces in such factory or workroom took place.

In workrooms the walls of which have been papered, the inspector shall decide as to the time when they shall be repapered.

A factory or workroom in which there is a contravention of this section shall be deemed not to be kept in conformity with this act.

Where it appears to the minister that in any class of factories or workrooms, or parts thereof, the provisions of the last preceding section are not required for the purpose of securing therein the observance of the requirements of this act as to cleanliness, or are by reason of special circumstances inapplicable, he may, if he thinks fit, make an order granting to such class of factories or workrooms, or parts thereof, a special exception that the regulations in the last preceding section shall not apply thereto: Provided that the last preceding section shall, without any such order as aforesaid, be deemed not to apply to blacksmiths', agricultural implement makers', and wheelwrights' shops; or to foundries, flour mills, sawmills, flax mills, freezing rooms, bore mills, seed-cleaning mills, tanneries, ropewalks, smelting works, and brick and tile works; or to hay and corn and chaff-cutting, corn-crushing, wool-washing, and boiler-making establishments; or to shearing sheds, malt houses, and breweries; or to dairy, cheese, and sugar-refining factories.

If in a factory or workshop where charcoal or gas irons are used, or where grinding, glazing, polishing on a wheel, or any other process is carried on by which dust is generated, and charcoal fumes or dust respectively are inhaled to an injurious extent by the workers, and it appears to an inspector that such inhalation could be to a great extent prevented, the inspector may direct such ventilation as he shall think sufficient for the dissipation of the fumes, and a fan or other mechanical means of a construction proper for the dispersal of the dust and preventing such inhalation, to be provided within a reasonable time; and if the same is not provided, maintained, and used the factory or workshop shall be deemed not to be kept in conformity with this act.

The governor in council may, from time to time, declare any manufacturing process, handicraft, or employment to be noxious for the purposes of this act, and, where any manufacturing process, handicraft, or employment has been declared by the governor in council to be noxious for the purposes of this act, no person employed in the fac-

tory or workroom in which any such manufacturing process, handicraft, or employment is carried on shall be permitted to take his or her meals in any room therein in which such manufacturing process, handicraft, or employment is then being carried on, or in which persons employed in such factory or workroom are or have been in the course of the day engaged in their employment.

PREVENTION OF ACCIDENTS.

The occupier of every factory, including any or every Government railway workshop, where machinery is used shall furnish, to the approval of the inspector, belt shifters or other safe mechanical contrivances for the purpose of throwing on or off belts or pulleys, and, wherever possible, machinery therein shall be provided with loose pulleys. All vats, pans, saws, planers, cogs, gearing, belting, shafting, set-screws, and machinery of every description in any factory or workroom shall be properly guarded, and no person shall remove or make ineffective any safeguard around or attached to any planer, saw, belting, shafting or other machinery, or around any vat or pan, while the same is in use, unless for the purpose of immediately making repairs thereto, and all such safeguards shall be promptly replaced.

By attaching thereto a notice to that effect, the use of any machinery may be prohibited by the inspector, should such machinery be considered by him as dangerous. Such notice shall be signed by the inspector who issues it, and shall only be removed after the required safeguards are provided; and the unsafe or dangerous machine shall not be used in the meantime.

Any occupier not supplying such safeguards as are notified by the inspector, or who removes such safeguards, or who continues to use prohibited machinery, shall be liable to a penalty not exceeding £10 [$48.67], with a further penalty of £2 [$9.73] for each working day during which such safeguards are not provided, or such prohibited machinery used.

If any person is killed or suffers any bodily injury in consequence of the occupier of a factory or workroom having neglected to fence any machinery required by or in pursuance of The Inspection of Machinery Act, 1882, to be securely fenced, or having neglected to maintain such fencing, the occupier of the factory or workroom shall be liable to a penalty not exceeding £100 [$486.65], the whole or any part of which may be applied for the benefit of the injured person or his family, or otherwise as the minister directs; and the penalty hereby imposed shall be in lieu of any other penalty imposed under The Inspection of Machinery Act, 1882, for any such offense as hereinbefore mentioned.

But the occupier of a factory or workroom shall not be liable to a penalty under this section if an information against him for not fencing the part of the machinery by which the death occurred or bodily injury was inflicted has been heard and dismissed within 1 month previous to the time when the death occurred or the bodily injury was inflicted.

This section shall not deprive the injured person, or his legal personal representatives, of any right of action he or they may have to recover damages in any court of competent jurisdiction.

NOTIFICATION AND INVESTIGATION OF ACCIDENTS.

Where there occurs in a factory or a workshop any accident which either (a) causes loss of life to a person employed in the factory or in the workshop, or (b) causes bodily injuries to a person employed in the factory or in the workshop, and is produced either by machinery moved by steam, water, or other mechanical power, or through a vat, pan, or other structure filled with solid, liquid, or molten metal, or other substance, or by explosion, or by escape of gas, steam, or metal, and is of such a nature as to prevent or be likely to prevent the person injured by it from returning to his work in the factory or workshop within 48 hours of the occurrence of the accident, written notice of the accident shall forthwith be sent to the inspector and to the medical authority for the district, stating the residence of the person killed or injured, or the place to which he may have been removed; and if any such notice is not sent within 24 hours after the occurrence of such accident the occupier of the factory or workshop shall be liable to a fine not exceeding £10 [$48.67].

Where a medical authority receives, in pursuance of this act, notice of an accident in a factory or a workshop, he shall, with the least possible delay, proceed to the factory or workshop and make a full investigation as to the nature and cause of the death or injury caused by that accident, and within the next 24 hours send to the inspector a report thereof.

The medical authority for the purpose only of an investigation under this section shall have the same powers as an inspector, and shall also have power to enter any room in a building to which the person killed or injured has been removed.

There shall be paid to the said medical authority for the investigation such fee as the governor in council shall by regulations prescribe, which fee shall be paid by the board as expenses incurred in the execution of this act.

PRECAUTIONS IN CASE OF FIRE.

In all factories and workrooms situated on the third or fourth stories of buildings, one or more fire escapes connected with each floor shall be provided. These fire escapes shall be placed on the outside of such establishment, well fastened and secured, having landings or balconies not less than 6 feet in length and 3 feet in height, guarded by iron railings not less than 3 feet in height, and embracing at least 2 windows in each story, and connecting with the interior by easily accessible and unobstructed openings, and the balconies and landings shall be connected by iron stairs not less than 6 inches tread, placed at a proper slant and protected by a well-secured hand rail on both sides, with a 12-inch wide drop ladder from the lower platform reaching to the ground. Any other equally efficient plan or style of fire escape shall be sufficient if approved by the inspector.

If the inspector does not approve of the fire escapes provided at any factory or workroom he shall give a notice in writing that fire escapes of a certain plan or style be made and located where required; and if within 20 days after such notice is served such fire escape be not provided, the occupier shall be liable to a penalty of £2 [$9.73] for each day he allows work to be carried on in such factory or workroom

All internal or external doors of a factory or workroom shall be hung so as to open outward. All doors of rooms in which more than six (*a*) persons are actually at work, or of passages leading to such rooms, or serving as entrances and exits, shall neither be locked, bolted, nor fastened during working hours. Stairways and steps shall be made and provided with substantial hand rails, and shall have slats or portions of india rubber, leather, or similar material fastened upon them if found necessary by the inspector.

If in the opinion of the inspector the stairs are too steep or winding, or the passages too intricate for the safety of workers in case of fire breaking out, the inspector may direct that proper means of egress be provided.

Whilst work is going on in a factory or workroom an outer door giving access to every building containing a factory or workroom, which shall be that commonly used by the work people in entering the building, and the door of every factory or workroom, shall be at all times kept unfastened, so as to afford ready means of ingress and egress. Every occupier neglecting or omitting to keep such door unfastened, so as to afford ready means of ingress and egress, shall be liable to a penalty not exceeding £10 [$48.67].

EMPLOYMENT OF WOMEN AND CHILDREN.

No child [a boy or girl under 14 years of age] shall be employed (*b*) in any factory or workroom except in small factories where not more than 3 persons are employed, and this only in special cases with the sanction of the inspector.

A person under the age of 16 years shall not be employed in any factory or workroom unless the inspector is satisfied that such person has passed the fourth standard, as prescribed by or under the regulations for the time being in force under The Education Act, 1877, or any equivalent examination: Provided that this section shall not apply to any person who shall have arrived in the Colony after attaining the age of 13 years, or who is at the commencement of this act employed in any place which is a factory or workroom within the meaning of this act: Provided that this section shall not apply to persons who have lived more than 3 miles from a school, and by reason thereof have, in the opinion of the inspector, had no adequate opportunity of complying with the provisions of this section.

A person under the age of 16 years shall not be employed in a factory or workroom unless the occupier of the factory or workroom has obtained a certificate in the prescribed form of the fitness of such person for employment in that factory or workroom. A certificate of

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a The words "more than six" were inserted by The Factories Act Amendment Act, 1896.

b Following is the definition of the act as to what is meant by employed:

A woman, or person under 18 years of age, who works in a factory or workroom, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of a factory or workroom used for any manufacturing purposes or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with any manufacturing process or handicraft, or connected with the article made or otherwise the subject of any manufacturing process or handicraft, shall, save as is otherwise provided by this act, be deemed to be employed within the meaning of this act. For the purposes of this act, an apprentice shall be deemed to work for hire.

fitness for employment for the purposes of this act may be granted by the inspector for the district, and shall be to the effect that he is satisfied, by the production of a certificate of birth or other sufficient evidence, that the person named in the certificate of fitness is of the age therein specified and fit for the employment.

All factories or workrooms in the same line of trade and in the district of the same inspector, or any of them, may be named in the certificate of fitness for employment if the certifying inspector is of opinion he can truly give the certificate for employment therein. The certificate of birth which may be produced to such inspector shall either be a certified copy of the entry in a register of births kept in pursuance of The Registration of Births and Deaths Act, 1875, of the birth of the person, and such certificate of birth shall be given by the registrar without fee, or a statutory declaration made by some competent person as to the age of the person for whom it is desired to obtain a certificate of fitness for employment.

The occupier shall, when required, produce to an inspector at the factory or workroom at which a person under 16 years of age is employed the certificate of fitness of such person for employment which he is required to obtain under this act.

No girl under 15 years of age shall work as typesetter in any printing office: Provided that nothing in this clause contained shall apply to the case of any girl at the time of the passing of this act engaged in typesetting in any printing office.

In the case of a woman, or any person under 18 years of age, any forfeiture on the ground of absence or leaving work shall not be deducted from or set against a claim for wages, or other sum due for work done before such absence or leaving work, except to the amount of the special damage (if any) which the occupier of the factory or workroom may have sustained by reason of such absence or leaving work.

No person shall to the extent mentioned in the third schedule (*a*) to this act be employed in the factories or workrooms or parts thereof mentioned in that schedule. Notice of the prohibition in this section shall be affixed to all factories or workrooms to which it applies.

No person shall employ in any factory or workroom any boy under the age of 16 years for more than 48 hours in any one week, nor at any time between the hours of 6 o'clock in the afternoon and a quarter to 8 o'clock in the morning.

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a Following is a copy of this schedule:

Factories or workrooms in which the employment of persons is restricted.

1. In a part of a factory or workroom in which there is carried on (a) the process of silvering of mirrors by the mercurial process, or (b) the process of making white lead, a person under 18 years shall not be employed.

2. In the part of a factory in which the process of melting or annealing glass is carried on, a male person under 14 years of age, and a female person under 18 years of age, shall not be employed.

3. In a factory or workroom in which there is carried on (a) the making or finishing of bricks or tiles, not being ornamental tiles, or (b) the making or finishing of salt, a girl under 16 years of age shall not be employed.

4. In a part of a factory or workroom in which there is carried on (a) any dry-grinding in the metal trades; (b) the dipping of lucifer matches, a person under 16 years of age shall not be employed.

5. In any grinding in the metal trades other than dry-grinding, or in friction cutting, a child shall not be employed.

No person shall employ in any factory or workroom any woman or girl for more than 48 hours in any one week, nor between the hours of 6 o'clock in the afternoon and a quarter to 8 o'clock in the morning.

No person shall employ in any factory or workroom any woman during the 4 weeks immediately after her confinement.

If any occupier offend against the provisions of the last preceding section he shall, for each and every time in which he offends, be liable to a penalty not exceeding £10 [$48.67]: Provided that each person employed in a factory or workroom may, with the written consent of the inspector, work for a period not exceeding 3 hours in any day beyond the working hours on not more than 28 days in a year.

No such person, however, may work overtime on more than 2 consecutive days, and such overtime is to be paid for at the rate agreed on above the ordinary rate of wage, but in no case for any person is to be below sixpence [$0.12] per hour. Written notice of the desire to work overtime shall be served by the occupier upon the inspector, and sufficient time be given to the inspector to grant a written permission to work such overtime, or to forbid such overtime, if he considers it to be dangerous or hurtful to the health of the persons employed. Such written permission shall, during the hours overtime is being worked, be fastened by the occupier in a conspicuous place on the wall of the factory or workroom in which such overtime is being worked. The inspector shall not grant written permission to any factory or workroom to work overtime on half holidays for more than 5 such half holidays in each year.

The inspector shall keep a list of the names of all those women or young persons for whom permission to work overtime has been granted, and shall note against the name of each the hours of overtime worked by him or her, so that the full amount of overwork time be not in any case exceeded. The inspector may grant permission to women or young persons under the age of 16 to begin work in factories or workshops at 7 o'clock in the morning during the summer months: Provided, however, that if in any factory or workroom such permission is granted by the inspector and acted on by the occupier, then in that factory or workroom all women and young persons shall likewise begin work at that hour, to the intent that all women and young persons may quit such factory or workroom at the one time.

A woman, or person under 18 years of age, shall not be employed in any part of a factory or workroom in which wet spinning is carried on unless sufficient means be employed and continued for protecting the workers from being wetted, and (where hot water is used) for preventing the escape of steam into the room occupied by the workers. A factory or workroom in which there is a contravention of the provisions of this section shall be deemed not to be kept in conformity with this act.

No person under 18 years of age, and no woman, shall, except on half holidays, be employed continuously in any factory or workroom for more than 4½ hours without an interval of at least half an hour for a meal.

No woman or person under 16 years of age employed in a factory or workroom shall be permitted to take his or her meals in any room therein in which any manufacturing process or handicraft is then being carried on, or in which persons employed in such factory or workroom are then engaged in their employment, or have been employed

working at their handicraft or manufacture during any portion of that day, unless such factory or workroom is of open construction, and is certified to by the inspector as being properly exempted from this provision.

Subject to the last preceding section, the occupier of every factory or workroom in which more than 6 women or persons under 16 years of age are employed shall provide a fit and proper room, in or near to such factory or workroom, in which such women or persons may take their meals without the provisions of this act being contravened; but in cases where, from the small number of persons employed, the size of the factory or workroom, or the nature of the employment, the inspector thinks that any room or place of shelter which is sufficiently secure from the weather and from public view will suffice as a place in which meals may be taken, he may, by writing under his hand, sanction the use of such room or place of shelter as a place in which meals may be taken. Every room or place of shelter to be used as places in which meals may be taken shall be furnished, to the satisfaction of the inspector, with sufficient seats and tables to enable the women or young persons employed in the factory or workroom to sit at meals with reasonable comfort and security. If an occupier fails or neglects to provide such room or place of shelter he shall be deemed to act in contravention of this act.

BAKERIES.

All the inside walls of the rooms of every bakehouse, and all the ceilings or tops of such rooms (whether such walls, ceilings, or tops be plastered or not), and all the passages and staircases of such bakehouse, shall either be painted with oil, or varnished, or be washed with lime or some other wash or liquid approved by an inspector, or be partly painted or varnished and partly so washed; where painted with oil or varnish, there shall be 3 coats of paint or varnish, and the paint or varnish shall be renewed once at least in every 7 years, and shall be washed with hot water and soap once at least in every 12 months, and when lime washed the lime washing shall be renewed once at least in every 6 months. A bakehouse in which there is a contravention of this section shall be deemed not to be kept in conformity with this act.

A place on the same level with the bakehouse, and forming part of the same building, shall not be used as a sleeping place, unless it is constructed as follows, that is to say—unless such sleeping place is effectually separated from the bakehouse by a partition extending from the floor to the ceiling; and unless there be an external glazed window of at least 9 superficial feet in area, of which at least 4½ superficial feet are made to open for ventilation.

Any person who occupies, or knowingly suffers to be occupied, any place contrary to the provisions of the last-preceding section shall be liable to a penalty not exceeding for the first offense £1 [$4.87], and for every subsequent offense £5 [$24.33].

It shall not be lawful to let, or suffer to be occupied as a bakehouse, or to occupy as a bakehouse, any room or place, unless the following regulations are complied with:

(1) No water-closet, earth closet, privy, or ash pit shall be within or communicate directly with the bakehouse;

(2) Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a water-closet;

(3) No drain or pipe for carrying off fecal or sewage matter shall have an opening within the bakehouse.

Any person who lets, or suffers to be occupied, or who occupies, any room or place as a bakehouse in contravention of this section shall be liable to a penalty not exceeding £2 [$9.73], and to a further penalty not exceeding 10s. [$2.43] for every day during which any room or place is so occupied after a conviction under this section.

Where the court is satisfied on the prosecution of an inspector that any room or place used as a bakehouse (whether the same was or was not so used before the commencement of this act) is in such a state as to be on sanitary grounds unfit for use or occupation as a bakehouse, the occupier of the bakehouse shall be liable to a penalty not exceeding £2 [$9.73], and on a second or any subsequent conviction to a penalty not exceeding £5 [$24.33].

REGULATION OF HOME WORK: SWEATING SYSTEM.

Every occupier of a factory or workroom who has work done for the purposes of his factory or workroom elsewhere than in such factory or workroom shall keep a record, and the same shall be kept so as to be a substantially correct record of the description and quantity of the work done outside of such factory or workroom, and of the name and address of the person by whom the same is done, together with the remuneration given for such work, and in default thereof shall be liable to a penalty not exceeding £10 [$48.67]. Such record shall be kept for the information of the inspector, who alone shall be entitled to inspect the same, and who may, at all reasonable hours, examine and inspect the same.

Every occupier of a factory or workroom who shall give out piecework to be done in a private dwelling, or in any place not registered as a factory, shall cause a printed label of the description shown in the second schedule of this act to be affixed to every garment and every article wholly or partially made in unregistered workshops or private dwellings, except in cases previously sanctioned by the inspector.

Any person who sells or exposes for sale such garments or articles without such labels shall be liable to a fine not exceeding £10 [$48.67]; and anyone who willfully removes such labels before sale shall be liable to a penalty not exceeding £20 [$97.33].

Every merchant, wholesale dealer, shopkeeper, agent, or distributer who shall issue textile or shoddy material for the purpose of being made up by pieceworkers or home workers into articles for sale, shall be deemed to be the occupier of a factory for the purposes and within the meaning of this section.

These provisions regarding home work, or work done outside factories proper, were very materially supplemented by The Factories Act Amendment Act, 1896, enacted October 12, 1896. This act made several minor changes in the principal act that have elsewhere been noted, but its main purpose was the regulation of work let or given out in connection with textile goods. These provisions, which are in many

respects similar to those of other countries for the regulation of the sweating system, are as follows:

The following provisions shall apply in the case of occupiers of factories or workrooms in which textile goods are manufactured or worked upon, and also in the case of persons who issue textile or shoddy materials, for the purpose specified in section 23 [the section relating to this subject just reproduced above] of the principal act, and are thereby deemed to be occupiers of factories for the purposes and within the meaning of that section:

(1) In any case where any such occupier of a factory or workroom lets or gives out work in connection with such goods or material to be done by any person elsewhere than in such factory or workroom, or issues such material for the purpose of being made up by the persons referred to in the aforesaid section 23 it shall not be lawful for any such person—(a) to in any way, directly or indirectly, sublet any such work, whether by way of piecework or otherwise; nor (b) to in any way do any such work except on his own premises, and by himself or by his own work people to whom he himself pays wages therefor.

(2) If any such person as aforesaid in any way, directly or indirectly, commits any breach of this section he is liable to a penalty not exceeding £10 [$48.67].

(3) If any such occupier as aforesaid knowingly permits or suffers any such breach to be committed he is liable to a penalty not exceeding £50 [$243.33].

(4) In any proceedings under this section against any such occupier, the knowledge of his servants or agents shall be deemed to be his knowledge.

Nothing in the last-preceding section contained shall be construed to render lawful anything that by the principal act is unlawful.

In order to check the risk of disease being spread by infection or contagion the following provisions shall apply:

(1) It shall not be lawful to manufacture or work up goods or materials, or to receive them for any such purpose, in any factory, workroom, or dwelling house (a) wherein resides to the knowledge of the occupier any person suffering from any infectious or contagious disease; or (b) wherein any such person has so resided at any time during the previous 14 days, unless and until the factory, workroom, room, or dwelling house, and all such goods and materials therein, have been disinfected to the satisfaction of the inspector.

(2) If any person commits or knowingly allows to be committed any breach of this section he is liable to a penalty not exceeding £10 [$48.67].

(3) If any such goods or materials are found in any factory, workroom, or dwelling house in breach of this section the inspector may cause them to be seized, removed, and disinfected at the expense in all things of the owner.

If any person employed in a factory or workroom does any work for such factory or workroom elsewhere than in the same the occupier thereof is liable to a penalty not exceeding £10 [$48.67]; and the person who does such work is liable to a penalty not exceeding £5 [$24.33.]

SHEEP SHEARERS.

Special regulations in respect to sheep shearers are given in the act. As they are only of local interest, they are not reproduced.

HOLIDAYS FOR WOMEN AND YOUNG PERSONS.

The act provides that all occupiers of factories and workrooms must allow to every woman and every person under 18 years of age in their employ a holiday on Christmas day, New Year's day, Good Friday, Easter Monday, and the Sovereign's birthday. They must also allow them a holiday on every Saturday after 1 o'clock p. m. Provided, however, that any city or town council may, by order, fix some other day in the week, which need not be the same for all classes of work, on which a half holiday shall be allowed instead of on Saturday. Those shopkeepers, also, who are required to give their assistants a half holiday under The Shops and Shop-assistants Act, 1894, and who also carry on a factory in connection with their shops, may give the half holiday to the workers in the factory on the same day on which the half holiday is given to the shop assistants.

Nothing in this act, however, shall be deemed:

(1) To prevent the employment of women or persons under the age of 18 years in printing offices, for the purpose of printing evening newspapers, on Saturdays or any other half holiday up to the hour of half past four in the afternoon, nor the substitution of 2 other days for Easter Monday and the Sovereign's birthday in the case of women typesetters; or

(2) To prevent the employment of any boy in the publishing or delivering of newspapers after 1 o'clock on Saturday, or a holiday;

(3) To prevent any persons being employed in fish-preserving factories or jam factories on Saturday or any other half holiday for 8 weeks during the preserving season.

Wages must be paid to the women and young persons for these holidays and half holidays at the same rate as are paid on ordinary working days, and the payment must be made on the first regular pay day succeeding the holiday. This provision, however, applies only to those who are paid by time wages and who have been employed on 20 days, which need not be consecutive, preceding the holiday, or 5 days, which need not be consecutive, preceding the half holiday.

KEEPING OF RECORDS, POSTING OF NOTICES, ETC.

In each factory or workroom the occupier shall keep or cause to be kept: (a) A record of the names of all persons employed in such factory or workroom, together with the ages of all persons who are under 20 years of age; (b) a record showing generally the kind of work of each and every person employed in such factory or workroom; and (c) a record of the earnings paid per week of each person employed in such factory or workroom; and such record shall be produced for inspec tion by the inspector when demanded.

The occupier of every such factory shall also cause to be affixed and maintained in some conspicuous place at or near the entrance of each factory or workroom, and in such other parts as an inspector from time to time directs, and in such a position as to be easily read by the persons employed in such factory or workroom, a notice con-

taining (a) the name and address of the inspector for the district; (b) the name and address of the medical authority for the district; (c) the official address of the board; (d) the holidays and working hours of the factory.

In the event of a contravention of the provisions of the last two immediately preceding sections in any factory or workroom, the occupier thereof shall be liable to a penalty not exceeding £2 [$9.73] for every day which elapses after a period of 7 days from the registration of such factory or workroom, and during which the said provisions are not complied with.

THE INSPECTION OF FACTORIES.

For the enforcement of the act the governor is given the power to appoint a chief inspector of factories and to divide the Colony into as many inspection districts, each to be in charge of a local inspector, as he may deem fit. These inspectors may be male or female and may hold office in conjunction with any other office or employment which the governor shall deem not incompatible with their duties as inspectors. A compilation of the labor laws of New Zealand, published in 1894, mentions that at that time provision had been made for 163 local inspectors.

In like manner the governor is empowered to appoint legally qualified medical practitioners to be medical authorities for the purpose of the act, and to fix the scale of fees to be charged by and paid to such medical authorities. Wherever possible use is also made of the local boards of health organized in virtue of The General Public Health Act of 1876.

The powers of the inspectors and the duties of employers in respect to them are thus stated by the act:

Every inspector shall have power to do all or any of the following things, that is to say,—

(1) To enter, inspect, and examine at all reasonable hours, by day and night, a factory or workroom, and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory or workroom;

(2) To take with him in either case a constable into a factory or workroom in the execution of his duty;

(3) To require the production of the certificate of registration held by the occupier of any factory or workroom, or any other book, notice, record, list, or document which such occupier is by this act required to keep, and to inspect, examine, and copy the same, or any notice or other document required to be kept or exhibited therein;

(4) To make such examination and inquiry as may be necessary to ascertain whether the enactments relating to public health and of this act are complied with, so far as respects the factory or workroom and the persons employed therein;

(5) To examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this act, every person

whom he finds in a factory or workroom, or whom he has reasonable cause to believe to be or to have been within the preceding 2 months employed in a factory or workroom, and to require such person to be so examined, and to make and sign a declaration, under The Justice of the Peace Act, 1882, of the matters respecting which he is so examined; and

(6) To exercise such other powers and authorities as may be necessary for carrying this act into effect.

The occupier of every factory and workroom, his agents and servants, shall at all times furnish the means required by an inspector, or by an officer of the board, necessary for an entry, inspection, examination, and inquiry, or the exercise of his powers under this act in relation to such factory or workroom.

Every person who willfully delays an inspector in the exercise of any power under this act, or who fails to comply with a requisition of an inspector made under any such power as aforesaid, or to produce any certificate of registration, book, record, certificate, notice, list, or document which he is required by or in pursuance of this act to produce, or who conceals or prevents any person from appearing before and being examined by an inspector, or attempts so to conceal or prevent a person, shall be deemed to obstruct an inspector in the execution of his dutes under this act: Provided that no person shall be required under this or the last two preceding sections to answer any question or give any evidence tending to criminate himself.

Where an inspector is obstructed in the execution of his duties under this act, the person obstructing him shall be liable to a penalty not exceeding £5 [$24.33]; and, where an inspector is so obstructed in or about a factory or workroom, the occupier of that factory or workroom shall be liable to a penalty not exceeding £5 [$24.33], or when the offense is committed at night not exceeding £20 [$97.33].

Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to a factory or workroom shall, if required, produce such certificate to the occupier.

Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or personates the inspector named in any such certificate, or falsely pretends to be an inspector under this act, shall, on conviction thereof in a summary manner under The Justice of the Peace Act, 1882, be liable to imprisonment with hard labor for any term not exceeding 6 months.

Every inspector who divulges the contents of any record of persons employed in or outside of any factory or workroom, or makes use of his knowledge of the contents of such record, except for the purposes of this act or for enforcing the provisions thereof, shall be liable to a penalty not exceeding £50 [$243.33], or to imprisonment with hard labor for any term not exceeding 6 months.

Every inspector shall, at such times and in such manner as may be prescribed by regulations, prepare reports upon the operation of this act; and the minister shall, for the purpose of informing Parliament of the course and condition of trade, prepare an annual report, which shall be of a general and comprehensive character. Such report shall not refer by name to any particular occupier of a factory or workroom, or be so framed as to readily admit of the identification of any such occupier, and shall show as nearly as possible the whole number of persons engaged in factories or workrooms in New Zealand subject to

this act, classifying them according to their sex, age, and average weekly earnings, whether in wages or by piece-work, or both in wages and by piece-work, in each branch, their hours of labor, the percentage of work done in the factories or workrooms, and the percentage of work done outside thereof, together with the scale of pay for such work, and such other particulars as he may think fit.

Every such annual report shall be so prepared as to be laid before each house of the general assembly in each session within 30 days of the commencement of such session; but if there shall be more than one session of the general assembly in any year, then it shall be sufficient to lay such report before the general assembly in one of such sessions.

It is interesting to note that provision is made in these last two paragraphs for the collection and publication of information concerning wages, hours of labor, and other conditions of labor similar to that which constitutes the work of bureaus of labor.

ENFORCEMENT OF LAW, PENALTIES, ETC.

Very careful provision has been made for the enforcement of the law, not only by the creation of an adequate inspection service, but by the imposition of penalties and the creation of means for their collection. In addition to the provisions regarding penalties for infractions of specific portions of the law, the act contains the following general provisions:

Subject to the right of appeal hereinafter contained, all proceedings in respect of penalties, orders, or otherwise under this act shall be heard and determined by a stipendiary magistrate alone.

If a factory or workroom is not kept in conformity with this act, or if in any factory or workroom there is a contravention of any of the provisions of this act, the occupier thereof shall, if no other penalty is by this act provided, be liable to a penalty not exceeding £10 [$48.67], and to a further penalty of not exceeding £1 [$4.87] for every day during which such contravention continues after the delivery by the inspector at such factory or workroom of a notice informing the occupier that a breach of the provisions of this act is taking place, by such factory or workroom not being kept in conformity with this act, or by a contravention thereof otherwise occurring.

The court before which any penalty is sought to be recovered under this act, in addition to or instead of inflicting any penalty, may order certain means to be adopted by the occupier within the time named in the order, for the purpose of bringing his factory or workroom into conformity with this act, and may, upon application, enlarge the time so named; but if after the expiration of the time as originally named, or enlarged by subsequent order, the order of the court is not complied with, the occupier shall be liable to a penalty not exceeding £1 [$4.87] for every day that such noncompliance continues.

Where a child or person is employed in a factory or workroom contrary to the provisions of this act, the occupier of the factory or workroom shall be liable to a penalty not exceeding £3 [$14.60], or, if the offense was committed during the night, to a penalty not exceeding £5 [$24.33], for each child or person so employed.

A person who is not allowed time for meals and absence from work

as required by this act, or, during any part of the time allowed for meals and absence from work, is allowed to work (*a*) in the factory or workroom or, in the case of women or persons under 16 years of age, are allowed to remain in any workroom, shall be deemed to be employed contrary to the provisions of this act.

The parent of a child or person under 18 years of age shall, if such child or person is employed in a factory or workroom contrary to the provisions of this act, be liable to a penalty not exceeding £1 [$4.87] for each offense, unless it appears to the court that such offense was committed without the consent, connivance, or willful default of such parent.

The remainder of the provisions relate to details of the administration of the act and can be briefly summarized. The forging or counterfeiting of a certificate or the making of one containing what is known to be false statements is punishable by a penalty of not more than £50 [$243.33] or by imprisonment with hard labor for not more than 6 months.

The making of any false entry in a register, notice, list, or other document required by the act or the signing of any false declaration is punishable by a fine of not more than £20 [$97.33] or by imprisonment with hard labor for not more than 3 months.

Where the offense is committed by an agent, servant, or other person, such person shall be liable to the same penalty as if he were the occupier or employer. When the employer thus is charged with an offense he has the right to have the person whom he charges is the real offender brought into court, and if it is shown that such person was the real offender the punishment must be inflicted upon him. It is furthermore the duty of the inspector to proceed against the person he regards as the real offender.

The inspector and every other person who may be dissatisfied with the judgment of the court on summary proceedings under the act may appeal to the supreme court or to a district court in the manner provided by The Justices of the Peace Act, 1882.

Wherever also an occupier is dissatisfied with the decision or order of an inspector he may, in 14 days, appeal to the stipendiary magistrate exercising jurisdiction under The Magistrate's Court Act, 1893, and the latter, after due hearing, may make such decision as he deems best. He may confirm, reverse, or modify the order, or make such other order as may be just and reasonable.

Persons found in a factory are presumed to be there employed. Yards, grounds, etc., open to view, and rooms belonging to a factory or workroom in which no machinery is used or manufacturing process carried on, shall not be taken to be a part of the factory within the meaning of the act.

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a The words "is allowed to work" was substituted by the amendment act, 1896, for the words "is, in contravention of the provisions of this act, employed."

Any person making application to an inspector or minister to grant any exemption from any provision of the act for a longer period than 3 months must notify his intention to do so by an advertisement in a daily or weekly newspaper circulating in the district in which the factory or workroom concerned is situated, or by written notice to the inspector. Notice of the granting or refusal of such request must in like manner be duly published.

Finally, the governor in council is given extensive powers to take the necessary steps for the enforcement and putting into operation of the act. These powers are enumerated by the act as follows:

The governor in council may from time to time make, alter, and repeal regulations, not inconsistent with this act, prescribing—

(1) A scale of fees to be taken and received for the registration of factories and workrooms under this act, and the persons to whom the same shall be paid;

(2) A scale of fees to be taken by medical authorities for examinations and reports made by such authorities in pursuance of the provisions of this act, and for making provision generally with regard to such examinations and reports;

(3) Form of notices to be given under this act, and the particulars to be set forth therein;

(4) Forms of returns to be made by the occupiers of factories or workrooms and by employers;

(5) The duties of inspectors, and the forms of tables to be kept and returns made by them from time to time to the minister;

(6) The minimum space both of cubic and superficial feet to be reserved for each person working in a factory or workshop, having regard to the nature of the work, handicraft, or employment carried on therein;

(7) The mode in which an appeal from the determination of an inspector to a local board of health or to a stipendiary magistrate shall be made and conducted;

(8) General regulations for carrying this act into effect, and providing for the efficient operation thereof.

MERCANTILE AND ALLIED ESTABLISHMENTS.

What the factories acts are intended to do in relation to the regulation of labor in factories and workshops, The Shops and Shop-assistants Act, 1894, and its two amendments of 1895 and 1896, do for labor in mercantile and similar establishments. The main law, or principal act as it is called, became a law October 18, 1894. The dates of the two amendments are, respectively, November 1, 1895, and October 16, 1896.

The ground covered by these acts relates chiefly to the general sanitation of shops, the requirement of an hour for dinner, the closing of shops and offices for half a week day, the hours of labor of women and children and their intervals of rest, and the provision of seats for females. The provisions in regard to each of these matters follow:

HYGIENE OF SHOPS.

Every shop or business establishment shall be kept in a cleanly state, and free from effluvia arising from any drain, privy, or other nuisance, and shall be ventilated in a practical and efficient manner.

Where members of both sexes, not being members of the same family, are working in the same shop or business establishment there shall be sufficient water-closet or privy accommodation for each sex, separated in such manner as to insure privacy, to the satisfaction of the inspector. Where members of one sex only are employed in a shop or business establishment, sufficient water-closet or privy accommodation shall be provided to the satisfaction of the inspector.

HALF HOLIDAYS.

All shops in a city, borough, or town district, except those wherein is carried on exclusively one or more of the businesses of a chemist, fishmonger, a fruiterer, a confectioner, a coffeehouse keeper, an eating house keeper, or the keeper of a bookstall on a railway platform, shall be closed in each week on the afternoon of one working-day at the hour of one of the clock. Whenever a public holiday or half holiday occurs in any week, it shall be a sufficient compliance with this act if a shopkeeper closes his shop on such holiday or half holiday instead of on the closing day under this act.

A shop is defined by the act to mean "any building, or portion of a building, or place in which goods are exposed or offered for sale by retail."

To this general provision the following exceptions are permitted: Shops may continue open in the afternoon of the working-day next preceding Christmas day, New Year's day, Good Friday, and the Sovereign's birthday, and Easter Monday, although such working-day may be the day determined upon for a half holiday; and "any person whose business it is to sell machinery for harvesting purposes, or fittings for such machinery, may, during the time of harvest and for the sole purpose of selling such machinery or fittings, keep his shop open on the day appointed for the closing of shops."

If any shop-assistant or office employee be employed at any work in connection with the business of any shop or office later than half an hour after the prescribed time of closing, the employer shall be liable to a penalty not exceeding £5 [$24.33] for each offense in respect of each shop-assistant or office employee so employed.

Shop-assistants are entitled to one hour for dinner. "Shop-assistant" is defined to mean "any person or any member of the shopkeeper's family who works in a shop for hire or maintenance, and includes apprentices and improvers, messenger and persons employed to deliver goods for closed shops, and the clerical staff." The amendment of 1896 declared that the following should also be considered shop-assistants: "All persons in the shopkeeper's employment who sell or deliver his goods or canvass for orders for his goods, whether

such persons are at any time actually employed inside the shop or not." Bona fide commercial travelers are, however, not to be deemed shop-assistants.

All shops in any city, borough, or town district, except as aforesaid, shall be closed in accordance with this act; and if any shopkeeper shall fail or neglect to so close his shop he shall be liable to a penalty not exceeding £5 [$24.33] for each occasion upon which he so fails or neglects.

It shall not be deemed an offense against the provisions of this act if a shopkeeper employs any person to keep open his shop at a port after the prescribed time of closing merely for the purpose of supplying goods to any ship, steamer, or boat arriving at such port.

Whenever any shop-assistant is employed partly in a shop and partly in a workroom in connection therewith, and the inspector is of opinion that the principal employment of such assistant is in connection with such shop, then it shall be a sufficient compliance with the provisions of the principal act or any other act relating to shops and workrooms if such shop-assistant receives a half-holiday in accordance with the provisions of the principal act or amendment thereof.

All shop-assistants in shops outside the limits of cities, boroughs, and town districts, and all assistants employed in hotel bars within or without such limits, shall have a half holiday from the hour of one of the clock in the afternoon of some working-day in each week; and notwithstanding anything contained in section 3, every shop-assistant in excepted shops shall have a half-holiday from the hour of one of the clock in the afternoon of some working day of each week. If any person shall offend against the provisions of this section by allowing any shop-assistant or other assistant as aforesaid to continue at work during such half-holiday he shall for every such offense be liable to a penalty not exceeding £5 [$24.33].

With respect to shops the business of which is "bona fide owned and conducted by any person of New Zealand or European extraction, whether solely or with the assistance of members of such person's family below the age of 18 years who reside on the premises," the law provides that they can close their shops for a half-holiday on some other afternoon than the one appointed, provided they notify the inspector of their desire to do so. This notice must be lodged with the inspector during the month of January in each year, except when the person commences business after that month, when the notice must be made within one month from the time of beginning business. It is furthermore the duty of the inspector to notify the small shopkeepers of this provision during the first 14 days of January of each year.

With respect to hawkers or peddlers, and other persons who carry on business by selling or offering goods for sale by retail otherwise than in a shop, the following provisions shall apply:

(1) Every such person shall be deemed to be a shopkeeper, and every assistant employed by him in or about such business shall be deemed to be a shop-assistant, within the meaning of the principal act.

(2) Every such person shall be deemed to keep a shop open whenever and wherever for the time being he is selling or offering goods for sale as aforesaid.

The method of determining the day of the week which shall be appointed for a half-holiday is both original and interesting. Following are the sections of the act relating to this point:

The day on which shops are to be closed in accordance with this act shall be appointed by the local authority by special resolution in the month of January next, and in the same month in every year, and the day so appointed shall continue to be the day for closing until some other day shall have been appointed.

Any 2 or more boroughs or town districts, any part of any one of which is situate within a mile of any part of another, shall be deemed to constitute a district for the purposes of this act; and in all boroughs and town districts comprised in any such district the day appointed for the closing of shops shall be the same, and such day shall be appointed in the manner following:

(1) A conference of delegates appointed by all the local authorities comprised in any such district shall be held in the month of January next, and in the month of January in every year thereafter, for the purpose of deciding on which day of the week shops shall be closed in such district, in accordance with the provisions of this act.

(2) Each local authority comprised in any such district (not being a city) shall appoint one delegate to each such conference, and any borough being a city in such district shall appoint a number being one more than the number of delegates appointed by all the other local authorities in such district.

(3) All delegates shall be members of the local authority, and in the case of a city the mayor shall be ex officio one of the delegates for such city. The number of delegates which any such city is entitled to appoint shall constitute a quorum of the conference.

(4) Such conference shall decide which day of the week shall be the day on which all shops in the district shall be closed as provided by this act; and the chairman shall forthwith notify in writing to the minister of labor which day has been so decided upon, and the minister shall by notice in the Gazette appoint that day to be the day for closing accordingly; and the day so appointed shall continue to be the day for closing until the minister shall have appointed some other day in accordance with the decision of another conference; and the production of the Gazette notice shall be conclusive proof of the day named therein being the day appointed for closing shops in the district.

In the event of any day other than Saturday being appointed under any of the provisions of this act as closing-day under this act, then any person shall be entitled to close his shop or office on Saturday in lieu thereof, on giving notice to the inspector of his desire to do so. Such notice shall be lodged with the inspector during the month of January in each year, and shall be taken as proof of the facts therein stated. Provided that, in the case of a shopkeeper who commences business after January, such notice may be lodged as aforesaid at any time within one month after his shop is first opened for business.

In the event of any local authority failing so to appoint a day or of any conference failing to meet or to decide upon a day on which shops

in the district are to be closed, then the governor may by order in council appoint such day, and the day so appointed shall continue to be the day on which shops are to be closed in the borough, town district, or district respectively until some other day shall have been duly appointed, and such order in council shall be conclusive proof of all the facts stated therein. Provided that, in the event of Saturday being the day so appointed, any other day of the week may be appointed as the day on which butchers', hairdressers', and photographers' shops are to be closed in lieu of Saturday.

Additional paragraphs regulate the manner of the proceedings of the conferences, where they shall be held, the notification of the local authorities, etc. They are not, however, of sufficient general interest to warrant their reproduction in full.

The amendment of 1895, however, made the following additions which are worthy of mention:

The proceedings of a conference of delegates shall not be affected by the fact that any local authority has neglected or omitted to appoint the prescribed number of delegates.

Notwithstanding anything to the contrary contained in the principal act, it is hereby declared that at any time within one month after the commencement of this act, and at any time before the 31st day of March in each year,—

(1) It shall be lawful for any local authority under section 9 of the principal act to appoint, by special resolution, another closing-day in substitution for the one which is for the time being in force;

(2) It shall be lawful for a conference of delegates, appointed in that behalf by all the local authorities constituting a district under the principal act, to decide on another closing day in substitution for the one which is for the time being in force;

If the conference decides as aforesaid, and the chairman forthwith notifies the minister of labor thereof, the minister shall, by notice in the Gazette, appoint such day as the closing-day in substitution of the one theretofore in force.

The closing-day so substituted as aforesaid by the local authority or the minister shall for all purposes be the closing-day in the district of such local authority, or (as the case may be) in the district constituted under the principal act, until some other day is lawfully appointed. The production of such Gazette notice shall be conclusive proof of the day named therein being the closing-day in the district named therein.

Upon a requisition, signed by a three-fifths majority of the shopkeepers in any city or borough, desiring that all shops in the city or borough shall be closed on the evening of Saturday in each week at the hour of 9 or 10 of the clock, as expressed by the requisition, the minister shall, by notice in the Gazette, intimate that from and after a day therein mentioned all the shops in the city or borough shall be closed in accordance with such requisition: Provided that no such notice shall be gazetted by the minister until it has been certified to by the city or borough council that the signatures to such requisition represent a three-fifths majority of shopkeepers trading within the city or borough limits. So long as such Gazette notice continues in force, every shopkeeper who fails or neglects to close his shop in accordance therewith is liable to a penalty not exceeding £5 [$24.33].

Such Gazette notice may be revoked or altered by the minister upon a similar requisition to that pursuant to which such notice was originally gazetted.

As regards office, the following section provides not only for a weekly half-holiday, but fixes the hour when they shall be closed on other days. Office is defined to mean "any building or floor used as a banking office, insurance office, or for any other commercial purpose."

The closing hour of all offices shall be not later than 5 o'clock in the afternoon of each week-day except Saturday, when the closing-hour shall be not later than 1 o'clock in the afternoon: Provided that exception shall be made in respect of not exceeding 10 days in each calendar month when employees may be required to continue at work, or to return to work, for not exceeding 3 hours in any one day. It is further provided that this section shall not apply to shipping, tramway, and newspaper offices. Offices shall be excepted from the operation of the last preceding section during two periods of 4 weeks each in every year for the purposes of their half-yearly balances.

In the event of any day other than Saturday being appointed as the closing day for shops in any district, the proprietor of any office in such district shall be entitled to close his office on that day, in lieu of Saturday, on giving notice to the inspector of his desire so to do. Such notice shall be lodged with the inspector during the month of January in each year, and shall be taken as proof of the facts therein stated: Provided that if he commences business after January, such notice may be lodged as aforesaid at any time within one month after his office is first opened for business.

EMPLOYMENT OF WOMEN AND YOUNG PERSONS.

Following are the provisions of the principal act, 1894, which have remained unchanged by the amending acts, regarding the hours of labor of women and minors employed in shops:

A woman, or a person under 18 years of age, shall not work for hire or maintenance in or about any shop, nor at any work in connection with the shop, for a longer period than 52 hours, excluding meal times, in any one week, nor for a longer period than 9½ hours, excluding meal times, in any one day, except on one day in each week, when 11½ hours' work may be done: Provided that the persons employed in a shop or workroom may, with the consent of the inspector, be employed for a period not exceeding 3 hours in any one day beyond the ordinary working hours on not more than 40 days in any one year for the purposes of stock taking.

No woman, or person under 18 years of age, shall be employed more than 5 consecutive hours without being granted an interval of not less than half an hour for refreshments. A woman, or person under 18 years of age, shall not, to the knowledge of the shopkeeper, be employed in any shop who has been previously on the same day employed in a factory or workroom for the number of hours permitted by law, or for a longer period than will complete such number of hours.

In every shop in which women, or persons under 18 years of age, are

employed a notice shall be kept exhibited by the shopkeeper in a conspicuous place therein stating the number of hours in the week during which women and persons as aforesaid may lawfully be employed therein.

When any woman, or person under the age of 18 years, is employed in or about any shop contrary to the provisions of this act, the shopkeeper shall be liable to a penalty not exceeding £2 [$9.73] for each person so employed.

SEATS FOR FEMALES.

Every shopkeeper is hereby required to provide proper sitting accommodation for females employed in his shop, and if any shopkeeper fails to comply with the requirements of this section he shall for every week during which he so fails be liable to a penalty not exceeding £5 [$24.33].

No shopkeeper shall—

(1) Directly or indirectly prohibit or prevent, or make any rule or regulation prohibiting, any female employed in his shop from being seated when not actually and immediately engaged in the course of her employment;

(2) Require any such female to be so continuously employed in an employment the course of which requires her to remain standing as that reasonable intervals are not allowed to her in each day during which she may use the sitting accommodation provided;

(3) Dismiss from his employment or reduce the wages of any female on the ground that she has made use of such sitting accommodation, unless it be proved that she has used it for an unreasonably long time or an unreasonable number of times on any day.

Any shopkeeper who shall offend against any provision of this section shall for every such offense be liable to a penalty not exceeding £10 [$48.67].

ENFORCEMENT OF ACT.

It shall be the duty of every [factory] inspector to see that the provisions of this act are properly carried out, and to prosecute all persons guilty of any breach thereof. For the purpose of carrying out the provisions of this act, every inspector shall have the same right of entry into and of inspection and examination of a shop or office, subject to the provisions of this act, as he would have in respect of a factory or workroom; and, in case any shopkeeper or office manager shall refuse to allow such entry or inspection and examination, he shall be liable to the like penalty as the occupier of a factory or workroom is liable to for refusing to allow or impeding any entry into or examination of such factory or workroom.

Every person who commits any breach of any provision of the principal act, for which no specific penalty is provided by that act, is liable to a penalty not exceeding £5 [$24.33].

Where any person is charged with an offense against this act, such charge shall be heard, and all penalties imposed by this act shall be recovered in a summary way before a stipendiary magistrate.

An appeal from this decision may be taken to the supreme court or to a district court.

PAYMENT OF WAGES: TRUCK SYSTEM.

Legislation in relation to the character of wage payments and the manner in which they shall be made is contained in three acts: The Truck Act, 1891, passed August 29, 1891; The Workmen's Wages Act, 1893, passed October 6, 1893; and The Wages Protection Act, 1899, passed October 19, 1899. In addition to these there are two special acts: The Employment of Boys or Girls Without Payment Prevention Act, 1899, of date of October 21, 1899, and The Public Contracts Act, 1900, of date of August 16, 1900, that should be mentioned in any consideration of laws in relation to wages.

The Truck Act, as its name would indicate, has as its main purpose to insure that wages will be paid in cash or orders upon a bank payable to bearer on demand. The important provisions of the act are the following:

In every contract hereafter to be made with any workman the wages of such workman shall be made payable in money only, and not otherwise, and, if by agreement, custom, or otherwise a workman is entitled to receive, in anticipation of the regular period of the payment of his wages, an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

If in any such contract the whole or any part of such wages shall be made payable in any manner other than in money, or shall provide for any deduction or charge as aforesaid in respect of any advance of the whole or a part of the wages of such workman, such contract shall be and is hereby declared illegal and void so far as any promise or consideration made or given by or arising out of the same relates to the payment of such wages otherwise than in money, or as to making any such deduction or charge as aforesaid; and such promise or consideration shall be deemed to be severable from the other part of the contract, which shall otherwise be and remain in force.

No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any workman any terms as to the place, or the manner in which, or the person with whom any wages or portion of wages paid to the workman are or is to be expended; and no employer shall, by himself or his agent, dismiss any workman from his employment for or on account of the place at which, or the manner in which, or the person with whom any wages or portion of wages paid by the employer to such workman are or is expended or fail to be expended.

The entire amount of the wages earned by or payable to any workman shall be actually paid to such workman in money, and not otherwise, at intervals of not more than one month if demanded; and every payment made to any such workman by his employer of or in respect of any such wages by the delivering to him of goods, or otherwise than in money, except as hereinafter mentioned, shall be and is hereby declared illegal and void; and every workman shall be entitled to recover from his employer in any court of competent jurisdiction the

whole or so much of the wages earned by such workman as shall not have been actually paid to him by his employer in money.

In any action to be hereafter brought or commenced by any workman against his employer for the recovery of any sum of money due to such workman as his wages,

(1) The defendant shall not be allowed to make any set-off or counterclaim, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods had or received by the plaintiff as or on account of his wages, or by reason or in respect of any goods sold, delivered, or supplied at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

(2) Nor shall the defendant be entitled to any set-off or counterclaim in respect of any goods supplied to the plaintiff by any person under any order or direction of the plaintiff or his agent, or the defendant or his agent.(*a*)

No employer shall have or be entitled to maintain any action in any court against any workman for or in respect of any goods sold, delivered, or supplied to any such workman by any such employer whilst in his employment as or on account of his wages, or for or in respect of any goods sold, delivered, or supplied to such workman at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest. Nor shall the employer of a workman, or any agent of such employer, or any person supplying goods to the workman under any order or direction of such employer or agent, be entitled to maintain any action in any court for or in respect of any goods supplied by such employer or agent, or under such order or direction, as the case may be: Provided that nothing in this section shall apply to any exceptions expressly provided for by this act.

No deduction shall be made from a workman's wages for sharpening or epairing tools, except by agreement.

Nothing herein shall be construed to prevent or render invalid any contract for the payment, or any actual payment, to any workman of the whole or any part of his wages in a check, draft, or order in writing for the payment of money to the bearer on demand, drawn upon any person, company, or association carrying on the business of a banker in New Zealand, either generally or with any particular persons or class of persons only, if such workman shall freely consent to receive such check, draft, or order; but all payments so made with such consent shall, for the purposes of this act, be as valid as if made in money: Provided that no such check shall be crossed: Provided, further, that if wages shall be paid to any workman by a check, draft, or order in writing as aforesaid, and the same shall be dishonored, such workman shall be entitled to recover from his employer such reasonable damages as he may have sustained in consequence of the dishonor of such check, draft, or order in writing, and such damages shall be recoverable in any court of competent jurisdiction, and in addition to any wages due or payable to such workman.

As in all acts of this character, it was found necessary to permit certain exceptions to the above provisions in those cases where the conditions under which the industry is carried on make it desirable that the

a The final clause "or the defendant or his agent" was added by the act of October 19, 1899.

employees shall be wholly or partially compensated in some other way than through payments in cash or checks. The law thus contains the following section setting forth the exact circumstances under which such exceptions shall be permitted:

This act shall not extend or apply in the following cases:

(1) Where an employer, or his agent, supplies or contracts to supply to any workman any medicine or medical attendance, or any fuel, materials, tools, appliances, or implements to be by such workman employed in his trade, labor, or occupation;

(2) Where an employer or his agent supplies or contracts to supply to any workman or workmen who have engaged with him to fell bush, or to clear land of bush, with the necessary outfit and means of support, and materials or tools requisite for commencing their engagement, to any amount not exceeding in any case the amount of 2 months' wages to be earned by such workman or workmen in such engagement;

(3) Where such employer, or his agent, supplies or contracts to supply to any workman any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such workman in his trade, labor, or occupation;

(4) Where such employer, or his agent, demises to any workman the whole or any part of any tenement at any rent to be therein reserved, or allows such workman the use of a tenement as part of his wages or in addition to his wages, or any other allowance or privilege in addition to money wages as a remuneration for his services;

(5) Where such employer supplies or contracts to supply to any such workman any victuals dressed or prepared under the roof of such employer, or any drink, not being of an intoxicating nature, and there consumed by such workman;

(6) Nor to prevent such employer from making or contracting to make any deduction or stoppage from the wages of any such workman for or in respect of any such rent, medicine, medical attendance, fuel, materials, tools, implements, hay, corn, provender, victuals, or drink as aforesaid;

(7) Nor shall prevent any employer from advancing to any workman any money to be by him contributed to any friendly society, life-assurance company or association, savings-bank, or other society or association whatever, or from advancing any money for the relief of such workman or his wife or family in sickness, or from advancing any money to any member of the workman's family by his order, nor from deducting or contracting to deduct any such sum or sums of money as aforesaid from the wages of such workman;

(8) To seamen or to persons employed in agricultural or pastoral pursuits: Provided that no deduction or stoppage shall exceed the real and true value of any fuel, tools, implements, hay, corn, provender, victuals, drink, or materials: Provided also that the exemptions in this section shall not apply to any contractor or subcontractor for any work executed under the general government of the Colony, or any local authority, or to any contractor or subcontractor, for any railway or road-making work, except in respect of money paid or advanced for medicine or medical attendance.

Something over one-third of the act relates to definitions, penalties, and the procedure for enforcing the latter or claims arising out of the act. As these provisions are not of general interest, it will be sufficient

to state their purport. Contract is defined to mean any agreement, whether oral or written, direct or indirect. Money means coin of the realm or notes of any duly authorized joint-stock bank or association carrying on the business of a banker in New Zealand. Contracts made in contravention of the provisions of this act are not only void but render the employer or agent liable to penalties not exceeding £10 ($48.67) for the first, £25 ($121.66) for the second, and £50 ($243.33) for the third or any subsequent offense. These penalties may be recovered in a summary way in accordance with The Justices of the Peace Act, 1882.

The Wages Protection Act, 1899, was passed for the purpose of preventing employers from making deductions from the wages of their employees for the payment of premium on accident insurance policies. The preamble to the act thus reads:

Whereas there has lately grown up amongst certain employers a practice of taking out accident insurance policies, to insure their workmen against accident and themselves against liability under the Employers' Liability Acts, and of compelling or inducing their workmen to contribute, as premium for such insurance, sums at a rate proportionate to their wages: And whereas such practice is oppressive, and it is expedient to prevent the same: And whereas it is also expedient to make other provisions for the protection of wages: Be it therefore enacted, etc.

The law then provides that the act shall form a part of The Truck Act and be read together with it, and contains the following provisions:

From and after the commencement of this act (1) it shall not be lawful for any employer to directly or indirectly take or receive any money from any worker in his employ, whether by way of deduction from wages or otherwise howsoever, in respect of any policy of insurance against injury by accident. (2) It shall not be lawful for any insurance company, or any person on its behalf, to directly or indirectly take or receive from any worker any money in respect of any policy of insurance which in any way, directly or indirectly, purports to both indemnify the employer against any of his liability under the Employers' Liability Acts, and also to pay compensation in respect of injury to the worker by accident.

Provided that the provisions of this section shall not apply to any voluntary arrangement arrived at between an employer and his worker for insurance against accidents happening to such worker outside the time in which he is engaged working for such employer; provided, further, that such arrangement is approved of by a stipendiary magistrate after hearing evidence; but in no case shall the premium payable by the worker exceed one-third of the total amount payable.

All money so taken or received as aforesaid from any worker may by him be recovered back at any time not exceeding 6 months thereafter, with full costs of suit, from the employer, company, or person who took or received it.

In any proceedings or suit against any employer, company, or person (1) for the breach of any of the provisions of the principal act or

this act; or (2) for the recovery by the worker of money alleged to have been taken or received from him in breach of any provisions of the principal act or this act,—the fact that the worker consented thereto shall not avail in any way as an answer or defense.

The slight amendment to the principal act has already been noted.

The Employment of Boys or Girls Without Payment Prevention Act, 1899, is an interesting act, because as regards boys or girls under 18 years of age it not only provides that remuneration shall be given, but adopts the principal of a legal minimum wage. The act, which is a short one, is here given in full.

Be it enacted by the general assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. The short title of this act is The Employment of Boys or Girls Without Payment Prevention Act, 1899, and it shall form part of and be read together with The Factories Act, 1894.

2. Every boy or girl under the age of 18 years who is employed in any capacity to do any work in a factory or workroom shall be entitled to receive from the employer payment for the work at such rate as is agreed on, being in no case less than 4s. [$0.97] per week for girls and 5s. [$1.22] per week for boys irrespective of overtime.

3. Such payment shall be made at weekly or such other intervals as are agreed on, being in no case longer than fortnightly intervals.

4. If the employer makes default for 14 days in the full and punctual payment of any money payable by him as aforesaid, he shall be liable to a penalty not exceeding 5s. [$1.22] for every day thereafter during which such default continues.

5. All proceedings for the recovery of any such penalty shall be taken by any inspector of factories within not more than 3 months after the due date of the payment in respect whereof default has been made, and shall be heard before a stipendiary magistrate.

6. Without affecting the other civil remedies for the recovery of money payable under this act, civil proceedings for the recovery thereof may be taken by any inspector of factories in the name and on behalf of the boy or girl entitled to payment, in any case where the inspector is satisfied that default in payment has been made.

7. No premium shall be paid by any such boy or girl to, or be accepted by, any factory occupier for employment in any factory or workroom, whether such premium is paid by the boy or girl employed or by some other person; and if any factory occupier is guilty of any breach of the provisions of this section he shall be liable to a penalty not exceeding £10 [$48.67].

In any case where any such premium has been paid as aforesaid, or where the factory occupier has made any deduction from wages, or received from the boy or girl, or from any person on behalf of the boy or girl, any sum in respect of such premium or employment, then, irrespective of any penalty to which he thereby becomes liable, the amount so paid, deducted, or received may be recovered from the factory occupier in civil proceedings instituted by any inspector of factories in the name and on behalf of the boy or girl concerned.

The full title of The Public Contracts Act, 1900, is "An act to provide for fair wages and working-hours on public contracts." By it

the principle of "a fair wage" as regards public works is definitely accepted. Following is a copy of this act:

Be it enacted by the general assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. The short title of this act is The Public Contracts Act, 1900.

2. In this act the expression "public contract" means every contract exceeding the value of £20 [$97.33] hereafter entered into pursuant to public tender by or on behalf of Her Majesty's Government in New Zealand, any education board, harbor board, or any local authority, as contractee, with any person, firm, or company, as contractor, for the construction, extension, or repair of any public or other work, or the supply or performance of any service, involving the employment of skilled or unskilled manual labor.

3. In the employment of every description of skilled or unskilled manual labor for the purposes of any public contract, the contractor shall at all times be deemed to have agreed with his workers to observe such length for the working-day, and to pay such rates of wages or other remuneration for working-days and for overtime respectively, as are generally considered in the locality to be usual and fair for the description of labor to which they relate, such length being at no time greater nor such rates lower than those fixed for the same description of labor by or under any award or order of the court of arbitration existing at the time the contract was entered into, whether the contractor was or was not a party thereto or bound thereby: Provided that nothing in this section or elsewhere in this act contained shall limit or affect the rights of the worker under any agreement with the contractor for the observance of a shorter length or the payment of a higher rate than those referred to in this section.

4. In every public contract the maximum length of the working-day to be observed in the case of each description of skilled or unskilled manual labor employed by the contractor in carrying out the contract shall not exceed 8 hours exclusive of overtime.

5. The foregoing provisions of this act shall be deemed to be incorporated in every public contract.

6. It shall not be competent to any worker to contract himself out of the benefit of this act.

7. If the contractor commits any breach of the provisions of this act, then, in addition to any other penalty or liability he may thereby incur under the contract or this act, he shall be liable to a penalty not exceeding £10 [$48.67] for each offense.

All penalties incurred under this act shall be recoverable in a summary way under the provisions of The Justice of the Peace Act, 1882.

With the single exception of the clause which provides that the wages of manual laborers shall, in the absence of any agreement in writing to the contrary, be paid at intervals of not more than one week, the consideration of The Workmen's Wages Act, 1893, falls without the scope of the present study of labor legislation. This act, with the exception noted, relates to such matters as that wages shall be a first charge on money due to or in the hands of a contractor; that an assignment of such money shall have no effect until wages are paid; that the contractor must keep an account of moneys received by

him and produce the same to the workmen when requested; that workmen whose wages are in arrears may attach moneys in hands of employer, etc. This matter of protecting the payment of wages or of putting wages in a preferential position as regards their collection or attachment it may be said is also covered by The Contractors' and Workmen's Lien Act, 1892.

THE INDUSTRIAL CONCILIATION AND ARBITRATION ACT.

The act of New Zealand relating to the compulsory arbitration of labor disputes is undoubtedly the most characteristic piece of labor legislation passed by any of the Australasian Colonies. The great strike of 1890 which so disorganized industry in New Zealand gave great prominence to all measures of labor reform. The subject of the arbitration of labor disputes was naturally one of the first to be taken up. Chiefly owing to the efforts of Mr. W. P. Reeves, the minister of labor for the Colony, action took the form of the introduction of the principle of compulsory arbitration. The consequence was the passage of The Industrial Conciliation and Arbitration Act, 1894, August 31, 1894. This act has since been three times amended by the acts of October 18, 1895, October 17, 1896, and November 5, 1898, respectively.

A copy of the act as it now stands is given below. It was thought preferable to reproduce the original act incorporating in it all changes provided for by the amending acts, than to print all the four acts separately and thus to leave to the reader the difficult task of determining the present exact status of the provisions. Footnotes indicate carefully all the provisions which are due to the amending acts.

AN ACT to facilitate the settlement of industrial disputes by conciliation and arbitration [31st August, 1894]. (*a*)

Be it enacted by the general assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. The short title of this act is "The Industrial Conciliation and Arbitration Act, 1894." It shall come into force on the first day of January, 1895.

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

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

"Board" means a board of conciliation for an industrial district constituted under this act, and includes a special board of conciliation:

"Court" means the court of arbitration constituted under this act:

"Employer" includes persons, firms, companies, and corporations employing workers: (*b*)

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a The words "to encourage the formation of industrial unions and associations and" appearing immediately after the word "act" in the principal act were suppressed by the amendment act of 1898.

b The principal act uses the word "workmen." The amendment act of 1895 provides that the word "workers" shall be substituted for "workmen" throughout the act.

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

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

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

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

(c) The employment of children or young persons, 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) Any established custom or usage of any industry, either generally or in the particular district affected;

(e) Any claim arising under an industrial agreement:

"Industrial union" means an industrial union registered and incorporated under this act:

"Industry" means any business, trade, manufacture, undertaking, calling, or employment of an industrial character:

"Officer" of a trade union, industrial union, or association of workers, means only the president, vice president, secretary, or treasurer of such body:

"Prescribed manner" means the manner prescribed by regulations made pursuant to this act:

"Registrar" means the registrar of friendly societies:

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

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

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

PART I.

REGISTRATION OF INDUSTRIAL UNIONS AND ASSOCIATIONS.

(*1*) *Industrial unions.*

3. A society consisting of any number of persons not being less than five, (*a*) residing within the colony, lawfully associated for the

a Changed from seven in the principal act to five by the amendment act of 1895.

purpose of protecting or furthering the interests of employers or workers in or in connection with any industry in the colony, and whether formed before or after the passing of this act, may be registered as an industrial union pursuant to this act on compliance with the following provisions:

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

(2) Such application shall be accompanied by (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.

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

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

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

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

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

(e) The custody and use of the seal, including power to alter or renew the same:

(f) The control of the property of the society, and the investment of the funds thereof; and for an annual or other periodical audit of the accounts:

(g) The inspection of the books and the names of members of the society by every person having an interest in the funds thereof:

(h) A register of members and the mode in which and the terms on which persons shall become or cease to be members, and so that no member shall discontinue his membership without giving at least 3 months' previous written notice to the secretary of intention so to do, nor until such member has paid all fees or other dues payable by him to the union under its rules, and which fees or dues, in so far as they are owing for any period of membership subsequent to the registration of the society under this act, may be sued for and recovered in any court of competent jurisdiction by any person or authority empowered to do so by law or by such rules:

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

4. (1) The rules may also provide for any other matters not contrary to law, and for their amendment, repeal, or alteration, but so that the requisites of subsection three of the last preceding section shall always be provided for.

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

(3) A printed copy of the rules of the society shall be delivered by the society to any person requiring the same on payment of a sum not exceeding one shilling [24 cents].

Notwithstanding anything to the contrary contained in section three of the principal act, it is hereby enacted as follows: Where a copartnership firm is a member of any such society, each individual partner residing in New Zealand shall be deemed an individual member of the society, and also of the industrial union when such society is registered as a union; any incorporated or registered company may be registered as an industrial union of employers.(*a*)

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

In the case of any incorporated or registered company the directors shall sufficiently represent the members for the purpose of the application to register as an industrial union of employers, and the resolution prescribed by subsection one of section three of the principal act may accordingly be a resolution of the directors.(*c*)

5. On being satisfied that the provisions of section three in relation to an application for registration have been complied with, the registrar shall register the society, without fee, as an industrial union pursuant to the application, and shall issue a certificate of registry and incorporation, which, unless proved to have been canceled, shall be conclusive evidence of the fact of such registration and incorporation, and of the validity thereof.

6. Upon receiving such certificate, every such industrial union shall become a body corporate, by the registered name, having perpetual succession until dissolved or the registration thereof is canceled as hereinafter provided, and shall have a common seal. There shall be inserted in the registered name of every industrial union the word "employers" or "workers" according to whether such union shall be a union of employers or workers, as thus: The Bootmakers' Industrial Union of Workers.

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

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a This paragraph was inserted by the amendment act of 1895. The clause making five the minimum membership of an industrial union is not reproduced, as the change has already been noted.

b This paragraph was inserted by the amendment acts of 1895 and 1896, the latter amending the former by adding the part beginning with "or in any industrial district," etc.

c This paragraph was inserted by the amendment act of 1896.

8. Any trade union registered under The Trade Union Act, 1878, may be registered by the same name (with the insertion of such additional words as aforesaid) under this act by making application to the registrar for the purpose; and the registrar shall register such trade union as an industrial union accordingly, and issue a certificate of registration and incorporation as hereinbefore provided.

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

9. No industrial union shall be registered under a name identical with that by which any other industrial union has been registered under this act, or by which any other trade union has been registered under The Trade Union Act, 1878, or so near resembling any such name as to be likely to deceive the members or the public.

10. The effect of registration shall be to render the industrial union, and all persons who may be members of any society or trade union registered as an industrial union at the time of registration, or who after such registration may become members of any society or trade union so registered, subject to the jurisdiction by this act given to a board and the court respectively, and liable to all the provisions of this act, and all such persons shall be bound by the rules of the industrial union during the continuance of the membership.

11. Any industrial union may at any time apply to the registrar in the prescribed manner for a cancellation of the registration thereof, and the registrar, after giving six weeks' public notice of his intention so to do, may cancel such registration; but no registration shall be canceled during the progress of any conciliation or arbitration affecting such union until the board or court has given its decision or made its award, nor in any case unless the registrar shall be satisfied that the cancellation is desired by a majority of the members of the union; and no cancellation of any registration shall relieve any industrial union, or any member thereof, from the obligation of any industrial agreement or award of the court.

(*2*) *Industrial associations.*

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

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

(*3*) *General.*

13. In the months of January and July in every year there shall be forwarded to the registrar by every association a list of the unions constituting such association; and in the same months in every year

there shall be forwarded to the registrar by every industrial union a list of the members of such union. Each such list shall be verified by the statutory declaration of the president or chairman of each such association and union, and such statutory declaration shall be *prima facie* evidence of the truth of the matters therein set forth.

Each such list shall specify the names of all the officers (including trustees) of each such association or union. (*a*)

14. Every association or industrial union making default in forwarding to the registrar any list required to be forwarded by the last-preceding section shall be guilty of an offense against this act, punishable by a penalty not exceeding two pounds [$9.73] 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 willfully permits such default shall be guilty of a similar offense, punishable by a penalty not exceeding five shillings [$1.22] for every week during which he willfully permits such default.

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

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

PART II.

INDUSTRIAL AGREEMENTS.

17. The parties to industrial agreements may be (1) trade unions, (2) industrial unions, (3) industrial associations, (4) 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.

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

19. Every industrial agreement shall be for a term to be specified therein, not exceeding three years from the date of the making thereof, and shall commence as follows: "This agreement, made in pursuance of The Industrial Conciliation and Arbitration Act, 1894, this ——— day of ———, between ———," and then set out the matters agreed upon; and the date of the making of such agreement shall be the date when such agreement shall be first signed or executed by any party thereto; and such date, and the names of all industrial unions, trade unions, associations, or employers parties to such agreement, shall be truly stated therein.

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a This paragraph was inserted by the amendment act of 1895.

20. A duplicate of every industrial agreement shall be filed in the supreme court office within thirty days of the making thereof, and a fee of five shillings [$1.22] shall be paid in respect of every agreement so filed.

21. Every industrial agreement duly made and executed shall be binding on the parties thereto and on every person who at any time during the term of such agreement is a member of any industrial union, trade union, or association party thereto, and on every employer who shall in the prescribed manner signify to the registrar of the supreme court where such agreement is filed concurrence therein, and every such employer shall be entitled to the benefit thereof, and be deemed to be a party thereto.

22. (1) For the purpose of enforcing industrial agreements, whether made before or after the coming into operation of this act, the provisions of the last-preceding section hereof [see sections 75–81] 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. (*a*)

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

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

23. [Repealed by the amendment act of 1898. See footnote to section 22.]

PART III.

CONCILIATION AND ARBITRATION.

(*1*) *Preliminary.*

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

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

25. In and for every industrial district the governor shall appoint a clerk of awards (hereinafter referred to as "the clerk"), who shall be attached to the office of the registrar, and shall be subject to the control and direction of that officer, and shall in the prescribed manner report to the registrar all proceedings taken or done by or before him.

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

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a The provisions of this paragraph are in substitution of the provisions of subsection (1) of section 22, and of section 23, of the principal act, according to the amendment act of 1898.

26. It shall be the duty of the clerk—

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

(2) To convene the board or court for the purpose of dealing with any such dispute;

(3) To keep a register in which shall be entered the particulars of all references and settlements of industrial disputes made to and by the board, and of all references and awards made to and by the court;

(4) To issue all summonses to witnesses to give evidence before the board or court, and to issue all notices and perform all other acts in connection with the sittings of the board or court in the prescribed manner; and

(5) Generally to do all such things and to take all such proceedings as may be required in the performance of his duties by this act or in the prescribed manner, or, in the absence of regulations, with the directions of the registrar.

27. Any board and the court, and, being authorized in writing by the board or court, any member of such board or court respectively, or any officer of such board or court, without any other warrant than this act, at any time between sunrise and sunset—

(1) May enter upon any manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises of any kind whatsoever, wherein or in respect of which any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to such board or court;

(2) May inspect and view any work, material, machinery, appliances, article, matter, or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises as aforesaid;

(3) May interrogate any person or persons who may be in or upon any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises, as aforesaid, in respect of or in relation to any matter or thing hereinbefore mentioned.

And any person who shall hinder or obstruct the board or court, or any member or officer thereof respectively, in the exercise of any power conferred by this section, or who shall refuse to the board or court, or any member or officer thereof respectively duly authorized as aforesaid, entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises, or shall refuse to answer any question put to him as aforesaid, shall for every such offense be liable to a penalty not exceeding £50 [$243.33].

28. The following persons shall be disqualified from being appointed or elected or from holding office as chairman or as a member of any board, or as president or a member of the court, and if so elected or appointed shall be incapable of continuing to be such member, president, or chairman:

(1) A bankrupt who has not obtained his final order of discharge;

(2) Any person convicted of any crime for which the punishment is death or imprisonment with hard labor for a term of 3 years or upwards; or

(3) Any person of unsound mind.

No person whilst holding a seat on one board shall hereafter be eligible for nomination or election to a seat on any other board, and if he is so elected his election shall be void.(*a*)

If any person allows himself to be nominated for election as member of more boards than one, both nominations shall be void.(*a*)

In the event of any person's election becoming void under this section the governor shall fill the vacancy by appointment, in the same manner as if the prescribed number of members had not been elected, anything in section 36 of the principal act to the contrary notwithstanding.(*a*)

This section shall apply both to boards of conciliation and to special boards of conciliators inter se, but shall not otherwise affect the operation of section 41 of the principal act, nor shall it in any way affect any election held before the coming into operation of this act.(*a*)

29. Whenever an industrial dispute shall be referred to a board or court as hereinafter provided, no industrial union or association, trade union, or society, whether of employers or workers, and no employer who may be a party to the proceedings before the board or court shall, on account of such industrial dispute, do any act or thing in the nature of a strike or lockout, or suspend or discontinue employment or work in any industry affected by such proceedings, but each party shall continue to employ or be employed as the case may be until the board or court shall have come to a final decision in accordance with this act. But nothing herein shall be deemed to prevent any suspension or discontinuance of any industry, or from working therein, for any other good cause.

No industrial dispute shall be referred for settlement to a board by an industrial association, industrial union, or trade union, and no application shall be made to the court for the enforcement of any award, except in pursuance of a resolution passed by a majority of the members present at a meeting specially summoned by notice being posted to each member, stating the nature of the proposal to be submitted to the meeting.(*b*)

(*2*) *Boards of conciliation.*

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

31. The governor may determine the number of persons who (together with the chairman) shall compose the board of such district, subject, however, to the express provisions of this act, and such number shall be stated in the notice of the constitution of the district.

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

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

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a This paragraph was inserted by the amendment act of 1896.
b This paragraph was inserted by the amendment act of 1898.

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

(3) Every board shall be elected in the following manner:

(a) The clerk shall act as returning officer, and do the acts and things hereinafter mentioned.

(b) First elections of a board shall be held within 30 days after the constitution of the district, and the returning officer shall give 14 days' notice in one or more newspapers circulating in the district of the day and place of election, which shall be so arranged that the industrial unions of employers shall vote at one time and the industrial unions of workers at another time on the day fixed: Provided that the governor may from time to time extend the period within which any elections shall be held for such time as he thinks fit.

(c) Persons shall be nominated for election in such manner as the rules of the industrial union may prescribe, or, if there be no such rule, nominations shall be made in writing by the chairman of the union, and lodged with the returning officer at least 3 days before the date of election. Each nomination shall be accompanied by the written consent of the person nominated, and forms of nomination shall be provided by the returning officer on application to him for that purpose.

(d) When all the nominations have been received the returning officer shall give notice of the names of persons nominated by affixing a list thereof on the door of his office at least one clear day before the day of election.

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

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

(f) The returning officer shall preside at the election by each division of industrial unions entitled to vote, and the vote of each such union shall be signified in writing in the prescribed manner, and on being tendered by the chairman of the union, or by some person appointed by the union for that purpose in accordance with its rules, the returning officer shall record the vote in such manner as he thinks fit.

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

(h) If it shall happen that two or more candidates have an equal number of votes the returning officer, in order to complete the election, shall give such votes to one or more of such candidates as he thinks fit: Provided that any candidate may in any such case agree to withdraw from the election.

(i) As soon as possible after the votes of each division of industrial unions have been recorded the returning officer shall ascertain what persons have been elected, as before provided, and shall state the result in writing, and forthwith post the same in some public place at the place of election.

(j) In case of any dispute touching the sufficiency of the nomination, the mode of election, or the result thereof, or any matter incidentally arising in or in respect of such election, the same shall be decided by the returning officer, whose decision shall be final.

(k) In case any election is not completed for any cause on the day appointed the returning officer may adjourn the election, or the completion thereof, to the next or any subsequent day, and may then proceed with the election.

(l) The whole of the voting papers shall be securely kept by the returning officer during the election, and thereafter shall be put in a packet and kept for 1 month, when he shall cause the whole of them to be effectually destroyed.

(m) Neither the returning officer nor any person employed by him shall (except in discharge of his duty) disclose for whom any vote has been given or tendered, either before or after the election is completed, or retain possession of or exhibit any voting paper used at the election, or give any information to any person as to all or any of the matters herein mentioned; and if any person shall commit a breach of this provision he shall be liable to a penalty not exceeding twenty pounds [$97.33.]

But nothing herein contained shall be deemed to forbid the disclosure of any fact or the doing of any act hereby prohibited if the same be required in obedience to the process of any court of law.

(4) The clerk shall, after the completion of the election, appoint a day for the first meeting of the members elected, and shall give at least 3 days' notice in writing to each member. At such meeting the members shall elect some impartial person, not being one of their number, and willing to act, to be chairman of the board.

33. As soon as may be after the election of the chairman the clerk shall transmit to the governor a list of the names of the respective persons elected as members and as chairman of the board, and the governor shall cause notice thereof to be published in the Gazette, and the date on which such notice is so published shall be deemed to be the date of election, and such notice shall be final and conclusive for all purposes.

34. The members of the board and the chairman shall hold office for the period of 3 years from the date of the publication of such notice in the Gazette, and until their successors are elected.

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

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

37. Upon any casual vacancy being reported to the clerk in the office of a member of a board, he shall take all such proceedings as may be necessary to have an election by the class of industrial union entitled to vote in the election of such member, and the provisions as to general elections shall apply accordingly as far as applicable. In the case of a casual vacancy in the office of chairman, the board shall

meet on such day and time as they may appoint and elect a chairman to supply such vacancy.

38. (1) The presence of the chairman and of not less than one-half in number of the other members of a board shall be necessary to constitute a quorum.

(2) But in case of the illness or absence of a chairman the members may elect one of their own number to be chairman during such illness or absence.

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

39. If at any time the industrial unions entitled to vote shall neglect or refuse to vote at the election of a member of the board, whether in respect of a general election or a casual vacancy, or if the members of a board shall neglect or refuse to elect a chairman, the governor may in any such case appoint such fitting persons as members of the board or as chairman as may be necessary in any case to give effect to this act.

If and as often as for any reason the prescribed number of members of the board is not duly elected, or the prescribed number of members of the court is not duly recommended, as provided by the principal act, the governor shall, by notice in the Gazette, appoint as many fit persons to be members of the board or court as may be necessary in order to make the prescribed number. The Gazette notice of such appointment shall be conclusive evidence of the happening of the events entitling the governor to make such appointment. (*a*)

Every person appointed by the governor to be member or chairman of a board shall be deemed to be elected within the meaning and for the purposes of section 33 of the principal act. (*b*)

This section shall take effect as from the date of the coming into force of the principal act. (*b*)

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

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

41. (1) Notwithstanding the election of a board under the provisions hereinbefore contained, or where no district shall have been constituted, a special board of conciliators may be appointed from time to time to meet any case of emergency or any special case of industrial dispute. Such board shall consist of an equal number of persons not exceeding six, all or any of whom may be members of the board of the district, and shall be chosen separately in equal numbers

a This paragraph was inserted by the amendment act of 1895.
b This paragraph was inserted by the amendment act of 1896.

by employers and industrial unions of employers directly interested in such dispute and by industrial unions of workers so interested.

(2) The members of any such special board, together with a chairman, to be elected as provided in section 32, shall, except in respect of the duration of their office, be deemed to possess all the jurisdiction and powers of a board elected for an industrial district.

42. Any industrial dispute may be referred for settlement to a board either by or pursuant to an industrial agreement, or in the manner hereinafter provided:

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

(2) The parties to such dispute may comprise—

(a) An individual employer, or several employers, and an industrial union, trade union, or association of workers;

(b) An industrial union, trade union, or association of employers, or an individual employer, or several employers, and an industrial union, trade union, or association of workers, or several such unions or associations:

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

(3) An employer, being a party to a reference, may appear in person, or by his agent duly appointed in writing for that purpose, or by counsel or solicitor where allowed as hereinafter provided.

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

(5) Every party appearing by a representative or representatives shall be bound by his or their acts.

(6) The clerk, on receipt of any application for a reference to a board, shall forthwith lay the same before the board mentioned in such application at a meeting of such board to be convened by him in the prescribed manner, and, subject to the provisions of this act, shall carry out all directions of the board in order to effect a settlement of the industrial dispute referred to it.

(7) 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, or interested in the matter referred to a committee, shall expressly consent thereto.

When any industrial dispute has been referred for settlement to a board or the court, any employer, association, trade union, or industrial union may, on application, if the board or the court deem it equitable, be joined as party thereto at any stage of the proceedings, and on such terms as the board or the court deems equitable. (*a*)

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a This paragraph was inserted by the amendment act of 1896.

43. Every board shall, in such manner as it shall think fit, carefully and expeditiously inquire into and investigate any industrial dispute of which it shall have cognizance, and all matters affecting the merits of such dispute or the right settlement thereof, and, for the purposes of any such inquiry, shall have all the powers of summoning witnesses, and hearing and receiving evidence, and preserving order at any inquiry, which are by this act conferred on the court of arbitration.

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

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

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

Where an industrial dispute relates to employment or wages, the jurisdiction of the board or court to deal therewith shall not be voided or affected by the fact that the relationship of employer and employed has ceased to exist, unless it so ceased at least 6 weeks before the industrial dispute was first referred to the board or to the court, if there has been no prior reference to the board. (*a*)

44. In the course of any such inquiry and investigation the board shall make all such suggestions and do all such things as shall appear to them as right and proper to be made or done for securing a fair and amicable settlement of the industrial dispute between the parties, and may adjourn the proceedings for any period the board thinks reasonable, to allow the parties to agree upon some terms of settlement; and, if no such settlement shall be arrived at, shall decide the question according to the merits and substantial justice of the case, and make their report or recommendation in writing, under the hand of the chairman of the board, which shall be delivered to and filed by the clerk in his own office with all papers and proceedings relating to the reference. Such report shall be delivered as aforesaid within 2 months of the day on which the application was lodged with the clerk.

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

(1) Refer the matters in dispute, upon such terms as the board thinks fit, to a committee of their number, consisting of an equal number of representatives of employers and workers, who shall endeavor to reconcile the parties; or,

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

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

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a This paragraph was inserted by the amendment act of 1895.

(3) *The court of arbitration.*

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

48. (1) The court shall consist of three members to be appointed by the governor, one to be so appointed on the recommendation of the councils or a majority of the councils of the industrial associations of workers in the colony, and one to be so appointed on the recommendation of the councils or a majority of the councils of the industrial associations of employers of the colony: Provided that if there shall be no industrial associations of employers, then, in their stead, such recommendation as aforesaid shall be made by the industrial unions of employers.

No recommendation shall be made as to the third member, who shall be a judge of the supreme court, and shall be appointed from time to time by the governor, and shall be president of the court, and, in case of the illness or unavoidable absence of such judge at any time, the governor may appoint some fit person, being a supreme court judge, to be and act as president, who shall hold office only during the illness or unavoidable absence of such judge.

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

(a) Each such council respectively shall, within 1 month after being requested so to do by the governor, submit the name of one person to the governor, and from the names of the persons so recommended the governor shall select two members, one from each set recommended, and appoint them to be members of the court.

In the event of a majority of the councils not having made recommendations as aforesaid, or in case such majority of recommendations shall not be received by the governor within the period of 1 month after each council has been requested to submit a name as aforesaid, or in case any person so recommended shall decline to act as a member of the court, the governor shall forthwith appoint such person as he shall think fit to be a member of the court; and such member shall be deemed to be appointed on the recommendation of the said councils, as the case may be.

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

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

49. (1) Every member of the court shall hold office for 3 years from the date of his appointment, and shall be eligible for reappointment, and any casual vacancy occurring in the membership by death, disqualification, resignation, or removal shall be supplied in the same manner as the original appointment was made; but every person so appointed to fill a casual vacancy shall hold office only for the period that his predecessor would have held office.

(2) The governor may remove any member of the court from office who shall become bankrupt, who may be convicted of any crime the

punishment of which is death or imprisonment with hard labor for a term of 3 years or upward, who may become of unsound mind, or who shall be absent from three consecutive sittings of the court.

50. Before proceeding to consider any case, the members, other than the presiding judge, of the court and the officers thereof shall respectively make a statutory declaration that any evidence produced before them shall not be disclosed to any one except as provided by this act.

The statutory declaration prescribed by section 50 of the principal act need be taken only once, and, in the case of each member by whom it is or has been taken, it shall be deemed to apply to all evidence produced before him during his term of office.(*a*)

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

52. The court shall have jurisdiction for the settlement and determination of any industrial dispute referred to it by any board pursuant to sections 45 or 46, or by reference under section 82, or by petition under section 83, or by industrial agreement, or by either party to an industrial dispute which has arisen in a district where no board has been constituted, and for such purpose may summon any party to an industrial dispute to appear before it.

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

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

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

54. The sittings of the court shall be held at such time and place as are from time to time fixed by the president. The sittings may be fixed either for a particular case or generally for all cases then before the court and ripe for hearing, and it shall be the duty of the clerk to give to each member of the court at least 48 hours' previous notice of the time and place of each sitting.(*b*)

55. The parties to the proceedings before the court shall be those before the board, and the provisions hereinbefore contained as to the appearance of parties before a board shall apply to proceedings before the court.

At least three days' notice shall be given to each party to the proceedings of the time and place appointed for the meeting of the court,

a This paragraph was inserted by the amendment act of 1898.

b This paragraph was inserted by the amendment act of 1898, in substitution for section 54 of the principal act repealed.

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

56. The clerk may, at the request of either party, issue a summons in the prescribed manner to any person to appear and give evidence in any manner before the court, and to produce any books, deeds, papers, or writings relating to such matter, and in his possession or under his control. Such books, deeds, papers, and writings may be inspected by the members of the court for the purposes of this act; but the information obtained therefrom shall not in any form be made public. And any person upon whom any such summons shall have been served, and to whom at the same time payment or a tender of his traveling expenses on the scale hereinafter mentioned shall have been made, and who shall neglect or refuse without sufficient cause to appear or to produce any books, deeds, papers, or writings required by such summons to be produced, shall be liable to a penalty not exceeding twenty pounds [$97.33], or in default of payment to be imprisoned for a term not exceeding one month; but the payment of such fine or the undergoing of such imprisonment shall not exempt any person from liability to an action for disobeying such summons.

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

58. Every person who shall be summoned and shall appear as a witness shall be entitled to an allowance or compensation for expenses and loss of time according to the scale for the time being in force and allowed to witnesses in civil suits under The Magistrates' Courts Act, 1893.

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

60. For the purpose of obtaining the evidence of witnesses at a distance, the court shall be deemed to have and may exercise all the powers and duties of a stipendiary magistrate under The Magistrates' Courts Act, 1893; and the provisions of the said act, *mutatis mutandis*, shall be applicable to all proceedings in the court under this act to the same extent as if the court were a magistrate's court; and every stipendiary magistrate, and every magistrate's court, and every clerk of such court shall for the purposes aforesaid have and may exercise all such duties and powers in respect of any matter or thing arising under this act as such stipendiary magistrate, or magistrate's court, or clerk respectively could do or be required to do under The Magistrates' Courts Act, 1893.

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

62. If either of the members other than the president shall neglect or fail to attend a sitting of the court without good cause shown to the satisfaction of the president, the other member present and the

president may nevertheless act as fully as if all the members were present.

63. The court may be adjourned from time to time and from place to place in manner following, that is to say: (1) 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 (2) by the president at any time before the time fixed for the sitting, and in such case the clerk shall notify the members of the court and all parties concerned. (*a*)

The powers by the last preceding section [sections 54 and 63] hereof conferred upon the president in the case of the court shall, in the case of the board, be exercisable by the chairman thereof. (*b*)

The board or the court, at any stage of the proceedings before it, and either of its own motion or at the request of any of the parties, may direct that the proceedings be conducted in private, and in such case all persons other than the parties, their representatives, and any witness under examination shall withdraw. (*b*)

64. If any person shall willfully insult any member of the court or the clerk during the sitting of the court, or shall willfully interrupt the proceedings of the court, or be guilty in any other manner of any willful contempt in the face of the court, it shall be lawful for any officer of the court, with or without the assistance of any other person, to take such offender into custody and remove him from the court, to be detained in custody until the rising of the court, and the person so offending shall be liable to a penalty not exceeding ten pounds [$48.67] for such offense, to be recovered in a summary way as hereinafter provided.

65. If any party to proceedings before the court shall, after notice given to such party, fail to attend or be represented before the court, without good cause shown to such court, the court may proceed and act as fully in the matter before it as if such party had duly attended or been represented. Any person who is a party to any such proceedings may be required to give evidence before the court in the manner hereinbefore provided with respect to a witness.

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

67. 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 may be limited to an order upon the party bringing the matter before the court for payment of all costs of bringing the same.

In order to enable the 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: (1) direct parties to be joined or struck out; (2) amend or waive any error or defect in the proceedings; (3) extend the time within which anything is to be done by any party; and (4) generally give such directions as are deemed necessary or expedient in the premises. (*b*)

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a This paragraph was inserted by the amendment act of 1898, in substitution for section 63 of the principal act repealed.

b This paragraph was inserted by the amendment act of 1898.

The powers by the last-preceding section [paragraph] hereof conferred upon the court may, when the court is not sitting, be exercised by the president. (*a*)

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

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 [$2,433.25], shall be the maximum penalty payable by any party or person in respect of any breach: Provided, however, that the aggregate amount of penalties payable under or in respect of any award shall not exceed five hundred pounds [$2,433.25]. (*a*)

It shall not be lawful for the court by any award to fix any age for the commencement or termination of apprenticeship. (*a*)

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. (*a*)

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

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

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 same in the award or order. Section 69 of the principal act is hereby modified in so far as it is in conflict with this section, but not further or otherwise. (*a*)

70. The award shall be framed in such manner as shall best express the decision of the court, avoiding all technicality where possible, but shall state in clear terms what is or is not to be done or performed by each party or person affected by the decision, and may provide for an

a This paragraph was inserted by the amendment act of 1898.

alternative course to be taken by any party to the proceedings, or by any person affected thereby; but no award shall be void or vitiated in any way because of any informality or want of form, or any non-compliance with the provisions of this act.

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

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

73. No proceedings in the court shall abate by reason of the death of any member of the court or of any party to such proceedings, but the same may be continued and disposed of by the successor in office of such member or legal personal representative of the party so dying.

(*4*) *Enforcement of awards.*

74. Every award of the court shall specify each industrial union, trade union, association, person, or persons on which or on whom it is intended that it shall be binding, and the period, not exceeding 2 years from the making thereof, during which its provisions may be enforced; and during the period within which the provisions of such award may be enforced such award shall be binding upon every industrial union, trade union, association, or person upon which it shall be thereby declared such award shall be binding: Provided that, if the members of any industrial union or trade union are mentioned generally in any such award, all persons who are members at the date thereof of such award, or may thereafter become so during its subsistence, shall be included in the direction given or made by the award.

75–81. (*a*) For the purpose of enforcing any award or order of the court, whether made before or after the coming into operation of this act, the following provisions shall apply, anything in the principal act to the contrary notwithstanding:

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

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

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

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

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a The following provisions were substituted by the amendment act of 1898, in the place of sections 75 to 81 of the principal act repealed.

Provided that the amount payable by any party or person shall not exceed five hundred pounds [$2,433]:

Provided also that the aggregate amount of penalties and costs payable under any award shall not exceed five hundred pounds [$2,433].

(5) For the purpose of enforcing payment of the amount payable under any order of the court (not being an order under section 10 hereof), 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 persons by and to whom the same is payable, may be filed in any court having jurisdiction to the extent of such amount, and shall thereupon, according to its tenor, operate and be enforceable in all respects as a final judgment of such court in its civil jurisdiction:

Provided that, for the purpose of enforcing satisfaction of such judgment where there are two or more judgment creditors thereunder, process may be issued separately by each judgment creditor against the property of his judgment debtor in like manner as in the case of a separate and distinct judgment.

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

Provided that no member shall be liable for more than ten pounds [$48.67] 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.

(8) The foregoing provisions of this section are in substitution of those contained in sections 75 to 81 of the principal act, and those sections are hereby accordingly repealed.

(9) Nothing in this section contained shall affect the validity of any proceedings which at the coming into operation of this act are pending for the enforcement of any award or order of the court in so far as the same relates to the payment of money, and all such proceedings may either be continued under the principal act, or be abandoned and be instituted afresh under this act; but all proceedings pending for enforcement of any award by attachment are hereby stayed, and in lieu thereof proceedings may be instituted afresh for enforcement by penalty under this section:

Provided that the court when disposing of such fresh proceedings shall make such order as to costs as it deems just, having regard to the costs of the proceedings abandoned or stayed as aforesaid.

PART IV.

GOVERNMENT RAILWAYS.

82. The management of Government railways under The Government Railways Act, 1887, shall be deemed to be an industry within the meaning of this act; and notwithstanding anything contained in

the first-mentioned act, the railway commissioners appointed thereunder may make an industrial agreement with the society now registered under The Trade Union Act, 1878, and called The Amalgamated Society of Railway Servants, and either the said commissioners or the society may refer any industrial dispute between them to the court established under this act; and the commissioners may give effect to any terms of an award made by such court.

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

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

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

84. Notwithstanding anything in this act contained, no board constituted under this act shall have any jurisdiction in any matter of dispute between the commissioners and the said society.

PART V.

MISCELLANEOUS.

85. Any notification made or purporting to be made in the Gazette by or under the authority of this act may be given in evidence in all courts of justice, in all legal proceedings, and for any of the purposes of this act, by the production of a copy of the Gazette, printed by the government printer for the time being.

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

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

87. The governor from time to time may make, alter, or revoke such regulations not inconsistent with this act as may be necessary or desirable to carry out all or any of the following purposes:

(1) Prescribing the forms of certificates or other instruments to be issued by the registrar, and of any certificate or other proceeding of any board or any officer thereof;

(2) Prescribing the duties of clerks of awards, and of all other officers and persons acting in the execution of this act;

(3) Providing for anything necessary to carry out the first or any subsequent election of members of boards, or on any vacancy therein, or in the office of chairman of any board, including the forms of any notice, proceeding, or instrument of any kind to be used in or in respect of any such election;

(4) Providing for the mode in which recommendations of members of the court shall be made and authenticated;

(5) Prescribing any act or thing necessary to supplement or render more effectual the provisions of this act as to the conduct of proceedings before a board or the court, or the transfer of such proceedings from one of such bodies to the other;

(6) Providing generally for any other matter or thing necessary to give effect to this act, or to meet any particular case;

(7) Prescribing what fees shall be paid in respect of any proceedings before a board, or in the court, and the party by whom such fees shall be paid; and what fees shall be paid to the president or members of the court, or the chairman or members of the board; (*a*)

(8) For any other purpose for which it is by this act provided regulations may be prescribed.

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

All such regulations shall be published in the Gazette, and within 14 days after the making thereof shall be laid before both houses of the general assembly if it shall be then sitting, and, if not then sitting, then within 14 days after the beginning of the next session of such assembly, and shall have the force of law from the date of such publication.

88. All charges and expenses connected with the administration of this act, exclusive of expenses incurred by industrial unions, trade unions, or associations under Parts I or II of this act, or of the parties and witnesses concerned in any industrial dispute referred to a board or the court, shall be defrayed out of such annual appropriations as shall from time to time be made for that purpose by the general assembly.

89. The court shall have full and exclusive jurisdiction to deal with all offenses against the principal act, and for the purpose of this section the following provisions shall apply:

(1) Proceedings to recover the penalty by the principal act imposed in respect of any such offense shall be taken in the court in a summary way under the summary provisions of The Justices of the Peace Act, 1882, and these provisions shall, *mutatis mutandis*, apply in like manner as if the court were a court of justices exercising summary jurisdiction under that act:

Provided that in the case of an offense under section 64 of the principal 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.

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a The clause "or the chairman or members of the board" was added by the amendment act of 1896.

(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, operate and 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.

(3) The provisions of section 73 of the principal act shall apply to all proceedings under this section.

(4) All penalties recovered under this section shall be paid into the public account and form part of the consolidated fund.

(5) The foregoing provisions of this section are in substitution of those contained in section 89 of the principal act, and that section is hereby accordingly repealed.

(6) Nothing in this section contained shall apply to the breach of any award or order of the court, or to the penalty in respect of such breach. (*a*)

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

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

As the act is somewhat lengthy, the following brief statement of the most important provisions is given as an aid to its interpretation:

A prime feature of the law is shown by the title first given to the principal act. It was called "An act to encourage the formation of industrial unions and associations and to facilitate the settlement of industrial disputes by conciliation and arbitration." Though the first clause, relating to the encouragement of the formation of industrial unions and associations, was subsequently eliminated by the amendment of 1898, the principle remained unchanged. The difficulty of applying the principle of compulsion to individual and irresponsible workingmen was seen. The law thus first of all provides for the organization of industrial workers into associations or unions, and then says that the principle of compulsory arbitration can be invoked by any such organization. Workingmen who fail to organize themselves in such unions can in no way invoke the benefit of the law.

As a condition precedent the law therefore contemplates the organization of both employers and employees. In order to encourage them voluntarily to do this special privileges are granted them, the most important of which is this right to demand an arbitration of differences. More specifically, the provisions of the act regarding this point are that any number of persons not less than 5 residing within the Colony, "lawfully associated for the purpose of protecting or furthering the interests of employers or workers in or in connection with any industry in the Colony, and whether formed before or

a This section was inserted by the amendment act of 1898.

after the passing of this act, may be registered as an industrial union pursuant to this act on compliance with the following provisions." These provisions relate to making known the name of the society, the names of its officers, the character of the organization, the more important of its regulations, etc. The rules or regulations must provide for certain things, such as an annual or other periodical audit of the accounts, the free inspection of books by every person having an interest in the funds, etc. Any trade union registered under The Trade Union Act, 1878, may also register as an industrial union under this act.

Upon being registered each union becomes a body corporate and has the power to purchase or lease lands. The fact of registration subjects such bodies to the provisions of this law regarding arbitration. A body representing a number of industrial unions may be registered as an industrial association. Twice yearly the associations must send to the registrar a list of unions composing them, and the unions must send a list of all their members. Default is punishable by a fine. These unions and associations can sue and be sued in their own name. It is not necessary that employers should form associations in order that they shall be subject to the act.

The second step in the organization of the system was the provision that industrial agreements providing "for any matter or thing affecting any industrial matter, or in relation thereto, or for the prevention or settlement of an industrial dispute," might be made between such industrial unions or associations and employers; that copies of such agreements shall be filed in the supreme court office, and that any such agreement may be enforced the same as if it were an award of a court of arbitration, as hereafter described.

Turning now to the conciliation or arbitration feature proper of the acts, the law provides for two bodies—conciliation boards and a court of arbitration. The idea of this division is that every facility should be offered parties to a dispute to settle their differences amicably, and that resort to arbitration should only be had as a last resort.

The governor is thus empowered to divide the Colony into as many "industrial districts" as he thinks proper. For each such district there must be established a board of conciliation, to have jurisdiction for the settlement of industrial disputes occurring in the district, that may be referred to it by one or more of the parties to an industrial dispute or by industrial agreement. Such board must consist of an equal number of persons as the governor may determine, but not more than 6 nor less than 4 persons, chosen by the industrial unions of employers and of workmen voting separately and electing an equal number of members. The methods of election are given in detail by the act. Upon organization each board must elect "some impartial person," not being one of their number and willing to act, to be chairman of the board.

Special boards may be created to meet cases of emergency or any special case of industrial dispute.

The governor is further directed to appoint for each such industrial district a clerk of awards, who shall be attached to the registrar and subject to the authority of that officer. The duties of this officer are to receive all applications for the intervention of the boards of conciliation or the court of arbitration, and generally to perform the work of clerk of the court to these bodies.

An industrial dispute may be referred to such a board for settlement either pursuant to an industrial agreement, as above described, or by any party such as an employer or industrial union or association having a standing under the law. Immediately on this being done the law provides that "no industrial union or association, trade union, or society, whether of employers or workers, and no employer who may be a party to the proceedings before the board or court shall, on account of such industrial dispute, do any act or thing in the nature of a strike or lockout, or suspend or discontinue employment or work in any industry affected by such proceedings, but each party shall continue to employ or be employed, as the case may be, until the board or court shall have come to a final decision in accordance with this act. But nothing herein shall be deemed to prevent any suspension or discontinuance of any industry, or from working therein for any other good cause."

It is the duty of the board of conciliation to examine the matters referred to it and seek in every way to bring about an adjustment of the difficulties. It is given large powers of visiting industrial establishments, examining witnesses under oath, etc. If the board is unable to bring about an agreement in any way it must decide the matter according to the facts and merits of the case as it finds them. If this decision is not satisfactory to either of the parties the dispute can then be carried to the court of arbitration.

Every effort is made in determining the methods of work of these boards to avoid expense and technicalities of procedure. The appearance of counsel or solicitor is prohibited except where it is agreed to by all parties.

The court of arbitration consists of a single body for the whole colony. It is composed of 3 members appointed by the governor, one of whom must be selected on the recommendation of the industrial councils or associations of workingmen, and one on the similar recommendation of employers' associations. The third member, who will act as president of the court, must be a judge of the supreme court. The term of office, as with the boards of conciliation, is 3 years, and members are reeligible.

In the hearing of disputes brought before it, this court acts in most respects as an ordinary court of law, and has most if not all the powers

of such bodies. The procedure, however, is simplified as far as possible, and the law expressly provides that the award must not be framed in a technical manner, and that proceedings shall not be impeached for want of form.

Much the most important feature of the act relates to the manner in which the principle of compulsion is to be enforced. This principle, it will be observed, finds expression in two ways—the obligation to submit the matter to conciliation and arbitration and the obligation to abide by the decision. The first applies only when the employees are duly organized in accordance with the provisions of this act. Such an organization can at any time compel even an individual employer to submit any differences relating to their mutual labor contract to arbitration, and in the same way the employer can compel any of his employees so organized to submit to the same process. If a party duly summoned fails to appear, the court can proceed to a trial and judgment as if he were present. The court can also compel his attendance in the same way as it can witnesses.

Regarding the judgment, every award of a court must clearly specify the associations, firms, or persons upon which it is to be binding, and the period, which can not exceed 2 years, during which it can be enforced. If the members of any industrial union or trade union are mentioned generally, all persons who are members at the date of the award, or who may thereafter become members of such an organization, are included in the awards. The law then provides that the award shall be enforced through the ordinary law courts as are the judgments of those bodies. The most important feature of the system is that the awards must be in the form of money payment or be reduced to that form by providing penalties for any infraction of the award in order that they may be enforced. The amount of an award, moreover, is limited to a sum not exceeding £500 ($2,433.25). The act of 1898, however, added the following important provision granting to the court the right to fix wages:

> 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.

It is probable that the court had already exercised this power under its general powers to fix conditions of labor before it was expressly granted as above. Even here it will be noted that the award can only be enforced by imposing a money penalty for noncompliance.

For the satisfaction of an award all the property of employers or of industrial unions, including even that held by trustees, is liable, and

the members of industrial unions are furthermore individually liable to the extent of not more than £10 ($48.67).

It is evident that the effectiveness of this system in actual practice is almost entirely dependent upon the extent to which the workingmen themselves voluntarily subject themselves to its provisions by organizing themselves into industrial unions or trade unions and registering under the provisions of the act. It would seem also that those employers who refrained from employing any persons who were members of such associations or unions would succeed in keeping their establishments beyond the jurisdiction of the act.

DEPARTMENT OF LABOR.

The organization of the administration of the Colony embraces as one of the departments, the heads of which constitute a responsible ministry, a department of labor. This department, however, is in no sense a bureau of labor as that term is employed in the United States. In June, 1891, however, there was created under this branch of the Government a bureau of industries a part of whose duties are similar to those of a bureau of labor statistics. The department publishes an annual report, and beginning with March, 1893, a monthly journal giving an account of the work of the bureau and statistics of wages. Important features of the reports are the results of the working of the arbitration act, the operations of the State employment agencies, and the reports of the factory inspectors.

NEW SOUTH WALES.

THE LABOR CONTRACT.

The labor contract in New South Wales is regulated by the Masters and Servants Act of March 11, 1857. This law makes very rigid provisions concerning the compulsion of the parties to a labor contract to fulfill their engagements. If a servant, by which is meant practically any person undertaking to perform service, fails to keep the contract for the performance of work which he has undertaken, or is guilty of any misconduct in its execution, he can be compelled by the courts to pay such sum of money, not exceeding £10 ($48.67), and in default of its payment his goods can be levied upon. Should an insufficient sum be realized in this way he may be imprisoned for any period not exceeding 14 days, or in lieu thereof, at the discretion of the magistrate, may forfeit the whole or such part of the wages then due, as the magistrate may deem fit. The fraudulent securing of an advance of money or goods by a servant on account of future wages to be earned can be punished by imprisonment for any term not exceeding 3 months. The willful spoiling or losing of goods of an employer can be punished by a like imprisonment. The master

can also obtain compensation for loss resulting from negligent injuries in the same way as compensation in case of a violation of the contract, and where such compensation can not be secured the servant may be imprisoned for not more than 14 days.

Wages not exceeding £50 ($243.33), which are due and payable, may be sued for and recovered in a summary way. If on levy the amount due can not be realized, the master at fault may be committed to jail for a period not exceeding 14 days. The unlawful detention of the wearing apparel or other property of a servant is punished by a fine of not exceeding £5 ($24.33).

Differences between masters and servants are to be settled in a summary way.

None of the foregoing provisions regarding imprisonment apply to females.

APPRENTICESHIP.

The subject of apprenticeship is now regulated by the law of June 1, 1894, entitled "An act to consolidate and amend the law relating to apprentices." There are certain other acts relating to the apprenticing of inmates of orphan and industrial schools, but with these the present report is not concerned.

The act of 1894 provides that no child shall be bound as an apprentice unless it is at least 14 years of age, and that the term of apprenticeship can not be for a longer period than 7 years. When these conditions are fulfilled a child may be bound by the parents or guardian, or by the managers of an orphan or other eleemosynary institution. Where the action is taken by other than the parents or guardian, the binding must be done by a magistrate or 2 justices of the peace.

Government services carrying on industrial work and companies as well as individual masters may receive apprentices.

Before an apprentice is bound or admitted as an apprentice he may be received on probation on such terms as may be agreed upon for a period of 3 months, and it is lawful for either the master or the person acting for the child to terminate the engagement at the end of that period, but if that is not done, a formal indenture of apprenticeship in writing or print must be executed. This contract must specify the particular trade, art, or occupation in which the apprentice is to be instructed, the period for which he is to serve, and it must conform as far as possible to a form of indenture attached to the act as a schedule. This form sets forth that the apprentice agrees to serve his master faithfully, that the master agrees to instruct the apprentice in his trade, to pay him a certain remuneration, etc. Notwithstanding any provision to the contrary, an apprenticeship contract is terminated by the apprentice reaching the age of 21 years, or marrying with the consent of the person or persons appointed to give consent to the marriage

of minors, under the provisions of any act for that purpose then in force.

No apprentice, with the exception of those bound to farming occupations, or to other servants in husbandry, or to domestic service, is bound to serve his master for more than 48 hours during any 1 week.

Disputes regarding apprenticeship contracts are to be settled by the court of petty sessions of the district. Fines not exceeding in value £10 ($48.67) may be imposed upon a master or apprentice as a penalty for misconduct, or the contract of apprenticeship may be canceled. If an apprentice absents himself for more than 1 week without leave he may, whenever he is found, be apprehended and compelled to serve his master for so long a time as he may have absented himself unless he makes other reasonable satisfaction to his master for the loss sustained. If necessary, the apprentice may be committed to a jail or house of correction for any time not exceeding 1 month, in addition to serving for the time during which he absented himself. If a master discharges an apprentice without the latter's consent before the termination of the apprenticeship he is liable to a fine of £10 ($48.67). Persons enticing away or harboring any fugitive apprentice are liable to a fine of not exceeding £10 ($48.67).

RIGHT OF ASSOCIATION: TRADE UNIONS.

As regards the right of association, the organization and registration of trade unions, etc., the Colony of New South Wales has adopted the legislation of Great Britain almost verbatim. This was done by an act entitled "An act to amend the law relating to trade unions," passed December 16, 1881. The provisions of this law being to all intents and purposes but a reproduction of the British provisions, it will be unnecessary to reproduce them. The British Conspiracy and Protection of Property Act, 1875, relating to intimidation, picketing, etc., has, however, apparently not been adopted, and the law regarding this point is that contained in the British act of 6 George IV, chapter 129, passed in 1825. The general character of this act is given in the chapter relating to the labor laws of Great Britain. (*a*)

REGULATION OF LABOR IN FACTORIES AND WORKSHOPS.

The Colony of New South Wales possesses an exceptionally complete factory act. It was enacted November 16, 1896, and has as its full title "An act to make provision for the supervision and regulation of factories, bakehouses, laundries, dye works, and shops; for the limitation in certain cases of the hours of working therein; to extend the liability of employers for injuries suffered by employees in certain cases, and for other purposes." As the provisions of this act follow

a Bulletin No. 25, p. 772.

to a great extent those of the New Zealand law, which has been given at length, it would result in unnecessary duplication to reproduce them textually. The following summary, however, will give the main features of the act, with an indication of the respects in which the provisions of the New Zealand law have been departed from.

SCOPE OF ACT.

The term "factory," as used in this act, is given a wide connotation. It includes "any office, building, or place in which four or more persons are engaged directly or indirectly in working at any handicraft or in preparing or manufacturing articles for trade or sale; and includes bakehouses, laundries, and dye works in which four or more persons are engaged, but does not include any building or place in which the persons engaged in working are shown to the satisfaction of the minister to be all members of one family, and in which steam or other mechanical power is not used." It also includes "any office, building, or place in which Chinese are so engaged; and any place or building where steam or other mechanical power or appliance is used in manufacturing goods or packing them for transit; but does not include any building used for the manufacture of dairy produce, nor any wool shed used for shearing sheep, or building used for dumping wool, or any ship."

The term "shop" means "any building or place, or portion of a building or place, in which goods are exposed or offered for sale by retail."

It is important to note from the foregoing that the law comprehends the regulation of labor in both industrial and commercial establishments, though the provisions concerning each are different. The New Zealand law defines as a factory any place in which two or more persons are employed, while here the minimum is four persons. It should be added, also, that the governor is given the power to exempt any class of factories or shops either wholly or in part from the provisions of this law.

REGISTRATION OF FACTORIES.

As in New Zealand, all factories as defined by the act are required to register with the proper authorities, and the application for registry must furnish such information as may be required by the factory inspector.

PROTECTION OF HEALTH OF EMPLOYEES.

The provisions that must be taken for the protection of the health of employees are set forth in considerable detail, and are supplemented by regulations issued by the governor in virtue of the law. They cover such points as the ventilation of work places, the minimum air space that must be allowed for each person, the keeping of estab-

lishments free from effluvia, the provision of adequate water-closet facilities; the painting, whitewashing, or washing of interiors at stated intervals of time, though in respect to the latter provision certain places, such as blacksmith shops, are exempted. In those establishments in which grinding, glazing, or polishing on a wheel or other process is carried on generating dust injurious when inhaled, a fan or some other mechanical device must be used to remove the dust; and in the same way special preventive or remedial means must be adopted to protect employees where atmospheric humidity is produced by steam or otherwise. A special penalty is imposed upon occupiers allowing clothing to be manufactured or repaired in any place where an inmate is suffering from any infectious disease.

The minister is further empowered, if he deems proper, to prohibit the taking of meals by employees in any establishment while work is in progress, and also to require that the employer shall provide a suitable special dining or eating room for his employees.

All these provisions regarding the protection of the health of employees relate to both factories and shops.

PREVENTION OF ACCIDENTS.

The act not only specifies generally that all dangerous machinery shall be fenced and other precautions taken against accidents, but specifies in unusual detail the more important cases in which such action must be taken. The minister, on complaint of an inspector, may prohibit the use of any machine the operation of which is believed to be dangerous. There is an interesting provision whereby disputes between an inspector and employer regarding the question as to whether a particular machine should be fenced or not may be settled by a board of arbitration. The employer and the inspector or minister, as the case may be, each appoint an arbitrator, and these two in turn select an umpire. Their decision is final.

In respect to injuries caused by the explosion of a boiler the law provides that in any suit brought by the injured employee or his representative for damages against the employer upon the ground that the person in charge of the boiler was incompetent, the fact of injury shall be prima facie evidence that the person so placed in charge was incompetent, that the defendant was guilty of negligence in employing him, and that the plaintiff was injured through that person's incompetence.

Finally, it is provided that the care or management of an elevator or hoist shall not be intrusted to any boy under 16 years of age or any female; and that no male under 18 years of age or any female shall be allowed to clean such part of the machinery in a factory as is mill gearing while it is in motion for the purpose of propelling any part of

the manufacturing machinery, or to work between the fixed and traversing parts of any self-acting machine while the machine is in motion by the action of any mechanical power.

NOTIFICATION AND INVESTIGATION OF ACCIDENTS.

The provisions regarding the reporting and investigation of accidents are much less comprehensive than those usually found in a factory code. The law merely provides that when an accident, causing the death of an employee or his injury to such an extent that he is unable to return to work in 48 hours, was due to machinery moved by steam or other power, or through a vat filled with hot or molten liquid or other substance, or by explosion, or by escape of gas, steam, or metal, that it shall be reported in writing to the inspector. Accidents due to other causes need not be reported. Upon the receipt of this notice the minister may, if he thinks best, order a legally qualified medical practitioner or other competent person to make an investigation and report upon the cause of the death or the nature and extent of the injury.

PRECAUTIONS IN CASE OF FIRE.

The precautions that must be taken in case of fire are those usually found. In factories in which 10 or more persons are employed the main inside and outside doors must open outward, and all doors of every room in which persons are actually at work, or of passages leading to such rooms or serving as entrances and exits, must not be locked or barred. Every factory 3 or more stories in height must be provided with a fire escape, and every factory shall also have such means of extinguishing fire as the inspector may require. Disputes regarding structural changes required in order to carry out these provisions may be settled by arbitration as above described.

EMPLOYMENT OF WOMEN AND CHILDREN.

The restrictions upon the employment of women and children are different in the cases of factories and shops. For the former establishments they are as follows:

No child [i. e. person under 14 years of age] shall, unless by special permission of the minister, be employed in any factory; and no such special permission shall be given to a child under the age of 13 years.

No male under 18 years of age and no female shall be employed continuously in a factory for more than 5 hours without an interval of at least half an hour for a meal.

No male under 16 years of age and no female shall be employed in a factory for more than 48 hours in any one week: Provided that any such person may be employed overtime in a factory for a period not exceeding 3 hours in any day beyond the ordinary working hours on

not more than 30 days in a year, or by the written permission of the minister, where he is satisfied that an extension of overtime is required to meet the exigencies of trade, for not more in all than 60 days in a year. No such person, however, may be employed overtime on more than 3 consecutive days, and such overtime shall be paid for at the rate of time and a half. The occupier shall keep a record of all such overtime, and shall note against the name of each person so employed the hours of overtime worked by him or her, and shall furnish a copy of such record to the inspector when called upon to do so.

No occupier shall employ a male under 16 years of age or a female under 18 years of age (a) in any factory, (b) in the business of but outside any factory, between the hours of 7 o'clock in the evening and 6 o'clock in the morning, unless in the case of overtime, and subject to the restrictions contained in section 37 [the section just given above]: Provided, that when it is proved to the satisfaction of the minister that the custom or exigencies of the trade carried on in any class of factories or parts thereof, either generally or situate in any particular locality, or other reasons, require or make it desirable that such trade should be exempted from the operation of this section, he may by order grant to such class of factories or parts thereof a special exemption and for such time as he may think fit.

No female shall be employed during the 4 weeks immediately after her confinement.

In addition to the foregoing general provisions, the law still further restricts the employment of women and children in certain industries where the conditions of labor are especially unhealthy. Thus (1) no person under 18 years of age shall be employed in a part of a factory where the process of silvering mirrors by the mercurial process or the making of white lead are carried on; (2) no male under 16 years of age and no female under 18 years of age shall be employed where the melting or annealing of glass is carried on; (3) no female under 18 years of age shall be employed in a place for the making or finishing of bricks or tiles not ornamental, or in the making or finishing of salt; (4) no person under 16 years of age shall be employed in a part of a factory where dry grinding in the metal trades is done, or the dipping of lucifer matches carried on; and (5) no person under 16 years of age shall be employed at or in connection with any manufacturing process or machine where continuous casting from molten lead or any combination of lead is carried on in a printing establishment. As a supplement to this, the minister is further given the power to designate other classes of establishments in which no person under 16 years of age shall be employed unless he obtains a certificate in prescribed form from a physician that he or she is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

Finally, where an inspector is of the opinion that a person under 16 years of age working in a factory of any description is incapacitated by disease or bodily infirmity for working daily for the time allowed

by law, he may require the employer to discontinue his employment unless a certificate from a legally qualified physician is secured stating that the person is fit to perform the work.

Following are the provisions regarding the employment of women and young persons in shops:

Except as hereinafter provided, (*a*) a male under 16 years of age or a female under 18 years of age shall not work in or in connection with any shop for a longer time than 52 hours in any one week, or for a longer time than 9½ hours in any one day, except on one day in each week, when 11½ hours' work may be done, but such shall not apply to the occupier of a shop or any member of the occupier's family employed in such shop.

Any such person may, however, be employed in a shop for a period not exceeding 3 hours on any day beyond the ordinary working hours, provided that the total number of days in any one year on which any shop or at any work in connection with a shop any such male or female is so employed shall not exceed 52.

No male under 18 years of age and no female shall be employed continuously in a shop for more than 5 hours without an interval of at least half an hour for a meal.

No male under 16 years of age and no female under 18 years of age shall be employed during any day in any shop, or at any work in con nection with a shop, if he or she has been previously employed the same day in a factory for 8 hours, or in any case for a longer period than will together with the time during which he or she has been so previously employed complete the number of 8 hours.

The penalty for the infraction of any of the foregoing provisions is £2 ($9.73) for the first offense and for every subsequent offense not less than £2 ($9.73) nor more than £5 ($24.33). The foregoing provisions do not apply to chemists' shops, coffeehouses, confectioners, eating houses, fish and oyster shops, fruit and vegetable shops, restaurants, booksellers' and news-agents' shops, tobacconists' shops, and hotels. The governor, however, is given the power, subject to the provisions of this act, to make regulations under which males under 16 years of age and females under 18 years of age may be employed in these shops.

BAKERIES.

Bakehouses, as has been shown, are included in the definition of factories and are therefore subject to all the provisions of the law concerning such establishments. In order to meet the peculiar conditions surrounding work in bakeries, however, the following special regulations are made:

Where a bakehouse having employed therein one or more persons is situated in any district under this act—(1) No place on the same level with the bakehouse and forming part of the same building shall be

a Reference is here made to the classes of shops which are excepted from the act as subsequently noted.

used as a sleeping place unless such sleeping place is effectually separated from communication with the bakehouse by a partition extending from the floor to the ceiling, and there is an external glazed window in such sleeping place of at least 9 superficial feet in area, of which at least 4½ superficial feet are made so as to open for ventilation; (2) no earth or water closet, cesspit, urinal, or ash pit shall be within or communicate with the bakehouse; (3) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet; (4) no drainpipe for carrying off fecal or sewage matter shall have an opening within the bakehouse.

SEATS FOR FEMALES.

Every occupier of a factory or shop must provide suitable seating accommodations for his female employees and shall permit them to make use of such seats whenever the proper performance of their duties is not thereby interfered with. There must be not less than one seat for every three females and they must be so located that they can conveniently be used.

KEEPING OF RECORDS, POSTING OF NOTICES, ETC.

The regulations concerning the keeping of records, posting of notices, etc., are very similar to those found in the New Zealand and other factory laws. The occupier of any factory or shop must keep a record of the names of all employees and the ages of those under 18 years of age, together with such other information as may be prescribed. He must post and maintain in some conspicuous place at or near the entrance of his establishment a copy of the present act and regulations issued in virtue of it, the name and address of the inspector of the district, and the usual working hours of the factory.

The occupier of a factory is further required to keep for the information of the inspector a record showing the names of all persons employed by him in the business of a factory outside such factory, the places where they are employed, and the rate of wages paid in each instance. The purpose of this provision is evidently to permit the inspectors to maintain a supervision over home work or labor carried on under the sweating system. The following section thus defines who shall be considered as an occupier for the purpose of keeping such a record:

Every person who, whether as principal, contractor, subcontractor, or otherwise, directly or indirectly issues or gives out, or authorizes or permits to be issued or given out, any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale, shall be deemed to be the occupier of a factory for the purposes of the last preceding section; and the person to whom such material is issued or given out shall, for the purposes of the said section, be deemed to be employed by the occupier in the business of the factory outside such factory.

INSPECTION OF FACTORIES.

Provision is made for the organization of an inspection force by the power given to the governor to appoint as many inspectors of factories and shops as may be deemed necessary for carrying into effect the provisions of this act. The inspectors are given the usual powers of entry into places coming under the law, to require the production of records, lists, etc., required by the act, and to exercise any other powers that may be necessary for the adequate performance of their duties. Attempts to obstruct an inspector in the performance of his duties are punishable by fines not to exceed £20 ($97.33). Each inspector is required to make an annual report to the minister for submission to Parliament on the operation of the act.

ENFORCEMENT OF LAW, PENALTIES, ETC.

Penalties for infractions of any of the provisions of the law are fully provided for, as well as the methods by which they are enforced. The only point worthy of special mention is that the parent or guardian having control of a male person under 16 years of age or a female person under 18 years of age shall be liable to a penalty of not more than 20s. ($4.87) if such person is employed in a factory or shop contrary to the provisions of this act, unless it appears that the offense was committed without their consent, connivance, or willful default.

THE EARLY CLOSING OF SHOPS ACT, 1899.

The regulations concerning shops or commercial establishments contained in the factory act have received an important addition by the passage of a law, December 22, 1899, fixing the hours at which shops must be closed in the evenings.

For purposes of the act a shop is defined to be any "building, stall, tent, vehicle, or boat, or pack in which goods are offered or exposed for sale or in which the business of a hairdresser, pawnbroker, or undertaker is carried on, or portion of a building separated from the rest of the building by a substantial partition, and in which goods are offered or exposed as aforesaid, or in which any such business as aforesaid is carried on." This definition includes both wholesale and retail shops. In subjecting these shops to regulations regarding hours of closing a distinction is made, first, between shops generally and those mentioned in a schedule (*a*) attached to the act; and secondly, between

a Following is the schedule of shops referred to:

Part I. Hairdressers' shops.

Part II. Chemists' shops, druggists' shops, private dispensaries, public dispensaries, flower shops.

Part III. Fruit shops, vegetable shops, tobacconists' shops, confectioners' shops, newspaper and news agents' shops, public houses, hotels, and wine shops, and undertakers' shops.

Part IV. Restaurants, refreshment shops, eating houses, fish shops, oyster shops, cooked-provision shops.

those in the metropolitan and Newcastle shopping districts and those in country districts.

In the shopping districts all but the shops mentioned in the schedule must close ordinarily at 6 o'clock in the evening. On either Wednesday or Saturday, however, the shopkeeper must give his employees a half holiday. If he chooses Wednesday, then he must close from 1 o'clock of that day, and by so doing he becomes entitled to keep his premises open till 10 o'clock on Saturday evening. If, on the other hand, he prefers to close at 1 o'clock on Saturday, then he may keep open till 10 o'clock not of the Wednesday but of the Friday evening immediately preceding. Having made his election as to which day he will observe as a half holiday, he can not make another choice until after the expiration of 3 months from the day when the former choice was made. Notice of the choice must be sent to the minister of labor and be posted in a conspicuous place in the shop. Until this is done, the shopkeeper is presumed to have chosen Wednesday as his half holiday. The foregoing provisions do not apply in so far as they fix the closing time before 10 o'clock to the day immediately preceding Christmas or New Year's Day, or, where Christmas or New Year's Day is a Monday, to the next preceding Saturday.

Every municipality outside the metropolitan and Newcastle shopping districts is considered a country shopping district, though the governor is empowered to constitute any other area such a district. In these districts all shops except those mentioned in the schedule must close at 6 p. m. on 4 week days, at 1 p. m. on 1 week day, and at 10 p. m. on 1 week day. The early and late closing days for each district are determined in the first instance by proclamation of the governor. When the act has been in force in any district, however, for not less than 12 months, any 10 shopkeepers of shops not mentioned in the schedule may petition the minister that the question be submitted to vote as to whether any of the days appointed for early or late closing shall be changed to other days mentioned in the petition. Where the poll has been taken as provided by the act, no new poll shall be taken for a period of 2 years. The same exception in the case of Christmas and New Year's Day is made in the case of country districts as in that of the metropolitan and Newcastle districts.

The closing hours for shops mentioned in the schedule are as follows:

For those mentioned in Part I, 7.30 p. m. on all days of the week except Friday or Saturday, as the shopkeeper may elect, when the shop may remain open until 10 p. m. Half an hour's grace is allowed to attend to customers in the shop at the closing time.

For shops in Part II, 9 p. m. on all days of the week except Saturday, and on that day 11 p. m.

For shops in Part III, 11 p. m. on all week days.

For shops in Part IV, 12 p. m. on all week days.

The foregoing provisions do not apply to refreshment rooms and book stalls actually on railway platforms, nor to public houses and hotels. These places, however, are subject to the provisions of the law relating to the hours of labor of employees and half holidays.

An exception is also made in the case of chemists' and druggists' shops. The special provision is made that no registered pharmacist within the meaning of the pharmacy act, 1897, shall be deemed guilty of the offense of not being closed and kept closed for the remainder of the day after the time fixed by reason of the fact that he has, on request, supplied any drug or articles for medicinal purposes after closing time. It is important to note, however, that these shops must close the same as other shops in Part II of the schedule and may reopen only on request. They can not remain open in expectation of requests.

In addition to fixing the hours at which shops shall close, the act also contains certain provisions regarding the hours of labor that may be permitted to shop assistants. In the case of shops generally no restriction is placed on the number of hours worked by any shop assistant. He may start work at any hour, but his day's labor in any shop ends with its closing at the appointed hours, with the exception that he may be kept for not more than half an hour after closing time. The shopkeeper also may employ any shop assistant on any 12 week days in any half year (not being days on which the shop closes at 1 or 10 o'clock or any public or bank holiday) for a period of not exceeding 3 hours (exclusive of an hour which must be allowed for refreshment) after the closing hour. A record of this overtime work must be kept.

In the case of schedule shops the rule is different, since no closing hour being fixed the danger of employment for an excessive number of hours is greatly increased. In these shops the total number of hours worked, exclusive of the half holiday and the hours allowed for refreshment, must not exceed 60, and each assistant must receive a weekly half holiday. The hours of chemists' (drug store) assistants are not limited to 60 per week, but they must receive a weekly half holiday.

Carters generally are exempted from the provisions of the act, but an exception is made in the following cases: (1) Butchers' and milk vendors' carters must be permitted by their employers to "have and take a half holiday from the hours of 1 o'clock in the afternoon on some week day in each week." (2) Bakers' carters must be permitted by their employers "to have and take a holiday on one week day in each month." The employer fixes the day in regard to each of his employees.

The minister of labor is empowered to appoint members of the police force or other persons to be inspectors for the purpose of enforcing the provisions of this act. Such persons will have all the usual powers given to inspectors. Penalties for infraction of the law are specified and the means for their imposition and collection.

ARBITRATION TRIBUNALS.

New South Wales has had several arbitration or conciliation acts. The first was passed in 1867, but relates to arbitration of disputes generally rather than industrial disputes specially. The Trade Disputes Conciliation and Arbitration Act of March 31, 1892, however, related to industrial disputes only. This act provided for the creation by the governor of councils of conciliation, to which parties to a dispute might voluntarily resort for the settlement of their differences, and of a council of arbitration for the adjustment of disputes which could not be settled by conciliation. This act is practically identical with the Ontario act concerning arbitration elsewhere given, the wordings of the two acts differing only in slight particulars. It will be unnecessary, therefore, to repeat the description of the system created.

This act, which has now been in operation 8 years, was supplemented by another act, passed April 22, 1899, and entitled "An act to make provision for the prevention and settlement of trade disputes." This latter act leaves untouched the act of 1892, with the exception that it is provided that that act shall not apply to the settlement by arbitration of any difference or dispute to which the act of 1899 applies. This latter act, as it is an important one, is reproduced below in full. It will be seen that its main purpose is to confer power upon the Government through the minister to intervene where industrial disputes are threatened or have broken out in the way of attempting to adjust them and of investigating the circumstances surrounding the trouble.

AN ACT to make provision for the prevention and settlement of trade disputes.
[Assented to 22d April, 1899.]

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the legislative council and legislative assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

1. This act shall come into force on the first day of May, one thousand eight hundred and ninety-nine, and may be cited as The Conciliation and Arbitration Act of 1899.

2. Where a difference exists or is apprehended between an employer or any class of employers and his or their employees, or between different classes of employees, the minister may, if he think fit, exercise all or any of the following powers, namely:

(a) Direct inquiry into the causes and circumstances of the difference.

(b) Take such steps as to him may seem expedient for the purpose of enabling the parties to the difference to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon, or, in the event of their failing to agree, nominated by the minister, with a view to the amicable settlement of the difference.

(c) Failing such amicable settlement, direct a public inquiry into the causes and circumstances of the difference on the application of either party. All such public inquiries shall be conducted by a judge of the supreme or district courts, or the president of the land court.

(d) On the application of either the employers, the employees, or both, and after taking into consideration the circumstances of the case, appoint a person or persons to act as conciliator or as a board of conciliation.

(e) On the application of both parties to the difference appoint an arbitrator.

3. Every application shall be signed by the employer or employers or by a majority of his or their employees in the department of the business in which the controversy or difference exists, or their duly authorized agent, or by both parties, and shall contain a concise statement of the grievances complained of.

4. If any person or persons be appointed to act as a conciliator or as a board of conciliation, he or they shall inquire into the causes and circumstances of the difference by communication with the parties, and otherwise shall endeavor to bring about a settlement of the difference, and shall report his or their proceedings to the minister.

5. If a settlement of the difference is effected either by conciliation or by arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the minister.

6. The Arbitration Act, 1892 shall not apply to the settlement by arbitration of any difference or dispute to which this act applies, but any such arbitration proceeding shall be conducted in accordance with such of the provisions of the said act or such of the regulations made by the governor under the powers contained in the tenth section of this act, or under such other rules or regulations as may be mutually agreed upon by the parties to the difference or dispute.

7. (1) Any arbitrator or person authorized by the minister to conduct a public inquiry at his own instance or at the request in writing of either party may summon any witness or witnesses to appear and give evidence on oath or affirmation; and if any person so summoned shall not appear at the time and place specified in such summons, or give some reasonable excuse for the default, or, appearing according to such summons, shall not submit to be examined as a witness and give evidence touching the matter of the difference, provided reasonable traveling expenses have been tendered to such witness by the party or parties at whose instance the summons is issued, then any police or stipendiary magistrate (proof on oath, in the case of any person not appearing according to such summons, having been first made before such magistrate of the due service of such summons on every such person by delivering the same to him or by leaving the same at the usual place of abode of such person) may by warrant under his hand commit any such person so making default in appearing, or appearing and refusing to give evidence, to some prison or place of detention for any time not exceeding one calendar month, or until such person shall submit himself to be examined and give his evidence before such arbitrator or person authorized as aforesaid: Provided always that in case such inquiry shall be concluded before such offender shall submit to be examined and give evidence as aforesaid, then such offender may be imprisoned for the full term of such commitment, and any witness appearing before any such arbitrator or person authorized shall have the same protection and be subject to the same liabilities as a witness giving evidence in any case tried in the supreme court.

(2) Any arbitrator, or person authorized by writing under his hand, or any person authorized as aforesaid by the minister to conduct a public

inquiry, may at any time 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 arbitrator or person authorized by the minister; and inspect and view any work, material, machinery, appliances, matter, or thing whatsoever other than books or statements of account being in such manufactory, building, workshop, factory, mine, mine-workings, shed, or premises. And any person who shall hinder or obstruct any such arbitrator or person authorized as aforesaid in the exercise of any power conferred on such persons by this section, or who shall refuse to such persons entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine-workings, shed, or premises, shall for every such offense incur a penalty not exceeding £50 [$243.33], to be recovered in a summary way before any stipendiary or police magistrate.

8. Any person attending on summons otherwise than at the request of either party shall be paid reasonable traveling expenses, and a notice to that effect shall be served upon him, and any person summoned as a witness who has received such notice and fails to attend shall be liable under section 7, although no expenses have been tendered to him. In addition to such expenses the ministry may make any person attending on summons whether at the request of either party or not any allowance whether for loss of time or otherwise to which the arbitrator or person authorized by the minister to conduct a public inquiry may consider him justly entitled.

9. All expenses connected with the administration of this act, not expressly provided for, including the reasonable expenses of and allowances to persons attending on summons otherwise than at the instance of a party or both parties, and the remuneration of any persons appointed to carry out the provisions of this act shall be paid out of such annual appropriations as Parliament shall make for that purpose.

10. The governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this act; and all such regulations, not being inconsistent with this act, shall have the full effect of law on publication in the Gazette.

LABOR BUREAU.

A government labor bureau was organized in New South Wales in February, 1892. In 1895 a department of labor and industry was constituted by the minister of public instruction, taking these additional titles and the duties they necessitated. The labor bureau was made a service under this department. The labor bureau is not a statistical office, but confines its work chiefly to the assisting of the unemployed. In addition to this work the labor department has charge of the administration of the laws for the inspection of factories and of the State labor farm.

SOUTH AUSTRALIA.

REGULATION OF LABOR IN FACTORIES.

The regulation of labor in factories in the Province of South Australia is now provided for by the act of December 21, 1894, and certain regulations issued in pursuance of its provisions. This act is very general in nature, entering but little into details of regulations. Its essential provisions are those creating a system of factory inspection and defining the powers and duties of inspectors, those relating to the employment of women and children, and those empowering the governor to issue regulations in relation to the hygiene of factories. Following is a brief statement of the provisions of this act and the regulations in relation to it:

SCOPE OF ACT.

The act applies only within the limits of municipalities and of manufacturing districts, or such other districts as are fixed by the governor after a majority of the ratepayers of the district have determined by ballot that the act shall apply. By factory is meant "any manufactory, workshop, or workroom in which six or more persons are employed."

PROTECTION OF HEALTH OF EMPLOYEES.

In respect to the hygiene of factories, the act itself merely provides that factories shall be kept clean, well ventilated, and not overcrowded. Regulations issued February 7, 1900, however, provide that every factory shall have ventilation outlets and inlets in the proportion of not less than 12 square inches for each person employed; that every heating appliance shall be provided with a flue sufficient to carry off products of combustion; that a hood shall be provided when necessary; that there shall not be less than 400 cubic feet of air space per employee; that walls and ceilings must be whitewashed, painted, varnished, or washed at least once every 14 months; that floors, woodwork, etc., must be washed with hot water and soap at least every 3 months; that floors and seats of closets must be washed weekly; that urinals must be cleaned with water daily, and that suitable dressing rooms must be provided for female employees. Separate water-closets must be provided for the two sexes.

PREVENTION OF ACCIDENTS.

The act contains no provisions in regard to precautions to be taken against accidents, except that empowering inspectors "to inspect and examine machinery in any factory, and to give such directions as he

may consider necessary or proper for the safeguarding of dangerous machinery and for protecting the life and health of persons engaged in the working thereof."

EMPLOYMENT OF WOMEN AND CHILDREN.

Following are the conditions of employment of women and children:

No child shall be employed in a factory who is under 13 years of age unless it was employed on July 1, 1894, or unless it has passed the compulsory educational standard and is believed by the inspector to be fit to be employed.

No young person between the ages of 13 and 16 years, no child, and no woman shall be employed for more than 48 hours in any one week, except that on notice to an inspector in manner prescribed a woman or young person may be employed for not more than 60 hours in any one week, provided that the aggregate number of hours of employment of such woman or young person above 48 hours per week shall not exceed 100 hours in any one year. The foregoing provision regarding young persons and women does not apply to factories for preserving fruit or other perishable articles during the months of December, January, February, March, and April.

A woman or young person shall not be employed for more than 5 hours without an interval of at least an hour for a meal.

A woman or young person shall not, during any part of the time allowed for meals, be employed in the factory.

An inspector may at any time require any young person employed in a factory to procure satisfactory proof of age or a certificate from a legally qualified medical practitioner as to the fitness of such young person for such employment. Notice of such requisition must be given to the employer, and in such case it shall be a breach of the act to employ such person until the certificate has been obtained.

REGISTRATION OF FACTORIES.

To facilitate the enforcement of the act each occupier of a factory must serve on the inspector of his district a written notice giving the name of his establishment and such information as may be required. The nature of the information thus required is set forth in regulations issued March 27, 1895. A great many details are called for regarding the construction of the building, means of escape in case of fire, number of closets for males and females, dimensions of the workrooms, motive power, and total number of persons of both sexes employed and of young persons and children. Upon compliance with these provisions a factory will be duly registered.

POSTING OF NOTICES.

The occupier of every factory in which any woman or young person is employed must post a notice in a conspicuous place specifying the hours of labor. A copy of this notice must also be sent to the inspector.

INSPECTION OF FACTORIES.

For the enforcement of the act the governor is given the power to appoint such male or female inspectors as may be necessary. These officers are given the usual powers of factory inspectors and also considerable discretionary power regarding the determination of precautions to be taken for the protection of the health and lives of employees.

ENFORCEMENT OF LAW, PENALTIES, ETC.

The penalty for infractions of the act is a fine not exceeding £5 ($24.33). All infractions are prosecuted in a summary way before any special magistrate or any 2 or more justices of the peace. An appeal lies to the local courts.

BAKERIES.

The law relating to the operation of bakeries is found in the regulations issued in virtue of The Health Act, 1898. These regulations reproduce very closely the provisions usually contained in factory acts. They thus prohibit any place on the same level with a bakehouse and forming a part of the same building from being used as a sleeping place, unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling, and unless there be an external glazed window of at least 9 superficial feet in area, of which at least 4½ superficial feet are made to open for ventilation. No water-closet, ash pit, etc., shall communicate directly with the bakehouse. No drain or pipe for fecal or sewage matter shall open within the bakehouse. All inside walls and ceilings of a bakehouse must be whitewashed, or if painted or varnished, washed with hot water and soap at certain intervals of time. The enforcement of the regulations is intrusted to the health authorities.

PAYMENT OF WAGES.

The only legal regulations relating directly to the time and manner of the payment of wages in the Colony is a clause in The Workmen's Liens Act, 1893, which reads: "Whenever any contract shall hereafter provide for payment of wages to any workman at longer intervals than from month to month, the wages of such workmen shall, notwithstanding such provision, be deemed to be payable monthly, computing from the date of the commencement of the work."

ARBITRATION TRIBUNALS.

Provision for the conciliation and arbitration of industrial disputes in the Colony of South Australia was made by the act of December 21, 1894, entitled "An act to facilitate the settlement of industrial disputes."

This act, though differing in details, follows in many respects the system of adjusting trade disputes created by the compulsory arbitration act of New Zealand.

The governor is directed to appoint some member of the executive council to be minister of industry and some other person to be industrial registrar. To these officers, and especially to the latter, is given the duty of looking after the steps necessary to be taken for the application of the law. As in New Zealand, the application of the law is restricted to such persons as voluntarily become members of an industrial union and register as such with the industrial registrar. The clause regarding this point reads: "No award under this act shall affect any person who has not submitted to the jurisdiction of the board of conciliation making the same, either by being a member of any organization or by registration as a voter of a local board of conciliation, or by the execution of an industrial agreement."

Any number of persons lawfully associated for the purpose of protecting or furthering the interests of employers or employees in or in connection with any industry may register their society as an industrial union pursuant to the act, by complying with certain requisites. These requisites are that the application shall be signed by at least 2 officers of the society, and be accompanied by a statement giving the proposed name of the union and copies of the constitution or rules. This latter document must cover certain points, such as the government of the union, the manner in which persons become or cease to be members, the manner of conducting business, etc. In the name of every union must appear the word employers or employees, according to whether the union is one of employers or employees. On compliance with these requisites the registrar must give public notice of the receipt of the application, and if within 2 months after the giving of such notice he is satisfied that a ballot has been taken, and that it is the desire of at least two-thirds of the members of the society that the registration should proceed, he must register the union; but if he is not so satisfied he must take no further steps in the matter. The effect of the registration is to render the union, and all persons then or thereafter becoming members, subject to the jurisdiction given by the act to boards of conciliation, and to all the provisions of this act, and also to be bound by the rules of the union and all industrial agreements and industrial awards made by or affecting the union at any time during the membership. The act further provides that "if any person,

whilst bound by the rules of any union, shall in any particular make default in compliance therewith, he shall for every such default be guilty of an offense against this act, punishable by a fine not exceeding £5 [$24.33], or such lesser sum as shall be fixed by the rules of the union."

Provision is made whereby a registered union can have its registration canceled, provided obligations already incurred are not violated.

Any number of unions may register themselves as an industrial association, and such association can then act much the same as a single union. The conditions and formalities of registration are practically the same as those for individual unions. The penalty clause, however, provides that "if any union or person, while bound by the rules of any association, shall in any particular make default in compliance therewith, such union or person shall, for every such default, be guilty of an offense against this act, punishable by a fine, in the case of a union, not exceeding £100 [$486.65], and in the case of an individual not exceeding £5 [$24.33], or in either case such lesser sum as shall be fixed by the rules of the association."

As in the New Zealand system, these unions and associations are then empowered to enter into formal contracts with other parties and to be parties to conciliation proceedings, as hereafter described.

"Industrial agreements may be made between organizations, or between organizations and any other persons, or between any persons whomsoever, regulating or in relation to industrial matters, or for the prevention or settlement of disputes and differences in any wise relating thereto." Each such agreement must be for a specified duration of time, not exceeding 3 years. A duplicate of every agreement must be filed with the registrar and with every organization affected by it. Every industrial agreement duly made is binding on every member of any organization that is a party to it and on every person who in the manner prescribed signifies to the registrar his concurrence therein. Any infraction of such an agreement is deemed a violation of this act and punishable by a fine, as provided in the agreement, or, if no amount is so fixed, by a sum not exceeding £500 ($2,433.25) in case of an organization, and £50 ($243.33) in case of an individual.

The foregoing provisions regarding the formation and registration of industrial unions and associations and the making of industrial agreements differ little from the New Zealand system. Quite different provisions, however, are made in respect to the settlement of disputes.

For the purposes of the act provision is made for 2 classes of conciliation boards: (1) Private boards of conciliation and (2) public boards of conciliation, the latter of which embrace local boards and a State board.

Private boards are created by industrial agreements, and, in general, have such jurisdiction as is confided to them. Unless otherwise agreed upon, they have the same powers and discretions as public boards.

Local boards are boards created for particular localities and for particular industries, and have jurisdiction for the settlement of industrial disputes occurring in such localities, and industries, or referred to them by way of compulsory conciliation, as hereafter described, or by industrial agreement. A local board can only be constituted after certain requisites have been complied with. The most important of these are that the boundaries of the jurisdiction of the board must be the limits of one or more municipalities or district councils; that the board is constituted in pursuance of a petition in due form to the minister, which petition is not granted unless it is shown to the satisfaction of the registrar that it is supported by at least one-half, respectively, of the employers and employees to be affected, and that at least 6 weeks' public notice of the petition has been given. The license creating the board fixes the number of members of which it is to be composed. These members, except the chairman, are elected annually in equal numbers by the employers and employees voting separately. The persons so elected elect some other person as chairman, who holds office for 2 years and is reeligible. Electoral rolls containing the names and addresses of the persons entitled to vote are kept by the registrar. To be entitled to vote the person must have followed his trade in the district for at least 2 months immediately preceding the time of entry on the rolls.

The State board consists of 7 members appointed by the governor, of whom 3 may be recommended by organizations representative of employers and 3 by organizations representative of employees. The other member not so recommended is president of the board. The president is entitled to hold office for 5 years and is reeligible. He can not be removed except on addresses to the governor from both houses of Parliament during one session. The other members hold office for 2 years and are reeligible. When special knowledge is required, the governor may, on receiving information to that effect from the president, appoint other persons to be members of the State board in addition to or substitution for the ordinary members for a special inquiry. The equal representation of employers and employees must, however, be always maintained.

It is the duty of every public board, whether local or State, in such manner as it shall think fit, to carefully and expeditiously inquire into and investigate any industrial dispute of which it has cognizance. "In the course of 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, by an award, decide the question according to the merits and substantial justice of the case." In particular it is lawful for the board to refer the matter to a committee of their number consisting of an equal number of representatives of employers and employees, who shall endeavor to reconcile the parties. Every board of conciliation, public or private, has full powers for compelling the attendance and examination of witnesses.

The most interesting features of the act are those relating to compulsory conciliation, enforcement of awards and agreements, and penalties on certain lockouts and strikes. Following are the provisions of the act relating to compulsory conciliation:

If any industrial dispute shall hereafter arise between any organizations it shall be lawful for the president to 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 conciliation.

If after such inquiry the president shall certify to the governor that the dispute is one which should be settled by means of compulsory conciliation, it shall be lawful for the governor, by proclamation published in the Government Gazette, to declare that all matters in dispute between the organizations, to be mentioned in such proclamation, or any of such matters, to be specified in such proclamation, shall be referred to the State board of conciliation to be mentioned in such proclamation for settlement, and the same shall stand referred accordingly.

If at any time it shall be made to appear to the president that any industrial dispute which would otherwise come before or be settled by any local board of conciliation is likely to be more satisfactorily disposed of by the State board of conciliation, it shall be lawful for the president, by any writing under his hand, at the request of the local board, to refer such dispute to the State board for settlement, and the same shall stand referred accordingly.

It will be observed that the foregoing provisions do not introduce a general system of compulsory conciliation in the sense that either party to a dispute can compel the other party to have recourse to conciliation by a board. It merely provides that the governor can, upon the recommendation of the president of the conciliation board, require the submission of a dispute to the State board of conciliation or the transfer of a dispute from a local to the State board. This is compulsory conciliation, but not in the same sense as under the New Zealand law.

In addition to this power possessed by the governor to compel the settlement of industrial disputes in certain cases by the State board of conciliation, he has also the power to order the board to investigate any industrial dispute and to report upon the facts as it finds them. This report is not in the nature of an award. The provisions of the law in regard to this point follow:

If any industrial dispute shall hereafter arise, it shall be lawful for the president to inquire into the nature and extent of such dispute for

the purpose of ascertaining whether or not it should be investigated and reported upon by the State board of conciliation.

If after such inquiry the president shall certify that the dispute is one which should be investigated and reported upon by the State board of conciliation, it shall be lawful for the governor, by proclamation published in the Government Gazette, and twice in a newspaper circulating in the district interested, to declare that all matters in dispute specified in such proclamation shall be referred to the State board of conciliation to be mentioned in such proclamation for investigation and report, and the same shall stand referred accordingly.

The State board of conciliation to whom any matters may be referred, pursuant to the preceding section, shall have and exercise all the powers and functions of the State board of conciliation sitting for the settlement of an industrial dispute, except that they shall have no power to make an award, but they shall decide the question according to the merits and substantial justice of the case by a report which shall not be enforceable, but shall be filed in the office of the registrar.

In any case in which it shall appear to a board of conciliation having authority to make an award for the settlement of an industrial dispute that such a course is preferable, it shall be lawful for such board to refrain from making an award, and to decide the question according to the merits and substantial justice of the case by a report which shall not be enforceable, but shall be published as directed by the board or in manner prescribed.

Though a general system of compulsory conciliation or arbitration is not provided, the law makes every possible provision for the enforcement of agreements voluntarily made or awards of conciliation courts when the parties have resorted to that method of adjusting their disputes. The act even goes so far as making a willful default in compliance with any award an offense that can be punished by imprisonment. The sections relating to this subject are of such importance that they are here reproduced *in extenso:*

Every award shall specify the organizations and persons on which it is intended that it shall be binding, and the period not exceeding 2 years from the making thereof, during which its provisions may be enforced.

Unless otherwise expressed therein, the award of every local board of conciliation and of the State board of conciliation in the matter of any dispute referred to the State board from a local board by the president, pursuant to section 51, shall be binding during the period thereof on all employers and employees in the particular locality and industry for which the local board is constituted, and whose names are entered as voters on the electoral roll of the local board at the time of the making of the award.

A duplicate of every award shall be filed in the office of the registrar, and of every organization affected, and thereafter during the period during which its provisions may be enforced it shall be binding upon all organizations and persons upon which it shall be declared that it shall be binding and upon all members of such organizations.

The registrar, at the instance of any organization or person interested, shall do all things necessary for enforcing any award against any organization or person bound thereby.

Every court of the Province and every officer thereof shall act in aid of the registrar in enforcing compliance of the award as fully and effectually, and to all intents and purposes as if such award were a decree, order, or judgment of every such court duly made and given, and such award shall be deemed to be a decree, order, or judgment of every such court, and the process of every such court as shall be required by the registrar shall be issued and executed for enforcing such compliance in like manner as upon the decree, order, or judgment of such court.

Unless otherwise ordered by the award, no process shall be issued for the enforcement of any award by a payment from any organization or person of a greater sum than £1,000 [$4,866.50], or from any individual, on account of his membership of an organization, of any greater sum than £10 [$48.67].

For the purpose of enforcing compliance with any award process may be issued and executed against the property of any organization, or in which any organization 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 organization was an incorporated company and the absolute owner of such property or interest.

No fees of court shall be charged for the issue or execution of any process for compelling compliance with any award.

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 registrar may decide, for the benefit of those interested in the performance of the award.

Any person willfully making default in compliance with any award, unless such award shall otherwise direct, shall be guilty of an offense against this act, punishable on summary conviction by a fine not exceeding £20 [$97.33], or by imprisonment, with or without hard labor, for any term not exceeding 3 calendar months.

All provisions hereinbefore in this part of this act contained with reference to the enforcement of awards shall apply to the enforcement of industrial agreements (unless therein negatived or limited) in like manner as if agreements had been mentioned in such provisions whenever awards are referred to.

In order still further to strengthen the powers of the boards of conciliation, the law contains the following provisions regarding persons resorting to a strike or lockout when the matter in dispute is within the jurisdiction of a board of conciliation:

If any organization of employers or any member thereof shall counsel, take part in, support, or assist directly or indirectly any lockout on account of any industrial dispute for the settlement of which any board of conciliation shall have jurisdiction, such organization or member shall be guilty of an offense against this act, punishable by a fine in the case of an organization not exceeding £500 [$2,433.25], or in the case of an individual not exceeding £20 [$97.33].

If any organization of employees or any member thereof shall counsel, take part in, support, or assist directly or indirectly any strike on account of any industrial dispute for the settlement of which any board of conciliation shall have jurisdiction, such organization or member shall be guilty of an offense against this act, punishable as mentioned in the preceding section.

QUEENSLAND.

THE LABOR CONTRACT.

The legal regulations in relation to the labor contract in Queensland are now contained in the act of August 6, 1861. The significant features of this act are that in enforcing the labor contract, if the pecuniary compensation or indemnity awarded can not be recovered, the defendant may be imprisoned for not more than 3 months; that servants are liable for willfully spoiling or losing property; that unpaid wages are recoverable in a summary way, and that differences between employers and their employees may be settled by 2 or more justices of the peace in a summary way. The act, however, does not permit the imprisonment of females.

RIGHT OF ASSOCIATION: TRADE UNIONS.

By The Trade Unions Act, 1886, Queensland adopted all the essential provisions of the British legislation regarding the right of workingmen to form associations, the registration of trade unions, etc. The important provisions of the law as regards the right of association are, of course, the clauses declaring that "the purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such trade union liable to a criminal prosecution for conspiracy or otherwise," and "the purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render void or voidable any agreement or trust."

REGULATION OF LABOR IN FACTORIES AND SHOPS.

The whole subject of the regulation of the conditions of labor in stores as well as factories is covered in an exceptionally complete manner by The Factories and Shops Act of December 21, 1896.

SCOPE OF ACT.

By factory is meant any building or place in which 4 or more persons are engaged directly or indirectly at any handicraft or in preparing or manufacturing articles for trade or sale; bakehouses; laundries other than those in connection with a reformatory, charitable, or other similar institution; any place in which Chinese or other Asiatics are employed, and any place where steam or other mechanical power is used in manufacturing goods or packing them for transit. Excepted, however, are certain places such as dairies, agricultural works, mines, and places where members of the same family are working at home and no use is made of a mechanical power.

Shop means any place where goods are exposed or offered for sale.

The act, it should be said, applies only to such localities as are declared

by the governor in council to be districts for the purposes of the act. The governor may also by proclamation in due form exempt, either wholly or in part, any factory or class of factories or shops or class of shops in any district or part of a district from the operation of the act.

REGISTRATION OF FACTORIES.

The registration of factories is obligatory. Each occupier must forward to the inspector a notice giving such particulars concerning his establishment as may be demanded, and upon the receipt of this notice he will be given a certificate of registration.

PROTECTION OF HEALTH OF EMPLOYEES AND PREVENTION OF ACCIDENTS.

The provisions of the law regarding the prevention of accidents and the protection of the health of employees are so similar to those of the factory laws of the other Colonies that have been given that they need not be reproduced. It will only be said that they relate, among other things, to (1) the prohibition of traversing carriages of self-acting machinery running out in passages through which persons are likely to pass; (2) the fencing of all dangerous parts of machinery; (3) the protection of hoists, elevators, or well holes; (4) the use of safe elevators or lifts; (5) the restriction upon the employment of boys under 16 years of age or women as operators of elevators and hoists, and of boys under 17 years and women in the cleaning of machinery while in motion; (6) the provision of fire escapes, of means for extinguishing fires and the swinging of main inside and outside doors so that they shall open outward, and the keeping of doors unlocked in factories where 10 or more persons are employed; (7) the requirement that every factory and shop shall be kept in a cleanly state and free from all effluvia arising from any drain, urinal, or other nuisance; (8) the provision of a sufficient number of water or other closets, which shall be separate for the two sexes; (9) the giving of not less than 400 cubic feet of air space per employee; (10) the proper ventilation of factories; (11) the painting, varnishing, or washing of the interior of factories at regular intervals of time (certain classes of factories, to which the minister may make additions, being exempted from this requirement); (12) the use of a fan or other mechanical means of ventilation when grinding, glazing, or polishing on a wheel, or other process generating dust injurious to the employees, is carried on; and (13) the adoption of means of preventing excessive humidity in factories in which atmospheric humidity is artificially produced.

REPORTING OF ACCIDENTS.

Whenever an accident in a factory, resulting in loss of life or bodily injury to an employee such as to prevent him from returning to work within 48 hours, has been caused by "machinery moved by steam,

water, or other power, or through a vat, pan, or other structure filled with hot liquid or molten metal, or other substance, or by explosion, or by escape of gas, steam, or metal," it must be reported to the inspector, together with particulars as to the cause of the accident, its nature, etc. The minister may if he thinks best obtain a report from a legally qualified medical practitioner or other competent person upon the nature, extent, and cause of the death or injury.

EMPLOYMENT OF WOMEN AND CHILDREN.

Following are the provisions regarding the employment of women and children:

A child [i. e., person under 14 years of age] shall not be employed in any factory.

No male under 16 years of age and no female shall be employed continuously in a factory for more than 5 hours without an interval of at least half an hour for a meal, nor for more than 48 hours in any one week: Provided, that any such person may be employed overtime in a factory for a period not exceeding 3 hours in any day beyond the ordinary working hours on not more than 52 days in a year. The occupier shall keep a record of all such overtime, and shall note against the name of each person so employed the hours of overtime worked by him or her, and shall furnish a copy of such record to the inspector when called upon to do so.

No occupier shall employ a male under 16 years of age or a female under 18 years of age (a) in any factory; (b) in the business of but outside any factory, between the hours of 7 o'clock in the evening and 6 o'clock in the morning: Provided, that where it is proved to the satisfaction of the minister that the customs or exigencies of the trade carried on in any class of factories or parts thereof, either generally or situate in any particular locality, or other reasons, require or make it desirable that such trade should be exempted from the operation of this section, he may by order grant to such class of factories or parts thereof a special exemption, and for such time as he may think fit.

A person under the age of 16 years shall not be employed in such classes of factories as may from time to time be determined by regulation unless the occupier of the factory has obtained a certificate in the prescribed form of the fitness of such person for employment in that factory. A certificate of fitness for the purposes of this act may be granted by any legally qualified medical practitioner, and shall be to the effect that he is satisfied by the production of a certificate of birth or other sufficient evidence that the person named in the certificate of fitness is of the age therein specified, and that such person has been personally examined by him, and is not incapacitated by disease or bodily infirmity from working daily for the time allowed by law in the factory named in the certificate.

Where an inspector is of opinion that a person under the age of 16 years is, by disease or bodily infirmity, incapacitated for working daily for the time allowed by law in a factory, he may serve written notice thereof on the occupier, requiring that the employment of such person be discontinued from the period named therein, not being less than 1 nor more than 7 days after the service of such notice; and the occupier shall not continue after the period named in such notice to employ

such person (notwithstanding a certificate of fitness has been previously obtained for such person) unless a legally qualified medical practitioner has, after the service of the notice, personally examined such person and has certified that such person is not so incapacitated as aforesaid.

PROVISION OF PLACES FOR THE EATING OF MEALS.

The minister may, by notice in writing, forbid the occupier of a factory to permit any employees therein to take their meals in any room while work is being carried on therein, and may direct an occupier to erect or provide a suitable room or place in the factory or in connection therewith for the purpose of a dining or eating room for employees in such factory.

SEATS FOR FEMALES.

Every occupier of a factory or shop shall cause to be provided suitable sitting accommodation for all females employed in his factory or shop in the proportion of one seat to every three females employed, and such sitting accommodations shall be conveniently situated for the use of the persons for whom the same is provided. The occupier of any factory or shop shall allow every female employed therein to make use of such sitting accommodation at all reasonable times during the day when such use would not necessarily interfere with the proper discharge by such female of her duties.

BAKERIES.

In addition to the general regulations regarding factories, which apply equally to bakeries, the latter establishments are subject to the following special provisions:

Where a bakehouse having employed therein one or more persons is situated in any district under this act (1) no place on the same level with the bakehouse and forming part of the same building shall be used as a sleeping place unless such sleeping place is effectually separated from communication with the bakehouse by a partition extending from the floor to the ceiling, and there is an external glazed window in such sleeping place of at least 9 superficial feet in area, of which at least 4½ superficial feet are made so as to open for ventilation; (2) no earth or water closet, cesspit, urinal, or ash pit shall be within or communicate with the bakehouse; (3) any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern supplying water to a water-closet; (4) no drain pipe for carrying off fecal or sewage matter shall have an opening within the bakehouse.

REGULATION OF HOME WORK: SWEATING SYSTEM.

For the regulation of work carried on outside of the factory proper, or what is sometimes called the sweating system, the law provides as follows:

The occupier of a factory shall, for the information of the inspectors, who alone shall be entitled to demand such information, keep a record

in the prescribed form and with the prescribed particulars, showing: (a) The name of every person employed by him in the business of a factory outside such factory; (b) the places where those persons are employed; (c) the rate of payment in each instance.

The occupier must forward this record to the inspector for his information whenever demanded by him. For the purpose of the foregoing provisions, every person is considered an occupier "who, whether as principal, contractor, subcontractor, or otherwise, directly or indirectly issues or gives out, or authorizes or permits to be issued or given out, any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of clothing or wearing apparel (including boots and shoes) for trade or sale."

It is furthermore provided that if any occupier as above defined "causes or allows wearing apparel to be made, cleaned, or repaired in any building, any inmate of which is suffering from smallpox, Asiatic cholera, scarlet fever, diphtheria, membranous croup, or such other disease as may be declared to be an infectious disease under the provisions of the laws in force in Queensland, he shall be liable to a penalty not exceeding £20 [$97.33] unless he proves that he was not aware of the existence of the illness in the building, and could not reasonably have been expected to become aware of it."

KEEPING OF RECORDS, POSTING OF NOTICES, ETC.

The occupier of every factory is required to keep careful records of matters to which the act relates. He must keep a list of the names of all employees in the factory, together with the ages of all employees under 18 years of age, and such other particulars as may from time to time be required. He must post in a conspicuous place near the entrance of his establishment, and in other parts as the inspector may order, a copy of this act and the regulations made in virtue of it, and a notice containing the name and address of the inspector for the district, the usual working hours of the factory, and the number of persons who may be employed in each room of the factory. The following provision is of peculiar interest as going further in this direction than do the acts of the other Colonies. It reads: "The occupier of a factory shall, if so required by the minister, furnish to him a scale of the wages paid to the employees therein, and also the rates of payment made for piecework to the persons working in and in connection with such factory."

INSPECTION OF FACTORIES.

A very thorough system for the administration and enforcement of the act is provided. The governor is empowered to appoint a chief inspector and as many inspectors of factories and shops as may be necessary. These inspectors are given all the usual powers of entry

and investigation. Especially do they have the power of ordering the taking of precautions, where such action seems necessary, for the protection of the health and lives of the employees.

LABOR IN STORES.

A good many of the provisions regarding factories apply equally to shops or stores. Such, for example, are the provisions regarding the keeping of records, showing the names and ages of employees, the posting of copies of the act and other notices, the requirements regarding sanitation, the amount of cubic air space to be furnished, the provisions of sitting accommodations for females, protection of hoistway and other openings, and the restriction of the employment of males under 16 years of age and females as managers of elevators or lifts.

Following are the provisions relating specially to shops. They relate, it will be seen, exclusively to the limitation of the hours of labor of employees:

Except as hereinafter provided, a male under 16 years of age or a female shall not work in or in connection with any shop for a longer time than 52 hours in any 1 week, exclusive of such time as may be allowed for meals, or for a longer time than 9½ hours in any 1 day, exclusive of such time as may be allowed for meals, except on 1 day in each week, when 11½ hours' work may be done.

Any such person may, however, be employed in a shop for a period not exceeding 3 hours on any day beyond the ordinary working hours, provided that the total number of days in any 1 year on which in any shop or at any work in connection with a shop any such male or female is so employed, shall not exceed 52.

No male under 16 years of age and no female shall be employed continuously in a shop for more than 5 hours without an interval of at least half an hour for a meal.

No person under 18 years of age shall be employed during any day in any shop, or at any work in connection with a shop, if he or she has been previously employed the same day in a factory for 8 hours, or for a longer time than will when added to the time worked by him or her in any factory exceed 8 hours in the whole, or in any case for a longer period than will together with the time during which he or she has been so previously employed complete the number of 8 hours.

The foregoing provisions do not apply to the following classes of shops, which are mentioned in a schedule: Chemists' shops, coffee-houses, confectioners, eating houses, fish and oyster shops, fruit and vegetable shops, restaurants, news agents' shops, tobacconists' shops, hotels, hairdressers, and butchers' shops. Regarding these shops the governor may, subject to the provisions of this act, make regulations under which males under 16 years of age and females under 18 years of age may be employed. The minister may, after due inquiry, and subject to such conditions as seems requisite, suspend the provisions

which relate to shops in any building or place in which a public exhibition of works of industry and art, or bazaar, or fair for benevolent or charitable purposes is being held.

The provision regarding the fixing of penalties for infractions of the act and of the method of their imposition are not here reproduced, as they present few features of general interest. The system is practically identical with that found in the other Colonies.

WESTERN AUSTRALIA.

THE LABOR CONTRACT.

The Masters and Servants Act passed March 18, 1892, contains the law now in force regarding the labor contract. This act, which repeals the prior legislation of 1868 and 1886, provides that whenever an employer or employee refuses or neglects to carry out any contract of service, or whenever any dispute regarding the rights or liabilities of either party arises, the party who feels himself aggrieved can appeal to a justice of the peace. Upon being thus appealed to this officer must summon the other party, and by a hearing determine the steps that should be taken to secure justice. If it appears that the party complained against is about to abscond, the justice can order his apprehension, and if he fails to give security for his appearance, detain him in safe custody until the hearing of the complaint.

Upon the hearing of the complaint the justice can, according as justice demands, annul the contract, order the abatement of the whole or any part of the remuneration due; or, where no amount of compensation or damage can be assessed, or where pecuniary compensation will not meet the circumstances of the case, impose a fine not exceeding in amount £20 ($97.33), or shall assess and determine the amount of compensation or damage, together with the costs, to be made to the party complaining and order the same to be paid.

If the order directs the fulfillment of the contract and directs the party complained against to find sufficient security that he will do so, and such security is not given, the justice may commit such party to any jail to be confined until he does find security. Such commitment or series of commitments can not be for a longer total period than 3 months.

The jurisdiction of the justice of the peace, as above described, does not extend to cases where the amount claimed exceeds £50 ($243.33), nor can he make an order for the payment of any sum exceeding that amount.

Where, on the hearing of an information or complaint, it appears to the justices that an injury inflicted on the person or property of the party complaining or the misconduct or ill treatment complained of has been of an aggravated character, and that such injury, misconduct,

or ill treatment has not arisen or been committed in the bona fide exercise of a legal right existing or bona fide and reasonably supposed to exist, and, further, that any pecuniary compensation or other remedy by this act provided will not meet the circumstances of the case, then the justices may order the party complained against to be imprisoned, with or without hard labor, for any term not exceeding 3 months.

A clause provides that "nothing in this act shall prevent employer or employed from enforcing their respective civil rights and remedies for any breach or nonperformance of the contract of service by any action or suit in the ordinary courts of law or equity in any case where proceedings are not instituted under this act."

"Nothing in this act contained shall authorize the imprisonment of any woman or girl."

APPRENTICESHIP.

The problem of the regulation of apprenticeship has been largely influenced by the peculiar conditions of the Colony. The practice early developed of young persons entering the Colony as immigrants for the purpose of being apprenticed. To protect the interests of these persons there was passed the act of September 10, 1842, afterwards slightly amended by the act of May 21, 1844. The important feature of this legislation was the provision made for the appointment by the governor of an officer to be known as guardian of government juvenile immigrants, the duties of whom were to look after apprenticing of young persons sent out by the British Government and to see that the conditions as regards their treatment as prescribed by the act were observed.

May 9, 1849, another act was passed extending the acts of 1842 and 1844 to the apprenticing of poor children sent out by charitable institutions and other societies, as well as those sent out by the Government.

These acts, it will be observed, applied only to particular classes of apprentices, and not to apprentices generally. The regulation of apprenticeship generally was first definitely accomplished by the act of July 24, 1873. This act, after reciting in the preamble that "whereas doubts have arisen as to whether there is any law in force in this Colony under which persons under age can bind themselves as apprentices to master workmen; and whereas it is expedient and desirable to remove such doubts," declares that all the laws in force in England regarding apprenticeship on January 1, 1873, should apply to the Colony of Western Australia.

The only legislation subsequent to that date is the section contained in The Masters and Servants Act, 1892, which provides that "no apprenticeship indenture or agreement shall be annulled except upon proof of ill treatment of the apprentice by the master, or incompetency on the part of the master to teach such apprentice, or willful

neglect so to teach such apprentice, or incorrigible misconduct on the part of the apprentice: Provided, also, that the justices, if they rescind or annul any agreement or indenture of apprenticeship, may, if they think fit, order the whole or any part of the premium paid on the binding of the apprentice to be repaid to the person or persons paying the same."

MERCANTILE ESTABLISHMENTS.

The regulation of the hours of business in shops or stores was accomplished by the act of October 28, 1898. This act is very similar in character and general provisions to the New South Wales shop act of 1899, the provisions of which have been given. As in the case of that act, a number of "shop districts" are created and power is given to the governor to create other districts. The act itself creates 9 districts. A distinction is made between shops mentioned in a schedule (chemists' and druggists' shops, tea and coffee houses or stalls, fish and oyster shops, confectioners' shops, tobacconists, restaurants, news agents stationers, and booksellers' shops, undertakers' shops, florists' shops, butchers' shops, and shops or premises licensed as hotels or publicans' general wayside houses) and other shops. By shop is meant any place where goods are offered for sale by retail.

Shops other than those mentioned in the schedule in a shop district must be closed on week days from 6 p. m. to 8 a. m., and all such shops in districts subsequently created by the governor must be opened and closed at the hours fixed by the governor. Any shopkeeper, however, may keep his shop open on the evening either of Wednesday or Saturday until 10 p. m., provided the day is not the same as that upon which his shop is closed for a half holiday.

Every shop not a schedule shop must be closed for a half holiday on at least one week day in every week in which a public holiday does not occur. The minister must by proclamation fix 2 week days on one of which each shop must give a half holiday, as above provided.

On the week days preceding Christmas day, New Year's day, Good Friday, and a public holiday which falls on a Saturday all nonschedule shops may be kept open until 10 p. m.

A penalty of not exceeding £5 ($24.33) is imposed upon any employer in a nonschedule shop allowing a shop assistant to remain longer than three-quarters of an hour after closing time or after 1.45 p. m. on half holidays, or earlier than 8 a. m., with the exception that shop assistants engaged in or about dairies and butchers', greengrocers', fruiterers', and bakers' shops may be employed before that hour.

As an exception to this provision, however, it is provided that shop assistants in any such shop may be employed after closing hours for a period not exceeding 3 hours in any day not a half holiday on not more than 24 days in any one year, but the shop must be closed during that time.

The following provisions regarding the hours of labor of shop assistants apply to all shops, whether mentioned in the schedule or not: No woman or any person under 16 years of age must be employed in or about a shop for more than 48 hours in any one week, exclusive of time allowed for meals.

All shop assistants and clerks in shops and hotels mentioned in the schedule, and in all wholesale and commission agents' places of business, and all assistants in the trade or business of barber or hairdresser must be given a half holiday from 1.45 p. m. on some week day in every week in which a public holiday does not occur. As regards barbers' and hairdressers' shops the special provision is made that no employee shall be allowed to remain in the shop later than 7.30 p. m. on week days other than Saturdays, and 10 o'clock on Saturdays and the week days immediately preceding Christmas day, New Year's day, Good Friday, and a public holiday which falls on a Saturday.

For the enforcement of the act the minister is directed to appoint as many inspectors as may be necessary. These inspectors are given all the necessary powers of entry and examination for the execution of their duties. Each shopkeeper must keep a record showing his trading name, the hours during which his shop is kept open, the hours during which his employees are kept at work, the extra hours worked in accordance with the provisions given above, and the day or days on which employees are entitled to a half holiday. These records must always be open to the inspection of the inspectors.

Other provisions of the law relate to the imposition of penalties and the method of making prosecutions under the act.

The act has a tentative character, as its provisions are declared to be in force only for a period of 3 years from November 1, 1898.

The foregoing act, as far as regards the conditions of labor of female shop employees, received an important amendment by the act of December 16, 1899, which provides that "in all rooms of a shop [as defined by the former act] where female assistants are employed, the shopkeeper shall provide, for the use of such assistants, seats behind the counter, or in such other position as may be suitable for the purpose; and such seats shall be in the proportion of not less than one seat to every three female assistants employed in each room." The penalty for failure to comply with this provision is a fine not exceeding £3 ($14.60) for the first offense and not less than £1 ($4.87) nor more than £5 ($24.33) for each subsequent offense.

PAYMENT OF WAGES: TRUCK SYSTEM.

The subject of the protection of the wages of workingmen, their payment, and the regulation of the truck system is covered by The Workmen's Wages Act of October 28, 1898, and The Truck Act of October 9, 1899. The first of these two acts relates chiefly to making wages a preferred claim, a branch of labor legislation not covered by

the present report. The only section of the act that should here be mentioned is the one declaring that "in the absence of an agreement in writing to the contrary, the entire amount of wages earned by or payable to any workman engaged or employed in manual labor shall be paid to such workman at intervals of not more than 1 week."

The Truck Act, as its name implies, relates to the prohibition of the payment of wages in goods or otherwise than in money. This act provides that in every contract, by which is meant any understanding or agreement, written or verbal, in relation to the employment of a workman the wages agreed upon must, with the exceptions mentioned below, be paid in money or order on a banking institution in the Colony, payable to bearer on demand. And furthermore, "if, by agreement, custom, or otherwise, a workman is entitled to receive, in anticipation of the regular period of the payment of his wages, an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge."

Any provision in a contract in contravention of the foregoing is illegal and void.

The employer is prohibited from, directly or indirectly, making it a condition of employment in any way that wages shall be spent in a particular place or in a particular manner.

The entire amount of wages, with the exceptions to be noted, must be paid in money, and in any action brought by a workman for the recovery of any sum due as wages the employer can not allege as a set-off the furnishing of any goods by himself or his agent, or any concerning the profits of which he has an interest. No employer also can sue for the value of goods furnished under these circumstances.

No deduction shall be made from a workman's wages for sharpening or repairing tools, except by agreement not forming part of the condition of hiring.

Following are the exceptions above referred to in which the act does not apply: (1) Where according to written agreement necessaries to be paid for by deduction from wages are furnished during not more than the first 6 weeks of service of a workman; (2) where it is agreed that the employer shall furnish medical attendance or supplies or any fuel, materials, tools, appliances, or implements to be used by the workman in his labor; (3) where it is agreed that the necessary outfit and support not to exceed the amount of 2 months' wages shall be supplied to a workman engaged to fell bush or timber or clear land; (4) where it is agreed that the employer shall furnish the workman with hay, corn, or other provender for any horse or other beast of burden used by him in his work; (5) where the employer agrees to furnish a tenement in which he can reside as a part remuneration for his labor; (6) where

the employer agrees to supply the workman with food or nonintoxicating drink dressed or prepared under the former's roof and there consumed by the employee; (7) the making of deductions from wages to repay advances made to a workman to enable him to pay his dues to a friendly society, insurance company, savings bank, or other association, or for the relief of the employee or his family in case of sickness; and (8) to seamen or to persons employed in agricultural, fruit-growing, or pastoral pursuits, or engaged on sheep or cattle stations.

In all cases the deduction made in the case of these exceptions must not exceed the real and true value of the materials furnished.

Other sections of the act, which need not be here reproduced, relate to the imposition of fines for infractions of the law and the method of imposing or collecting these penalties.

CANADA.

As in the United States, the great body of labor legislation is to be found in the enactments of the individual States, or Provinces, as they are called. All legislation in reference to labor by the Dominion Government must fall under the heading of legislation in reference to (a) regulation of trade and commerce, (b) census and statistics, (c) naturalization and aliens, (d) criminal law, or (e) matters not assigned exclusively to the Provinces. These divisions are somewhat broad in scope, and, consequently, the Dominion Government has the power to legislate regarding a number of matters which in the United States would fall within the province of the States. Thus, legislation in regard to trade unions, picketing, intimidation, conspiracy, etc., in so far as it comes within the scope of the criminal law, is a matter for the Dominion Government. Legislation in regard to these matters has been enacted as follows:

1. An act respecting threats, intimidation, and other offenses embodied in the Criminal Code, 55 and 56 Vict., cap. 29, Statutes of Canada, 1892.

2. An act in regard to trade unions, passed June 14, 1872, and cited as The Trade Unions Act, Revised Statutes of Canada, 48 Vict., cap. 131.

In 1889 an act was passed for the suppression and prevention of combinations formed in restraint of trade. In 1900, however, an amendment was made to the Criminal Code, in which is contained a clause specially exempting combinations of workmen from the provisions of this act.

No attempt is here made to reproduce the provisions of the foregoing acts that have been cited, as they are to so large an extent but a reproduction of British legislation upon the same subjects. This is particularly true of The Trade Unions Act, which follows the British act almost literally. For the same reason, in considering the legisla-

tion of the Provinces, no effort is made to reproduce their laws concerning masters and servants.

Within the past year (1900) the Dominion Government, however, has entered the distinct field of labor legislation through the enactment, July 18 of that year, of a comprehensive law in relation to the settlement of industrial disputes and the creation of a department of labor for the collection and publication of information in relation to labor. This law will, of course, be fully reproduced.

As regards the Provinces, but two, Ontario and Quebec, have enacted any considerable body of labor legislation, though Manitoba, by act of July 5, 1900, has followed their example in so far as the passage of a factory act is concerned.

The following account of the labor legislation of Canada will therefore be confined to a statement of the Dominion law regarding the settlement of industrial disputes and a department of labor, and the factory and allied legislation of Ontario, Quebec, and Manitoba.

THE DOMINION.

As has already been noted in the introductory paragraphs, the Dominion Government, on July 18, 1900, passed a law in relation to the settlement of industrial disputes and the creation of a department of labor. This law, though constituting a single act, consists of two distinct parts, relating, respectively, to the two subjects just mentioned. Sections 1 to 9, inclusive, relate to industrial disputes, and sections 10 to 12, inclusive, to the creation and duties of the department of labor. For purposes of consideration, it is preferable, therefore, to reproduce these sections separately under their appropriate heads.

ARBITRATION TRIBUNALS.

Following is a copy of the sections of the law of July 18, 1900, which relate to the conciliation and arbitration of industrial disputes:

AN ACT to aid in the prevention and settlement of trade disputes, and to provide for the publication of statistical industrial information. [Assented to July 18, 1900.]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This act may be cited as The Conciliation Act, 1900.

2. In this act, unless the context otherwise requires, the expression "minister" means the member of Her Majesty's privy council for Canada to whom, for the time being, the governor in council may assign the carrying out of the provisions of this act.

3. Any board established either before or after the passing of this act, which is constituted for the purpose of settling disputes between employers and workmen by conciliation or arbitration, or any association or body authorized by an agreement in writing made between employers and workmen to deal with such disputes (in this act referred to as a conciliation board) may apply to the minister for registration under this act.

2. The application must be accompanied by copies of the constitution, by-laws, and regulations of the conciliation board, with such other information as the minister may reasonably require.

3. The minister shall keep a register of conciliation boards, and enter therein with respect to each registered board its name and principal office, and such other particulars as he thinks expedient; and any registered conciliation board shall be entitled to have its name removed from the register on sending to the minister a written application to that effect.

4. Every registered conciliation board shall furnish such returns, reports of its proceedings, and other documents as the minister may reasonably require.

5. The minister may, on being satisfied that a registered conciliation board has ceased to exist or to act, remove its name from the register.

4. Where a difference exists or is apprehended between an employer or any class of employers and workmen, or between different classes of workmen, the minister may, if he thinks fit, exercise all or any of the following powers, namely: (a) Inquire into the causes and circumstances of the difference; (b) take such steps as to him seem expedient for the purpose of enabling the parties to the difference to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon or nominated by him or by some other person or body, with a view to the amicable settlement of the difference; (c) on the application of employers or workmen interested, and after taking into consideration the existence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint a person or persons to act as conciliator or as a board of conciliation; (d) on the application of both parties to the difference, appoint an arbitrator or arbitrators.

2. If any person is so appointed to act as conciliator, he shall inquire into the causes and circumstances of the difference by communication with the parties, and otherwise shall endeavor to bring about a settlement of the difference, and shall report his proceedings to the minister.

3. If a settlement of the difference is effected either by conciliation or by arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the minister.

5. It shall be the duty of the conciliator to promote conditions favorable to a settlement by endeavoring to allay distrust, to remove causes of friction, to promote good feeling, to restore confidence, and to encourage the parties to come together and themselves effect a settlement, and also to promote agreements between employers and employees with a view to the submission of differences to conciliation or arbitration before resorting to strikes or lockouts.

6. The conciliator or conciliation board may, when deemed advisable, invite others to assist them in the work of conciliation.

7. If, before a settlement is effected, and while the difference is under the consideration of a conciliator or conciliation board, such conciliator or conciliation board is of opinion that some misunderstanding or disagreement appears to exist between the parties as to the causes or circumstances of the difference, and, with a view to the removal of such misunderstanding or disagreement, desires an inquiry under oath into such causes and circumstances, and, in writing signed by such

conciliator or the members of the conciliation board, as the case may be, communicates to the minister such desire for inquiry, and if the parties to the difference or their representatives in writing consent thereto, then, on his recommendation, the governor in council may appoint such conciliator or members of the conciliation board, or some other person or persons, a commissioner or commissioners, as the case may be, under the provisions of the act respecting inquiries concerning public matters, to conduct such inquiry, and, for that purpose, may confer upon him or them the powers which under the said act may be conferred upon commissioners.

8. Proceedings before any conciliation or arbitration board shall be conducted in accordance with the regulations of such conciliation or arbitration board, as the case may be, or as is agreed upon by the parties to the difference or dispute.

9. If it appears to the minister that in any district or trade adequate means do not exist for having disputes submitted to a conciliation board for the district or trade, he may appoint any person or persons to inquire into the conditions of the district or trade, and to confer with the employers and employed, and, if he thinks fit, with any local authority or body, as to the expediency of establishing a conciliation board for such district or trade.

BUREAU OF LABOR.

In 1890 the Canadian Parliament passed an act providing for the creation of a bureau of labor statistics under the department of agriculture. The duties of the commissioner were declared to be "to collect, classify, and arrange, and present in quarterly bulletins and in yearly reports to Parliament statistics relating to all kinds of labor in Canada, and such statistics may be classified in the manner set forth in the schedule to this act." No information, however, was ever published by this bureau except such as was secured through the census schedules.

The act of July 18, 1900, however, makes definite provision for a department of labor with the duties usually falling to such services. Following are the sections of the act in relation to this subject:

10. With a view to the dissemination of accurate statistical and other information relating to the conditions of labor, the minister shall establish and have charge of a department of labor, which shall collect, digest, and publish in suitable form statistical and other information relating to the conditions of labor, shall institute and conduct inquiries into important industrial questions upon which adequate information may not at present be available, and issue at least once in every month a publication to be known as the Labor Gazette, which shall contain information regarding conditions of the labor market and kindred subjects, and shall be distributed or procurable in accordance with terms and conditions in that behalf prescribed by the minister.

11. The expenses incurred in the carrying out of this act shall be defrayed out of the money provided for the purpose by Parliament.

12. An annual report with respect to the matters transacted by him under this act shall be made by the minister to the governor-general

and shall be laid before Parliament within the first 15 days of each session thereof.

In pursuance of these provisions a department of labor has been formally constituted, and the publication of a monthly bulletin under the title of Labor Gazette was begun September, 1900.

ONTARIO.

THE LABOR CONTRACT.

In the Revised Statutes of Ontario, 1897, chapter 157, this subject is treated under the title of "Master and Servant." The law provides, in general, that no voluntary contract of service or indentures entered into by any parties shall be binding on them or either of them for a longer time than a term of 9 years from the date of the contract.

All agreements or bargains, verbal or written, between masters and journeymen, or skilled laborers, in any trade, calling, or craft, or between masters and servants or laborers, for the performance of any duties or service of whatsoever nature, shall, whether the performance has been entered upon or not, be binding on each party for the due fulfillment thereof; but a verbal agreement shall not exceed the term of 1 year.

Agreements made with persons not residing in Canada for service in Ontario are void as against such persons, if made previous to their coming to Canada. This provision is not to be construed so as to prevent persons from engaging under contract or agreement skilled workmen not resident in Canada to labor in a new industry in Ontario, or if the skilled labor can not be otherwise obtained; nor do the provisions apply to teachers, actors, artists, lecturers, or singers.

The following provisions are made regarding profit sharing:

It shall be lawful in any trade, calling, business, or employment for an agreement to be entered into between the workman, servant or other person employed, and the master or employer, by which agreement a defined share in the annual or other net profits or proceeds of the trade or business carried on by such master or employer, may be allotted and paid to such workman, servant or other person employed, in lieu of or in addition to his salary, wages, or other remuneration; and such agreement shall not create any relation in the nature of partnership, or any rights or liabilities of copartners, any rule of law to the contrary notwithstanding; and any person in whose favor such agreement is made, shall have no right to examine into the accounts, or interfere in any way in the managements or concerns of the trade, calling or business in which he is employed under the said agreement or otherwise; and any periodical or other statement or return by the employer of the net profits or proceeds of the said trade, calling, business, or employment, on which he declares and appropriates the share of profits payable under the said agreement, shall be final and conclusive between the parties thereto and all persons claiming under them respectively, and shall not be impeachable upon any ground whatever.

Every agreement of the nature mentioned in the last preceding section shall be deemed to be within the provisions of this act, unless it purports to be excepted therefrom, or this may otherwise be inferred.

The act provides that any agreement or bargain entered into by any employee whereby it is agreed that this act shall not apply, or that the remedies provided shall not be available for the benefit of any person entering into such an agreement, is null and void and of no effect as against any such employee.

The act deals extensively with the subject of summary proceedings before justices in cases of complaints arising out of the relations of masters and servants as regulated by the act. Such complaints are made before justices of the peace or police magistrates, and appeals may be taken to the division court. The act determines the duties of justices of the peace on receiving such complaints, limits the time within which actions may be brought, defines the proceedings before justices of the peace and police magistrates, etc., the manner of issuing summonses, mode of appeals, proceedings in cases of appeals, etc. In cases of complaints by servants for nonpayment of wages the justice or justices before whom action was brought may discharge the servant from the service of the master and may direct the payment of the wages due, not exceeding $40, together with costs, and in case of nonpayment may issue warrants of distress.

APPRENTICESHIP.

A general law (R. S. O., 1897, cap. 161) regarding the status, rights, and liabilities of minors contains, among other provisions, the following with regard to apprentices:

A parent, guardian, or other person having the care or charge of a minor, or any charitable society being authorized by the lieutenant-governor in council to exercise the powers conferred by this act, and having the care or charge of a minor, the minor being a male and not under the age of 14 years, may, with the consent of the minor, put and bind him as an apprentice by indenture to any respectable and trustworthy master-mechanic, farmer, or other person carrying on a trade or calling, for a term not to extend beyond the minority of the apprentice; or in case of a female not under the age of 12 years, may, with her consent, bind the minor to any respectable and trustworthy person carrying on any trade or calling, or to domestic service with any respectable and trustworthy person for any term not to extend beyond the age of 18 years.

The act also gives the mother power to bind a child as an apprentice when the father abandons his infant children. When a child is an orphan, has been abandoned, has become a public charge, or when its parent or guardian has been committed to jail, the mayor of a town, police magistrate, or judge of a county court may bind the child as an apprentice.

Every master shall provide his apprentice, during the term of his apprenticeship with suitable board, lodging and clothing, or such equivalent therefor as is mentioned in the indenture, and shall also properly teach and instruct him, or cause him to be taught and instructed in his trade or calling.

If the master of the apprentice dies, the apprentice if a male, shall by act of law, be transferred to the person (if any) who continues the establishment of the deceased; and such person shall hold the apprentice upon the same terms as the deceased, if alive, would have done.

A master may transfer his apprentice, with his consent to any person who is competent to receive or take an apprentice and who carries on the same kind of business.

Every apprentice shall during the term of his apprenticeship faithfully serve his master, shall obey all his lawful and reasonable commands, and shall not absent himself from his service, day or night, without his consent.

In case an apprentice absents himself from his master's service or employment before the time of his apprenticeship expires, he may at any time thereafter, if found in Ontario, be compelled to serve his master for so long a time as he so absents himself, unless he makes satisfaction to his master for the loss sustained by such absence.

The act provides that if an apprentice refuses to serve or refuses or neglects to perform his duty as required by law, complaint may be made by the master to a justice of the peace or police magistrate, who will determine what satisfaction shall be made by the apprentice to the master. If the apprentice does not give or make such satisfaction immediately, or give security for such satisfaction if it does not permit of immediate performance, he may be committed to the jail or house of correction for a time not exceeding 3 months, but such imprisonment does not relieve him from the obligation to make up the lost time to his master.

Any person who knowingly harbors or employs an absconding apprentice, shall pay to the master of the apprentice the full value of the apprentice's labor; and such value shall be what the master would have received from the labor and service of the apprentice if he had continued faithfully in his master's service; and the master may recover the same in any court having jurisdiction where the apprentice has been employed, or where the master resides.

With regard to the cancellation of an apprenticeship, the act provides that a judge of a county court, or in certain cases a police magistrate, may on the application of either the parent or the child cancel the indenture of apprenticeship if satisfied that the same was injudiciously or improperly entered into.

A judge of a county court or a police magistrate, on the complaint of either party, may on proof of gross misconduct or neglect of duty annul the indenture of apprenticeship or of service, and may under penalty of imprisonment compel the person in whose possession or control the indenture is to produce it in court for cancellation.

With regard to wages of apprentices, the act provides that "all wages reserved by any indenture or otherwise to be paid for the service of any minor, shall, if not payable to the parent, be either payable to the minor or to some person for the benefit of the minor." A judge of a county court or a police magistrate may upon complaint of either party alter the mode of payment of wages by directing payment to the apprentice, or some other person, in lieu of the manner set out in the indenture.

Other clauses of the act relate to court jurisdiction and appeals in cases concerning minors and apprentices.

REGULATION OF LABOR IN FACTORIES AND WORKSHOPS.

The first factory act in the Dominion of Canada was passed by the Ontario legislature March 23, 1884. All the laws relating to this subject in Ontario are now consolidated in The Ontario Factories Act (R. S. O., 1897, cap. 256).

SCOPE OF ACT.

The term factory as defined in the act comprises (1) any premises, building, workshop, etc., described in a list of 188 industries specified in the act, which list may be added to or subtracted from by the lieutenant-governor from time to time as he may deem necessary or proper; (2) any premises, building, workshop, etc., where steam, water, or other mechanical power is used to move or work any machinery employed in preparing, manufacturing, or finishing any article, substance, material, fabric, or compound, or is used to aid the manufacturing process carried on there; (3) any premises, building, workshop, etc., wherein the employer of the persons working there has the right of access or control, and where any manual labor is exercised by way of trade or for purposes of gain in or incidental to the making of any article or part of any article, the altering, repairing, ornamenting, or finishing of any article, or adapting an article for sale.

The Factories Act does not apply to places employing 5 or less than 5 persons, nor to dwellings where children or women, who are members of the family, are employed at home, and where neither steam, water, nor other mechanical power is used in aid of the manufacturing process carried on there. The fact that places or premises are in the open air does not exclude them from the definition of a factory.

With regard to the mode of estimating the number of persons employed the act provides:

Where any owner, occupier or tenant of any premises, building, workshop, structure, room or place who has the right of access thereto, and control thereof, lets or hires out or contracts for work or labor to be done therein by any other person, and such other person

engages or employs therein any workman, child, young girl, or woman in or for the carrying out or performing of such work or labor, or any part thereof, every such workman, child, young girl or woman shall, for all the purposes of this act, be considered and taken as being in the service and employment of said owner, tenant or occupier, and in computing the number of persons employed in any place in order to ascertain if such place comes within the definition of a factory according to the meaning and intent of this act, every such workman, child, young girl, or woman shall be taken into account.

PROTECTION OF HEALTH OF EMPLOYEES.

The act in general provides that it shall not be lawful to keep a factory so that the health of any person employed therein is likely to be permanently injured. It further specifies:

(1) Every factory shall be kept in a cleanly state and free from effluvia arising from any drain, privy or any other nuisance. (2) A factory shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein. (3) Every factory shall be ventilated in such a manner as to render harmless, so far as is reasonably practicable, all the gases, vapors, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health. (4) In every factory there shall be kept provided a sufficient number and description of privies, earth or water closets, and urinals for the employees of such factory; such closets and urinals shall at all times be kept clean and well ventilated, and separate sets thereof shall be provided for the use of male and female employees, and shall have respectively separate approaches.

These provisions apply also to places where 2 or more persons employ 6 or more persons in the aggregate and use the same room or premises for carrying on any work or business within the meaning of the act, even though neither of them employs more than 5 persons. In such cases the employers are regarded as partners for the purposes of this act.

In order that these provisions may be enforced the law gives to the inspectors the power (1) to prescribe what measures shall be taken to rectify any neglect or default in relation to ventilation, sanitation, etc., whereby the health of employees is endangered; and (2) "in every factory where any process is carried on by which dust is generated or inhaled by the workers to an injurious extent, if such inhalation can by mechanical means be prevented or partially prevented, the inspector may, subject to such regulations, if any, as may be made in that behalf, direct that such means shall be provided within a reasonable time by the employer, who in such cases shall be bound so to provide them."

The inspector may, for the purpose of these provisions, take with him into any factory a physician, health officer, or other officer of the local sanitary authority.

The penalties provided for contraventions of these provisions are imprisonment in the county jail for not more than 12 months or a fine of not more than $500, with costs of prosecution.

The above provisions regarding the sanitary condition of factories do not apply where persons are employed at home; that is, to a private house, room, or place which, though used as a dwelling, might, by reason of the work carried on there, be a factory within the meaning of this act, and in which neither steam, water, nor other mechanical power is used, and in which the only persons employed are members of the family dwelling there.

PREVENTION OF ACCIDENTS.

As in the case of the provisions regarding the protection of the health of employees, the law first lays down the general principle that it shall not be lawful to keep a factory so that the safety of any person employed therein is endangered. Then follows the specification of a number of special precautions that must be taken, which are as follows:

All dangerous parts of mill gearing, machinery, vats, pans, caldrons, reservoirs, wheel-races, flumes, water channels, doors, openings in the floors or walls, bridges, and all other like dangerous structures or places shall be as far as practicable securely guarded.

No machinery other than steam engines shall be cleaned while in motion if the inspector so directs by written notice.

The openings of every hoistway, hatchway, elevator or well-hole shall be at each floor provided with and protected by good and sufficient trapdoors or self-closing hatches, and safety-catches, or by such other safeguards as the inspector directs, and such trapdoors shall be kept closed at all times except when in actual use by persons authorized by the employer to use the same.

All elevator cabs or cars, whether used for freight or passengers, shall be provided with some suitable mechanical device to be approved by the inspector, whereby the cab or car will be securely held in the event of accident to the shipper, rope or hoisting machinery, or from any similar cause.

Any other particulars which any inspector from time to time considers dangerous, and in regard to which he gives notice to that effect to the employer, shall likewise as far as practicable be secured or securely guarded.

With regard to the cleaning of machinery in motion, the act makes the following provisions:

A child shall not be allowed to clean any part of the machinery in a factory while the same is in motion by the aid of steam, water or other mechanical power.

A young girl or woman shall not be allowed to clean such part of the machinery in a factory as is mill-gearing, while the same is in motion for the purpose of propelling any part of the manufacturing machinery.

A child or young girl shall not be allowed to work between the fixed and traversing part of any self-acting machine while the machine is in motion by the action of steam, water, or other mechanical power.

A child, young girl, or woman, allowed by an employer to clean or to work in contravention of this section, shall be deemed to be employed by him contrary to the provisions of this act, and to have contravened said provisions.

The provisions requiring precautions to be taken against fire in factories and the means of escape, are:

There shall be such means of extinguishing fire as the inspector, acting under the regulations made in that behalf, directs in writing; the main inside and outside doors shall open outwardly, and any door leading to or being the principal or main entrance to the factory or to any tower stairways, or fire-escapes therein or belonging thereto, shall not be bolted, barred, or locked at any time during the ordinary and usual working hours in the factory.

With regard to fire escapes the act provides:

In the case of factories over 2 stories in height, there shall be provided in every room which is above the ground floor, or in so many of the rooms above the ground floor as the inspector in writing certifies to be in his judgment sufficient, a wire or other rope for every window in the room, or for as many windows in the room as the inspector certifies in writing to be sufficient.

The act then prescribes the thickness, length, fastenings, etc., of the rope.

Every factory 3 or more stories in height, in which persons are employed above the second story, unless supplied with a sufficient number of tower stairways with iron doors, shall be provided with a sufficient number of fire escapes; such fire escapes shall consist of an iron stairway with a suitable railing, and shall be connected with the interior of the building by iron doors or windows, with iron shutters, and shall have suitable landings at every story above the first, including the attic if the attic is occupied as a workroom, and such fire escapes shall be kept in good repair and free from obstruction or incumbrance of any kind; but any of the requirements of this subsection may be dispensed with in any factory if the inspector so directs.

EMPLOYMENT OF WOMEN AND CHILDREN.

The employment of adult male labor is subjected to no regulation other than the general provisions regarding the health and security of employees in factories. The hours of labor and generally the conditions of employment of women and children are carefully specified in the act. For purposes of this regulation a distinction is made between children, young girls, and women. A "child" is a person under the age of 14 years, a "young girl" is a female of the age of 14 years and under the age of 18 years, and a "woman" is a female 18 years of age or over.

The direct restrictions upon the employment of these three classes are

as follows: No child shall be employed in any factory except "during the months of July, August, September, and October of any year in such gathering in and other preparation of fruits or vegetables for canning or desiccating purposes as may be required to be done prior to the operation of cooking or other process of that nature requisite in connection with the canning or desiccating of fruits or vegetables. The place, room, or apartment in which such boys or girls may be so employed shall be separate from any other wherein the cooking or other process aforesaid, or the canning or desiccating of said fruits or vegetables is carried on."

With regard to girls under 18 years of age and boys under 16 years of age the act gives the lieutenant-governor discretion to prohibit their employment in factories whenever he considers the work done to be dangerous or unwholesome.

The act provides, in general, that it shall be unlawful to employ in a factory any child, young girl, or woman so that his or her health is likely to be permanently injured, and imposes a penalty of imprisonment in the county jail for not more than 6 months or a fine of not more than $100 for violation of this provision.

Careful provision is made that all children, young persons, or women working in a factory, or cleaning up or oiling machinery, or doing like work, or who are found in the factory, except at meal times, when all the machinery is stopped, shall be considered as employed for the purposes of this act.

Following are the special provisions regarding the hours of labor and intermissions for meals in the case of children, young girls, and women:

To employ in a factory any child or any young girl or woman shall be deemed to be not lawful, and so that the health of such child, young girl or woman is likely to be permanently injured, if in that factory there is any contravention of the following provisions of this section, that is to say:

1. It shall not be lawful for a child, young girl or woman to be employed for more than 10 hours in one day, nor more than for 60 hours in any one week, unless a different apportionment of the hours of labor per day has been made for the sole purpose of giving a shorter day's work on Saturday.

2. In every factory the employer shall allow every child and every young girl and woman therein employed not less than 1 hour at noon of each day for meals, but such hour shall not be counted as part of the time herein limited as respects the employment of children, young girls and women.

3. If the inspector so directs in writing, the employer shall not allow any child, young girl or woman to take meals in any room wherein any manufacturing process is then being carried on. And if the inspector so directs in writing the employer shall, at his own expense, provide a suitable room or place in the factory or in connection therewith, for the purposes of a dining and eating room for persons employed in the factory.

The following exception is made with regard to the canning and desiccating industry:

Notwithstanding anything contained in this act, women may, during the months of July, August, September, and October in any year, be employed to a later hour than 9 o'clock in the afternoon of any day in any factory wherein the only work or operations carried on relate to and are exclusively such as may be necessary for the canning or desiccating of fruits or vegetables, and the preparation thereof for being so canned or desiccated; but no woman shall be so employed during the said months to a later hour than 9 o'clock in the afternoon of any day for more than 20 days in the whole, and in reckoning such period of 20 days, every day on which any woman has been so employed to a later hour than 9 o'clock in the afternoon shall be taken into account.

Whenever under this provision any woman is employed later than 7 o'clock in the afternoon, she must be allowed, in addition to the hour for the noonday meal, not less than 45 minutes for an evening meal between 5 and 8 o'clock in the afternoon.

Special exemptions are provided for as follows:

(1) Subject to any regulations which may be made in that behalf by the lieutenant-governor in council, it shall be lawful for the inspector (a) where any accident which prevents the working of any factory happens to the motive power of any machinery; or (b) where from any other occurrence beyond the control of the employer the machinery, or any part of the machinery, of any factory can not be regularly worked; or (c) where the customs or exigencies of certain trades require that the children, young girls or women working in a factory, or in certain processes in a factory, shall be employed for a longer period than as hereinabove provided, on due proof to his satisfaction of such accident, occurrence, custom or exigency of trade, to give permission for such exemption from the observance of the foregoing provisions of the act as will, in his judgment, fairly and equitably to the proprietors of, and to the women, young girls and children in, such factory, make up for any loss of labor from such accident or occurrence, or meet the requirements of such custom or exigency of trade:

(2) In the case of the inspector permitting such exemption, (a) no woman, young girl or child shall be employed before the hour of 6 o'clock in the morning nor after the hour of 9 o'clock in the evening; and (b) the hours of labor for women, young girls and children shall not be more than 12½ in any one day, nor more than 72½ in any one week, and (c) such exemption shall not comprise more than 36 days, in the whole, in any 12 months; and in reckoning such period of 36 days, every day on which any child, young girl, or woman has been employed overtime shall be taken into account; and (d) during the continuance of such exemption there shall, in addition to the hour for the noon-day meal provided for by section 9 of this act, be allowed to every woman, young girl, or child so employed in the factory on any day to an hour later than 7 of the clock in the afternoon, not less than 45 minutes for another or evening meal between 5 and 8 of the clock in the afternoon.

Whenever such exemptions are permitted the act requires that a notice shall be affixed in the factory specifying the extent and par-

ticulars of such exemption. In all cases where exemptions allow a child, young person, or woman to work for a longer period than is allowed by this act the duration of such employment must be daily recorded by the employer, in a form to be prescribed by the lieutenant-governor.

A notice of the hours between which children, young girls, and women are to be employed must be prepared in a form to be prescribed by the lieutenant-governor, signed by the inspector and the employer and hung up during the period affected by such notice in such conspicuous place or places in the factory as the inspector may require.

The provisions of this act which relate "to children, young girls, and women being during any part of the times allowed for meals in a factory, employed in a factory, or being allowed to remain in any room," and "to the affixing of any notice or abstract in a factory or specifying any matter in the notice so affixed, save and except where such notice is a notice of the name and address of the inspector," do not apply "where persons are employed at home, that is to say, to a private house, room, or place which, though used as a dwelling, might by reason of the work carried on there be a factory within the meaning of this act, and in which neither steam, water, nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there," nor do they apply "to a factory which is conducted on the system of not employing children or young girls therein, and the occupier of which has served on the inspector notice of his intention to conduct his factory upon that system."

The act defines an employer as "any person who in his own behalf, or as the manager, superintendent, overseer, or agent for any person, firm, company, or corporation, has charge of any factory and employs persons therein." With regard to the employment of protected persons it further provides:

Where in a factory the owner or hirer of a machine or implement moved by steam, water, or other mechanical power, in or about or in connection with which machine or implement, children, young girls, or women are employed, is some person other than the employer as defined by this act, and such children, young girls, or women are in the employment and pay of the owner or hirer of such machine or implement, in any such case such owner or hirer shall, so far as respects any offense against this act, which may be committed in relation to such children, young girls or women, be deemed to be the employer.

With regard to the liability of parents, the act provides:

The parent of any child or young girl employed in a factory in contravention of this act shall, unless such employment is without the consent, connivance or willful default of such parent, be guilty of an offense in contravention of this act, and shall for each offense on summary conviction thereof incur and pay a fine of not more than $50 and costs of prosecution, and in default of immediate payment of such fine and costs shall be imprisoned in the common jail of the county wherein which the offense was committed, for a period not exceeding 3 months.

KEEPING OF REGISTERS, POSTING OF REGULATIONS, ETC.

In order to facilitate the enforcement of The Factories Act, the following provisions are made with regard to reporting factories, keeping registers, and posting notices:

Every person shall, within 1 month after he begins to occupy a factory, serve on the inspector a written notice containing the name of the factory, the place where it is situated, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall be liable to a fine not exceeding $30.

In every factory the employer shall keep, in the form and with the particulars prescribed by any regulation made by the lieutenant-governor in council in that behalf, a register of the women, young girls and children employed in that factory and of their employment, and of other matters under this act, and shall send to the inspector such extracts from any register kept in pursuance of this act as the inspector from time to time requires for the execution of his duties under this act, and in default thereof such employer shall be liable to a fine not exceeding $30.

There shall be affixed at the entrance of a factory and in such other parts thereof as the inspector directs, and be constantly kept so affixed in the form directed by the inspector and in such position as to be easily read by the persons employed in the factory (1) such notices of the provisions of this act, and of any regulations made thereunder as the inspector deems necessary to enable the persons employed in the factory to become acquainted with their rights, liabilities and duties under this act; (2) a notice of the name and address of the inspector; (3) a notice of the clock (if any) by which the period of employment and times for meals in the factory are regulated; (4) every other notice and document (if any) required by this act to be affixed in the factory.

A fine not exceeding $20 is provided for contraventions of these provisions.

The act contains detailed provisions regarding the service of notices, which are not of sufficient general interest to warrant their reproduction. The willful making of any false entry in any register, notice, or other document required by the act or the willful making use of any such false document or declaration is punished by imprisonment for not more than 6 months or a fine not exceeding $100, with costs.

The act specifies by means of appended schedules, the exact form in which the various registers, notices, etc., required by law are to be prepared.

REPORTING OF ACCIDENTS.

In case of a fire or accident in any factory occasioning any bodily injury to any person employed therein, whereby he is prevented from working for more than 6 days next after the fire or accident, a notice shall be sent to the inspector in writing by the employer forthwith after the expiration of the said 6 days, and if such notice is not so sent the employer shall be liable to a fine not exceeding $30.

In case of an explosion occurring in a factory, whether any person is injured thereby or not, the fact of such explosion having occurred shall be reported to the inspector in writing by the employer within 24 hours next after the explosion takes place. And if such notice is not so sent, the employer shall be liable to a fine not exceeding $30.

Where in a factory any person is killed from any cause, or is injured from any cause, in a manner likely to prove fatal, written notice of the accident shall be sent to the inspector within 24 hours after the occurrence thereof, and if such notice is not so sent, the employer shall be liable to a fine not exceeding $30.

INSPECTION OF FACTORIES.

The general charge of the enforcement of The Factories Act is intrusted to the lieutenant-governor, and, as has already been shown in the foregoing provisions, he is given wide discretionary powers in relation to the issuing of orders, regulations, etc., concerning conditions of labor. For the actual work of supervision he is directed to appoint an inspector of factories, and from time to time, as may be necessary, a female inspector. The salaries of the inspectors are fixed by the legislature.

Following are the powers and duties of inspectors as provided by the act:

(1) The inspector shall for the purposes of the execution of this act, and for enforcing the regulations made under the authority thereof, have power to do all or any of the following things, namely,

(a) To enter, inspect and examine at all reasonable times by day or night any factory and any part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory;

(b) To require the production of any register, certificate, notice or document required by this act to be kept, and to inspect, examine, and copy the same;

(c) To take with him in either case a constable into a factory in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(d) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this act are complied with, so far as respects the factory and the persons employed therein;

(e) To examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this act, every person whom he finds in a factory, or whom he has reasonable cause to believe to be, or to have been, within the two preceding months, employed in a factory, and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is so examined.

(f) For the purposes of any investigation, inquiry or examination made by him under the authority of this act, to administer an oath to and to summon any person to give evidence;

(g) To exercise such other powers as may be necessary for carrying this act into effect.

(2) The employer and his agents and servants shall furnish the means required by the inspector as necessary for an entry, inspection, examination, inquiry or the exercise of his powers under this act in relation to such factory.

(3) Every person who willfully delays the inspector in the exercise of any power under this section, or who fails to comply with a requisition or summons of the inspector in pursuance of this section, or to produce any certificate or document which he is required by or in pursuance of this act to produce, or who conceals or prevents a child, young girl or woman from appearing before or being examined by the inspector, or attempts so to conceal or prevent a child, young girl or woman, shall be deemed to obstruct an inspector in the execution of his duties under this act; but no one shall be required under this section to answer any question, or to give any evidence, tending to criminate himself.

(4) Where the inspector is obstructed in the execution of his duties under this act, the person obstructing him shall be liable to a fine not exceeding $30; and where an inspector is so obstructed in a factory, the employer shall be liable to a fine not exceeding $30, or where the offense is committed at night, $100.

Where it is made to appear to the satisfaction of the inspector at the time of discovering the offense that the employer had used all due diligence to enforce the execution of this act, and also by what person such offense was committed and also that it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders, then the inspector shall proceed against the person whom he believes to be the actual offender in the first instance, without first proceeding against the employer.

Where an offense for which an employer is liable under this act to a fine has in fact been committed by some agent, servant, workman or other person, such agent, servant, workman or other person shall be liable to the same fine, penalty or punishment for such offense as if he were the employer.

The act makes special provisions with regard to the entry by inspectors of dwellings used as factories. These are:

(1) The inspector, before entering, in pursuance of the powers conferred by this act, without the consent of the occupier, any room or place actually used as a dwelling, as well as for a factory, shall, on an affidavit or statutory declaration of facts and reasons, obtain written authority to do so from the lieutenant-governor in council, or such warrant as is hereinafter mentioned, from a justice of the peace or police magistrate.

(2) The affidavit or statutory declaration above mentioned may be inspected or produced in evidence, in all respects the same as an information on oath before a justice.

(3) A justice of the peace or police magistrate, if satisfied, by information on oath, that there is reasonable cause to suppose that any enactment of this act is contravened in any such room or place as aforesaid, may, in his discretion, grant a warrant under his hand, authorizing the inspector named therein, at any time within the period named therein, but not exceeding 1 month from the date thereof, to enter in pursuance of this act, the room or place named in the war-

rant, and exercise therein the powers of inspection and examination conferred by this act; and the fines and provisions of this act, with respect to obstruction of the inspector, shall apply accordingly.

The act requires that every inspector shall be furnished with a formal certificate of appointment, and that on applying for admission to a factory he must produce it if required by the employer.

The annual and other reports of the inspector required by the lieutenant-governor must be laid before the legislative assembly.

All prosecutions under this act must be brought and heard before any two justices of the peace in and for the county where the offense was committed, and in cities and towns where there is a police magistrate, before such an officer. The procedure is governed by The Ontario Summary Convictions Act.

All fines or money penalties must be paid by the justice or magistrate to the inspector, who must forthwith pay the same over to the treasurer of the Province.

Other provisions are made in the act with respect to summary proceedings, limitation of prosecutions, evidence, power of the court in addition to inflicting fines, etc.

BAKERIES.

Special provisions are made in The Shops Regulation Act, which appears as chapter 257 of the Revised Statutes of 1897, concerning bake shops. A "bake shop" is defined as "any building, premises, workshop, structure, room or place wherein is carried on the manufacture or sale of confectionery, or of bread, biscuits, cakes or any other food product made from flour, or from meal, or from both, in whole or in part, and the said bake shop shall include also any room or rooms used for storing the confectionery, bread, cakes, biscuits and other food products." The word "employer" in this case means "any person who in his own behalf, or as manager, superintendent, overseer or agent for any person, firm, company or corporation, has charge of any bake shop, or employs any person or persons therein."

Following are the special regulations which apply to bake shops:

All bake shops to which this act applies shall be constructed as to lighting, heating, ventilating and draining in such a manner as not to be detrimental or injurious to the health of any person working therein, and shall also be kept, at all times, in a clean and sanitary condition, so as to secure the production and preservation of all the food products therein in a good and wholesome condition.

Every bake shop shall be provided with a proper wash room, closet, and other conveniences necessary for the health and comfort of the persons employed therein, the wash room, closets and other conveniences to be separate from the bake shop, and such wash room, closets and other conveniences shall be kept clean and in a sanitary condition.

The sleeping place or places of the employees of every bake shop shall be entirely separate from the bake shop, and no person shall be allowed to sleep in such shop.

Every bake shop shall be provided with proper means and facilities of escape in case of fire, such means or facilities to be to the satisfaction of the inspector.

No employer shall require, permit or suffer any employee in any bake shop to work on Sunday, nor more than 12 hours on any one day, or more than 60 hours in any one week, except by permission of the inspector given in writing to the employer, and a copy of which permission shall be posted in a conspicuous place in the bake shop.

No employer shall knowingly require, permit or suffer any person to work in his bakeshop who is affected with consumption of the lungs, or with scrofula, or with any venereal disease, or with any communicable skin disease, and every employer is hereby required to maintain himself and his employees in a clean and healthy condition while engaged in the manufacture, handling or sale of such food products.

The penalties provided for violations of the provisions regarding bake shops or for noncompliance with the lawful requirements of inspectors regarding the same are from $20 to $50 for the first offense, not exceeding $100 for the second offense, and imprisonment in jail for from 6 months to 1 year for the third and subsequent offenses. In default of payment of fine in the case of the first or second offense, imprisonment for from 30 days to 6 months may be substituted.

THE SWEATING SYSTEM.

An amendment to The Ontario Shops Regulation Act, adopted in 1900, makes the following provisions regarding sweat shops and sweat-shop products:

1. Every person contracting for the manufacture of coats, vests, trousers, overalls, cloaks, caps, drawers, blouses, waists, waist bands, underwear, neckwear, shirts, or any parts thereof, or any other garment or article of clothing, or giving out for improvement, manufacture or alteration, incomplete material from which the said articles, or any of them, are to be made, or to be wholly or partially altered or improved, shall keep a written register of the names and addresses, serially numbered, of all persons to whom such work or material is given to be made, altered or improved, or with whom he may have contracted to do the same; and such register shall at all times be kept prominently posted up in the office of the person so giving out such articles for manufacture, alteration or improvement.

2. Every article so made, altered, or improved, as aforesaid, shall bear upon a label attached thereto the register number, or the name and address of the person to whom the same was given for manufacture, alteration, or improvement, and any false statement upon such label shall render the person making the same liable to the penalties provided by this act for making a false entry in any register, notice, certificate, or document.

3. No person shall knowingly sell or expose for sale any of the articles mentioned in this section and made in any dwelling house, tenement house, or building forming part of or in the rear of a tenement or dwelling house, without a permit from the inspector, stating that the place of manufacture is thoroughly clean and otherwise in good sanitary condition. Such permit shall state the maximum number of per-

sons allowed to be employed upon the said premises and shall not be granted until an inspection of the premises is made by the inspector. The permit may be revoked by the inspector at any time if, in his opinion, the protection of the health of the community, or of those so employed upon the said premises, render such revocation desirable.

4. When any article mentioned in this section is found by the inspector to be made under unclean or unhealthy conditions, or upon any unregistered premises, he shall seize and impound the same and affix thereto a label bearing the word "unsanitary" printed on a tag not less than 4 inches in length; and shall immediately notify the local board of health, whose duty it shall be to disinfect the said article, and thereupon remove such label. The owner of any such article shall after it has been disinfected be entitled to have the same returned to him upon first paying the costs of such seizure and disinfection.

5. If the inspector finds evidence of unclean or unhealthy conditions, or infectious or contagious disease present in any workshop, or in any tenement or dwelling where any of the articles hereinbefore mentioned is made, altered or improved, or in any goods manufactured or in process of manufacture on such premises, he shall forthwith report the same to the local board of health, and the said local board of health shall forthwith issue such order as the public health may require, or may condemn and destroy all such infectious and contagious articles, or any articles made, altered or improved, or in process of manufacture under unclean or unsanitary conditions as aforesaid.

COMMERCIAL ESTABLISHMENTS.

The legal regulations concerning conditions of labor in commercial establishments are contained in The Shops Regulation Act (Revised Statutes, 1897, cap. 257). "Shop" is defined as "any building or portion of a building, booth, stall or place where goods are handled, or exposed or offered for sale, and any such building, portion of a building, booth, stall or place where goods are manufactured and to which The Ontario Factories Act does not apply, and laundries wherein neither steam, water power, nor electric power is used in aid of the work carried on; but shall not include any place where the only trade or business carried on is that of a tobacconist, news agent, hotel, inn, tavern or any premises wherein, under license, spirituous or fermented liquor is sold by retail for consumption on the premises. A part of a shop may for the purposes of this act be taken to be a separate shop."

The act does not apply to a shop where the only persons employed are at home, that is, members of the same family, or to members of the employer's family dwelling in a house to which the shop is attached.

The word "week" means "the period between midnight on Sunday night and midnight on the succeeding Saturday night."

It may be said that as regards the general scheme of regulation the provisions of The Factories Act, where applicable, are followed closely or even textually. Such, for instance, are the provisions regard-

ing water closets, nuisances, etc., and the obligation of employers to conform to the directions of inspectors with regard to sanitary arrangements. The act also contains the general provision that "every shop shall be kept sufficiently ventilated and in a cleanly state, and free from effluvia arising from any drain, privy, or any other nuisance, and shall not be so overcrowded by employees while work is carried on therein as to be injurious to the health of the persons employed therein."

As regards conveniences for eating meals the law contains the interesting provision that:

If the inspector so directs in writing, the employer shall, at his own expense, provide a suitable room or place in the shop, or in connection therewith, for the purposes of a dining or eating room for persons employed in the shop, and no part of such expense shall be payable by or chargeable to the wages of any employee.

The only provisions of this act which relate to the security of employees are such as relate to ropes and fire escapes for the prevention of accidents in case of fire, and these provisions are similar to those made in The Factories Act.

The most important provisions are naturally those relating to the employment of women and children.

The same distinction is here made with regard to the classification and definition of the protected classes as is found in The Factories Act.

The Shops Regulation Act provides in general that no person under 10 years of age shall be employed in any shop.

With regard to the hours of employment of protected persons, it provides that:

No child, young girl or woman shall be employed in or about a shop on any day of the week, other than Saturday or the day next before a statutory holiday, before the hour of 7 o'clock in the morning, or after the hour of 6 o'clock in the evening.

No child, young girl or woman shall be employed in or about a shop on Saturday or on the day next before any statutory holiday before the hour of 7 o'clock in the morning or after the hour of 10 o'clock in the evening.

There shall be allowed to every child, young girl or woman so employed not less than one hour for the noonday meal on each day, and when so employed after 6 o'clock in the evening not less than 45 minutes for another or evening meal.

Provided that a child, young girl or woman may be employed in a shop upon 1 day other than Saturday, and the day before a statutory holiday, in any week until the hour of 10 o'clock in the evening, but in that case such child, young girl or woman shall not be so employed on Saturday in such week after the hour of 6 o'clock in the evening.

The above restrictions regarding hours of labor and meal time do not apply in any shop from December 14 to December 24, inclusive, in each year.

The act further provides that:

A child, young girl or woman who has been previously on any day employed in any factory as defined by The Ontario Factories Act, for the number of hours permitted by the said act, shall not, to the knowledge of the employer, be employed on the same day in a shop, or shall not be employed therein for a longer period than will complete such number of hours.

When any child, young girl or woman is employed in or about a shop contrary to the provisions of Part I of this act, the employer shall, upon conviction thereof, be liable to a fine of not less than $10 nor more than $25 for each person so employed, with costs of the prosecution, and in default of immediate payment of such fine and costs, to be imprisoned in the common jail of the county within which the offense was committed for a period of not less than 1 month nor more than 3 months.

The providing of seats for females and the granting of permission to use them when their work will not be seriously interfered with is made compulsory upon employers. Following are the provisions of the law regarding this matter:

In any shop in which females are employed the employer shall at all times provide and keep therein a sufficient and suitable seat or chair for the use of every such female, and shall permit her to use such chair or seat when not necessarily engaged in the work or duty for which she is employed in such shop; nor shall the employer by any open or covert threat, rule, or other intimation, expressed or implied, or by any contrivance, prevent any such female employee using such seat or chair as aforesaid.

Any person offending against any of the provisions of this section shall, upon conviction thereof, be liable to a fine of not less than $10, nor more than $25, with costs of prosecution, and, in default of immediate payment of such fines and costs, to be imprisoned in the common jail of the county within which the offense was committed for a period of not less than 1 month nor more than 3 months.

The act makes the following provisions for the keeping of registers in shops:

In every shop in which any child, young girl or woman is employed, there shall be provided and kept a correct register of the name, age and place of residence of every such child, young girl or woman employed, and such register shall at all times, on demand, be open to the free inspection of the inspector.

As in the case of The Factories Act, this act requires the posting of the name and address of the inspector and such notices and regulations as the inspector may deem necessary to acquaint the employees with their rights, duties, and liabilities under this act, a fine not exceeding $20 being provided for violations of this provision.

The act requires that notices must be served in writing by delivering the same to or at the residence of the person or, where he is an employer, by delivering a copy to his agent or some other person in the shop where he is an employer.

This act makes the same provisions as The Factories Act with regard to the penalty for falsifying registers, certificates, etc., except that in case of fine the amount in this case is not more than $50 nor less than $20.

For the enforcement of this act the lieutenant-governor is given practically the same powers and duties as are conferred upon him by The Factories Act. He can appoint both male and female inspectors, and these officials have practically the same duties and powers as the factory inspectors. Interference with the inspectors is punished by a fine of not more than $20 and costs, and, in default, imprisonment not exceeding 30 days. Prosecutions are conducted before the same courts and by means of the same proceedings as in the case of The Factories Act.

SUNDAY LABOR.

The only provisions regarding Sunday labor are those contained in chapter 246 of the Revised Statutes of 1897, being a general act relating to the observance of the Lord's Day. The important section of this act as regards labor is the following:

It is not lawful for any merchant, tradesman, farmer, artificer, mechanic, workman, laborer, or other person whatsoever on the Lord's Day, to sell or publicly show forth, or expose, or offer for sale, or to purchase, any goods, chattels, or other personal property, or any real estate whatsoever, or to do or exercise any worldly labor, business, or work of his ordinary calling (conveying travelers or Her Majesty's mail, by land or by water, selling drugs and medicines, and other works of necessity and works of charity only excepted).

ARBITRATION TRIBUNALS.

Legislation in Ontario having as its purpose the encouragement of the settlement of industrial disputes by conciliation or arbitration was enacted over 25 years ago. In 1873 was passed "an act respecting councils of conciliation and of arbitration for settling industrial disputes." This act proved entirely ineffective on account, as reported by the Royal Commission on Labor, 1889, of the provision that "nothing in this act contained shall authorize the said board to establish a rate of wages, or price of labor, or workmanship, at which the workmen shall be paid." This provision was accordingly changed by an amendment in 1890 permitting the parties to a dispute to agree that the board shall have such power.

As no information is available concerning whether the act has been availed of even in its amended form, and particularly as a general conciliation and arbitration act for the whole of Canada has just been passed, it will be sufficient to give the main character of the Ontario act without entering into details.

The law as it now stands (R. S. O., 1897, cap. 158) is essentially

different from the original act of 1873. It provides that the lieutenant-governor shall appoint a suitable person to act as registrar of councils of conciliation and arbitration for the settlement of industrial disputes. The duties of such registrar are to receive, register, and deal with all applications by employers or employees for the reference of any dispute or claim within the meaning of the act to a council of conciliation or council of arbitration. He has authority to issue all summonses to witnesses to attend to give evidence, to issue all notices, and generally to perform all necessary acts in connection with the sittings of the councils.

The act mentions 8 classes of claims or disputes to which its provisions apply. These are:

1. The price to be paid for work done, or in the course of being done, whether such disagreement shall have arisen with respect to wages, or to the hours or times of working;
2. Damage alleged to have been done to work, delay in finishing the same, not finishing the same in a good and workmanlike manner or according to agreement; or a dispute respecting materials supplied to employees and alleged to be bad, or unfit, or unsuitable;
3. The price to be paid for mining any mineral or substance mined, or obtained by mining, hewing, quarrying or other process; or the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral substance is impeded;
4. The performance or nonperformance of any stipulation or matter alleged to have been in an agreement, whether in writing or not;
5. Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind;
6. Ill-ventilated or dangerous workings or places in mines, or unwholesome or insanitary rooms or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places;
7. The dismissal or employment under agreement of any employee or number of employees;
8. The dismissal of an employee or employees for their connection with any trade or labor organization.

No claim or dispute can be the subject of conciliation or arbitration under this act unless the employees affected number at least 10.

Councils of conciliation consist of 4 members, 2 nominated by each party. They are created where the parties mutually agree to the constitution of such a body, and so inform the registrar, informing him at the same time of the persons whom it is desired shall act as conciliators. The registrar then attends to the summoning of the council and its subsequent proceedings. If possible the parties should agree to a joint written statement of their case. The council must make a written report to the registrar. If an agreement is not reached the parties can then refer the matter to the proper council of arbitration.

Provision is made for 2 councils of arbitration, which shall be permanent bodies. The one has jurisdiction over disputes affecting steam

and street railway companies and their employees, and the other to disputes affecting other than the railway companies and their employees. Each council consists of 3 members, 2 appointed by the lieutenant-governor on the recommendation of the employers and of the employees, respectively, and the third by these 2. In case a third member can not be agreed upon the lieutenant-governor must appoint an impartial person. The term of office of each member is 2 years. The third member is president of the council, and the same person can be president of both councils. Members are reeligible.

Careful provision is made for the cases where members are disqualified from serving, as, for instance, when they have been convicted of a criminal offense, the filling of vacancies, etc. When a dispute has been referred to a council, the members of the council of conciliation may, if the parties both so agree, sit as assessors.

Following is the method of ascertaining the recommendation of employers and employees as to the persons to be appointed on their recommendation as members of the councils of arbitration:

For the persons to be recommended by the employers each employer having at least 10 men in his employment, every organization, whether incorporated or unincorporated, representing the interests of employers, each member of which has at least 10 persons in his service, and each board of trade legally constituted, has 1 vote.

For the person to be recommended by the employees as a member of the council in matters not belonging to railways, every trade and labor council, every district assembly of the Knights of Labor, every federated council of building trades, every lawfully incorporated trade union, every organization of wage-earners of an industrial calling primarily constituted for and actually and bona fide operated for the regulation of wages and hours of labor as between employers and employed, shall be entitled to 1 vote, but this does not include cooperative societies. For choosing the member of the council on railway matters every organization in the Province, whether incorporated or not, exclusively representing the interests of railway employees, is entitled to 1 vote.

Notice of an election is given by the registrar by publication in the Ontario Gazette, calling on all organizations entitled to a vote to communicate with him. He then makes up a list of voters as complete as possible and mails to each a blank ballot, which must be returned by mail to him with the indication of the person voted for. In case either employers or employees, or both, fail to recommend any person to represent them on the councils the lieutenant-governor may appoint to the vacancy.

Disputes may be referred directly to the council of arbitration without the first appeal to a council of conciliation, or after an ineffectual reference to the latter body has been made. The following provisions

regarding the procedure for arbitration are important and are therefore reproduced in full:

If in case of a claim or dispute within the meaning of this act, one party has lodged an application with the registrar requesting that the dispute or claim be referred to a council of conciliation, and appointing 2 conciliators for the purpose, and notice of the application and of the appointment of conciliators has been duly given to the other party, and such other party has not within a reasonable period appointed conciliators, and the party lodging the application has not proceeded to a strike or lockout, as the case may be, the council of arbitration, if it thinks fit, may proceed as in case of an abortive reference to a council of conciliation, and such council may report their decision, as to the proper settlement of the dispute in question and also in case the council thinks proper, a concise statement as to the origin of the dispute, and the causes inducing the same, and what parties, if any, are in the opinion of the council mainly responsible for the same.

The mayor of any city or town upon being notified that a strike or lockout is threatened, or has actually occurred within the municipality, shall at once notify the registrar thereof by writing, stating the name of the employer, the nature of the dispute, and number of employees involved, as far as his information will enable him so to do.

It shall be the duty of each of the councils of arbitration appointed under the said act upon being notified, or on being otherwise made aware, that a strike or a lockout has occurred or is threatened, to place itself, as soon as practicable, in communication with the parties concerned and to endeavor by mediation to effect an amicable settlement, and if in the judgment of the council it is deemed best to inquire into the cause or causes of the controversy it shall proceed as provided in this act in the case of a reference.

The council can require either of the parties to name not more than three persons to represent them. "The council of arbitration shall sit and conduct its proceedings as in open court, and in making its decisions shall be governed by the principles of equity and good conscience." The president is given all the powers of a judge save that of committing for contempt. The report or award must be made within 1 month after the hearing.

Following is the provision regarding the enforcement of awards:

Either party to a reference to either council of arbitration at any time before award made, may by writing under the hands of such party agree to be bound by the award of the council upon the reference, in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under the arbitration act. Every agreement so to be bound made by one party shall be communicated to the other party by the registrar, and if such other party also agrees in like manner to be bound by the award, then the award may, on the application of either party, be enforced in the same manner as an award on an ordinary submission in writing to arbitration may be enforced under the said act.

The councils are given large powers to visit the localities of strikes being investigated, to enforce the attendance of witnesses, to admin-

ister oaths, etc. No party to any proceeding either before a council of conciliation or a council of arbitration shall be represented by counsel or attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen. No fees of any kind are to be paid. The expenses of the councils, witness fees, etc., are paid by the State. Members of a council of conciliation are paid at the rate of $3 for preliminary meetings, $4 for whole day, and $2 for half-day sittings. The compensation of members of the councils of arbitration is fixed by the lieutenant-governor subject to legislative provision being made therefor.

Annexed to the act are copies of the various forms to be used in respect to the application of the act.

BUREAU OF LABOR.

Provision for the creation of a bureau somewhat analogous to the modern bureau of labor statistics was first made in 1882. By the act of March 10, of that year, it was provided that a bureau of industries should be created under the department of agriculture. The duties of this bureau, however, related almost wholly to agriculture. The first direct effort of the bureau to collect statistics of labor was in 1884, and in the years immediately following a certain amount of statistics of labor was published. In the later reports, however, no information was published dealing specially with the question of labor statistics outside of that gathered in regard to farm labor.

Finally, in 1900, an act was passed creating a bureau of labor with the sole function of publishing statistics of labor. A copy of this act follows:

1. There shall be attached to the department of the commissioner of public works a bureau, to be styled the bureau of labor;

2. The lieutenant-governor may appoint a secretary of the said bureau, and may also appoint such other officers as may be necessary for the proper conduct of the bureau.

3. It shall be the object of the bureau to collect, assort and systematize and publish information and statistics relating to employment, wages and hours of labor throughout the Province,—cooperation, strikes, or other labor difficulties, trade unions, labor organizations, the relations between labor and capital, and other subjects of interest to workingmen, with such information relating to the commercial, industrial and sanitary condition of workingmen, and the permanent prosperity of the industries of the Province, as the bureau may be able to gather.

QUEBEC.

No other Province of Canada has a system of labor laws in any way as comprehensive as that of Ontario, which has just been described. It would be of little value, therefore, to attempt their consideration. Two of the other Provinces, however, Quebec and Manitoba, have

enacted factories acts and exceptions should be made in their cases. A statement of the chief provisions of these acts is therefore given in the following pages.

REGULATION OF LABOR IN FACTORIES AND WORKSHOPS.

A factories act was first passed in Quebec in 1885. It was subsequently amended from time to time. In their present form the acts regarding factory work were passed January 8, 1894, and are entitled respectively, "An act respecting industrial estabishments" and "An act to amend the law respecting the board of health of the Province of Quebec." Both of these acts provide for the issuing of regulations concerning industrial work by the lieutenant-governor which shall have all the force of law. In pursuance of this provision each act has been supplemented by regulations which specify in great detail the precautions that must be taken against fire and accident and for the protection of the health of employees. The first regulation issued was that concerning the hygiene of establishments, dated June 6, 1895. It was followed October 31, 1895, by regulations concerning the prevention of accidents, precautions to be taken in case of fire, etc.

Following is an account of the provisions of these acts and regulations.

SCOPE OF ACTS.

The acts apply to all manufactories, works, workshops, work yards, and mills of every kind and description and their dependencies irrespective of the number of persons employed. Mines are excluded, however, as they are regulated by a special law. Domestic workshops, by which is meant "every establishment in which only the members of the family are employed, either under the authority of the father or mother, or of the tutor or guardian, provided such establishment be not classed as dangerous, unhealthy, or inconvenient, or that the work be not done by a steam boiler or other motor" are also excepted unless a strange workman is there employed. The lieutenant-governor in the regulations to be issued by him may also except other premises. No such exceptions, however, have been made.

PROTECTION OF HEALTH OF EMPLOYEES.

The act in relation to industrial establishments contains only the following general provision regarding the protection of the health of employees:

They [the industrial establishments] must also be kept in the cleanest possible manner; be sufficiently lighted and have a sufficient quantity of air for the number of persons employed; be provided with effective means for expelling the dust produced during the course of the work, and also the gases and vapors which escape and the refuse which results

from it; in a word, fulfill all sanitary conditions necessary for the health of the persons employed, as required by and in conformity with the regulations made by the board of health of the Province of Quebec, with the approval of the lieutenant-governor in council.

This section was supplemented by the act of the same date in relation to the board of health, which provided that:

The board of health of the Province may, with the approval of the lieutenant-governor in council, make and amend the regulations which it deems necessary for securing health in the industrial establishments, prescribed for by the fourth section of chapter second and title seventh of these statutes and relating to: (a) The supply of drinking water; (b) lighting; (c) cubic space; (d) aeration and ventilation; (e) cleanliness and cleaning; (f) the expulsion and manner of disposing of dust, gas, vapor and waste produced in the course of work; (g) the system of drainage, including sinks, lavatories, urinals, closets, and the method of disposing of liquids used in industry; (h) the temperature of the premises.

The regulations that have been issued in pursuance of this power, as above referred to, cover all of these points very fully. They regulate carefully the measures that must be taken for the supply of a good quality of drinking water, prohibit the location of wells from which this supply is drawn too near drains, cemeteries, closets, or other nuisance. When the natural light is not sufficient employers can be required to use artificial illumination. From October 1 to May 1 there must be at least 400 cubic feet of air space per employee. During the intervals of rest the workroom must be thoroughly ventilated and the air must be entirely renewed before beginning or after ending each day's work. When necessary the sanitary physician can order the use of mechanical devices for securing at least 1,000 cubic feet of air per employee per hour. The establishments must be kept clean and neat. Where necessary the ground must be rendered impermeable and the walls glazed or otherwise prepared. Walls and ceilings must be whitewashed at least once a year unless they are painted, in which case they must be washed with soap and water at least once a year. Every precaution must be taken against injury to employees by vapors, gases, dust, chips, etc. Draft chimneys, hoods, and other devices must be provided where necessary. The pulverization of or other operations in connection with irritating substances must be done in closed vessels. When necessary operations giving rise to injurious vapors or dust must be performed in special rooms. The location, maintenance, and care of drains, urinals, water-closets, etc., are subjected to rigid regulations.

A general provision declares that no industrial establishment can be established without the consent of the municipal council being obtained, but the municipal councils can not make regulations in conflict with those just given.

Workmen must not take their meals in the workshops nor in any place where work is carried on if the inspector forbids it, and the employers must provide places where the employees can warm their food and take their meals sheltered from cold, rain, or snow.

PREVENTION OF ACCIDENTS.

Most of the provisions regarding the precautions to be taken against accidents are contained in the regulations issued by the lieutenant-governor, the act itself doing little more than providing that all necessary precautions shall be taken, and that the lieutenant-governor shall specify what these shall be. A brief summary of the more important provisions will show the general scope of these regulations.

In the erection or alteration of buildings care must be taken to avoid at the outset all defects in respect to their safety and salubrity which it would be difficult to remedy later on. For that purpose the architect's plans should be first submitted to the inspector. Establishments already in existence should be made to conform to proper requirements as soon as possible. As regards arrangements outside of buildings, passageways used by workmen must not be slippery, and must be kept clear of all articles not required for the work; platforms and elevated passageways must be provided with guards or railings; transmissions of power by means of belting, cables, or shafts, in a place through which workmen must pass, must be closed in to a height of 6 feet above the ground. Excavations, vats, etc., must be covered or well guarded; placards and life-saving apparatus must be placed in dangerous places; hoists outside of buildings must have a close fence 5 feet high on the level of their lowest loading platform. Cranes and derricks worked by hand must be provided with pawls; if the load is to descend by its own weight they must be provided with a brake and a cover for the gearing.

Turning now to the interior of buildings the provisions may be divided into those relating to (1) lighting; (2) hoists, elevators, etc.; (3) wells, vats, and other dangerous places; (4) machinery and gearing; (5) means of egress, stairways, and corridors; (6) precautions against fire, and (7) steam boilers. The regulations regarding each of these subjects are as follows:

The workrooms, staircases, passages, elevators, exits, and all places where the apparatus for signalling to stop machinery or set it in motion are placed, must be properly lighted.

Hoists, elevators and lifts shall be so guided and disposed that the shaft in which the cage of the hoist and the counterweights run, shall be closed in; that the doors of the shaft shall be self-closing, and that nothing can fall from the cage of the hoist into the shaft.

Pits for fly wheels and other movable pieces of machinery, openings in floors, walls, wells, traps, vats, basins, tanks of corrosive or heated liquids and other dangerous spots or objects must be fenced in.

The provisions regarding the safeguarding of machinery are especially important and mention in great detail the precautions that must be taken. The main driving gear of any transmission must be provided with a system of disconnecting gear. When the same motor drives several transmissions in different places each transmission must be provided either with a disconnecting apparatus or with a signal for stopping the machinery or for putting it in motion. The putting in motion or stoppage of the machinery must always be preceded by a signal agreed upon. Mechanics in charge of machinery and foremen must always have within reach the apparatus for stopping the motive power and the transmissions. When the machinery is at a dead stop it must, as far as possible, be set in motion by means of a mechanical contrivance; but if it be effected by hand, the steam supply valve must be shut off during the whole operation. In any case, the special operatives having charge of such work must be adult males.

Transmissions of power by belting, shafting, gearing, etc., in a place through which workingmen pass must be inclosed in boxes or in cases at least 6 feet above the ground. Vertical shafting, belting, or cables running from one story to another must be inclosed in a box fastened to the ground to a height of 5 feet from the ground. Projections, such as bolts, nuts, etc., which form a part of a coupling must be avoided as far as possible, and when used must be covered with a cap. Belting over 2 inches wide and cables whose speed exceeds 1,600 feet a minute must, if fitted up above places occupied by operatives, be separated from them by boards, ladders, or bent iron bars, to prevent their striking the operatives in the event of their breaking. When the belting is over 1½ inches wide it is expressly forbidden to place it by hand on pulleys in motion or to remove it by hand. These operations must be effected by means of a fork or a similar contrivance, and be confided to special workmen. This provision does not apply to stepped pulleys on machine tools. Fly wheels, cranks, connecting rods, etc., must be provided with protective apparatus.

There are special regulations regarding machine tools. When driven by transmitting shafts they must be provided with fixed and loose pulleys and with a contrivance for separating the belting from the pulley which can be easily worked from the place occupied by the operative, and so arranged that the belt can not slip back on the pulley by itself. All movable parts of machine tools must be covered or surrounded by safety appliances, cogwheels must be incased, fly wheels whose lowest point is less than 6 feet from the ground must be incased, projecting boltheads, etc., must be beveled down or capped, and oscillating parts be inclosed. Where sharp tools are driven with rapidity they must be so arranged that the workmen can not touch them, and the workmen must be protected against flying chips, etc. Further additional precautions, which are specified, must be taken in

the case of machine tools for working metal. In the case of woodworking machinery, circular saws must be provided with caps; beneath the table they, as well as band saws, must have a protecting case, and it is strictly forbidden to run more than one piece of wood at a time through a planer unless such machine is made to take in several pieces at once.

There must be an effective system of signals between the machine and the boiler when they are at a distance from each other, so that the machinery can be promptly stopped.

The oiling, examining, cleaning, and repairing of machinery while in motion is prohibited. Parts of machinery in motion must be provided with automatic lubricators, and when this can not be done the oiling must be done only when the machine is not in motion. The cleaning of shafts, pulleys, etc., when the machinery is in motion must be done only while standing on the floor of the workroom or on a solid platform. In either case brooms, brushes, hooks, etc., with handles of a proper length, should be used. It is expressly forbidden to wear gloves or mittens or to clean machinery in motion by hand with tow or waste.

The clothes of workmen near machinery in motion must be buttoned and close fitting. Workmen in foundries or forges and machinists must wear close-fitting shoes or boots. It is forbidden to wear gloves while handling saws. Workmen employed at machinery emitting sparks or splinters must wear spectacles; masks and screens may be used for the same object. Workmen employed in workshops where dangerous gasses are generated or where dust flies about must be provided with respirators.

Adequate means of egress must be provided; the main doors used as exits must open outwards, be left free during the entire working time, and be closed by means of weights or springs, but not by latches. The width of these doors must not be less than 48 inches and their height not less than 7 feet. Doors serving as means of egress for corridors, passages, etc., must not be of less width than such passages. The width of main passages must be at least 48 inches and that of side passages at least 24 inches, and must at all times be kept clear of obstructions. The main staircases must not be less than 12 feet between the landing places, and there must be a sufficient number of such staircases to allow of the building being immediately and easily cleared. The depth of the steps must be 12 inches and the height 8 inches. The staircases must be kept in good order and be provided with railings and balusters.

The precautions against or in case of fire that must be taken are given at length. They relate to the use of lighting fluids, gas, and electric light, to the precautions to be taken against explosions, the handling of inflammable materials, smoking in and entering rooms

containing such materials, and the provision of fire escapes and other appliances.

The measures that must be taken in respect to stationary boilers, the inspection of steam boilers, the qualifications that must be possessed by stokers and engineers, etc., are all fully covered by the regulations. These provisions are not reproduced, as the consideration of laws regarding the inspection of steam boilers and the qualification of the persons in charge of them do not come within the scope of this report.

EMPLOYMENT OF WOMEN AND CHILDREN.

As the subject of the employment of women and children is one of the most important points covered by the act, the provisions regarding it are given in full:

In establishments classified by the lieutenant-governor in council as dangerous, unwholesome or inconvenient, the age of the employees shall not be under 16 years for boys and 18 years for girls or women.

In all establishments other than those indicated in the preceding paragraph, the age of the employees shall not be less than 12 years for boys and 14 years for girls.

The employer of the child or young girl shall, if required, exhibit to the inspector a certificate of age signed by the parents, tutors or other persons having the lawful custody or control over such child or young girl, or the written opinion of a physician on the subject.

A new examination of the children or girls, already allowed to work in a factory, may, at the request of the inspector, be made, by one of the sanitary physicians, or by any other physician, and upon the advice of such physician, the employee examined may be discharged for being under age or physically unfit.

Except in the case mentioned in article 3026 [the one immediately following], no boy, under 18 years of age, and no child, girl or woman shall be employed in any of the establishments mentioned in article 3020 [see Scope of act] for more than 10 hours in 1 day or for more than 60 hours in any 1 week. Any employer may apportion the hours of labor per day for the sole purpose of giving a shorter day's work on Saturday. One hour shall be allowed at noon each day for meals, if the inspector so direct, but such hour shall not be counted as part of the time herein limited as respects their employment. The day of 10 hours mentioned in this article shall not commence before 6 o'clock in the morning nor end after 9 o'clock at night.

The inspector, for sufficient reasons given to him, and in order to make up lost time or to satisfy the exigencies of trade, may, for a period not exceeding 6 weeks, extend the time of employment of children, girls and women to 12 hours in a day, or 72 hours in a week, provided that the day shall not commence before 6 o'clock in the morning nor end after 9 o'clock in the evening, in the following cases: (a) When any accident, which prevents the working of any industrial establishment, happens to the motive power or machinery; or (b) when, from any occurrence beyond the control of the employer, the machinery or any part of the machinery of any industrial establishment can not be regularly worked; or (c) when any stoppage occurs from any cause whatsoever.

KEEPING OF REGISTERS, POSTING OF REGULATIONS, ETC.

To facilitate the enforcement of the law it is required of each employer or head of an industrial establishment to forward to the inspector a written notice giving his name and address, the name of the factory and its location, the nature of the work, and the nature and amount of the motive power employed. He must also keep a register giving the names and ages of all women and children employed, the duration of their labor, and the hours at which they begin and end work. He must furnish the inspector with a certificate from a health officer that his establishment fulfills the conditions as to salubrity and hygiene required by the act and the regulations of the board of health. Finally, he must keep posted in the most conspicuous places in the establishment the notices and provisions of the law and regulations supplied to him by the inspector, and keep them entire and legible.

REPORTING OF ACCIDENTS.

Every head of an industrial establishment must send within 48 hours of the accident a written notice to the inspector informing him of any accident whereby any of the workmen has been killed or has suffered serious bodily injury whereby he has been prevented from working. Such notice must state the place of residence of the person injured or killed, or the place to which he has been removed, so as to enable the inspector to hold the inquiry required by law.

INSPECTION OF FACTORIES.

For the carrying out and enforcement of the act the lieutenant-governor is directed to appoint such number of inspectors as are necessary, one of whom shall be chief inspector. The supervision of the sanitary conditions of industrial establishments, however, is intrusted more particularly to the board of health of the Province. The lieutenant-governor on the recommendation of this body may appoint one or more sanitary physicians with special authority to supervise, under the direction of the board, the sanitary conditions of industrial establishments, as well as the execution of the sanitary regulations made by the board of health. The salaries of the inspectors and sanitary physicians and their powers and duties, in so far as they are not fixed by this act, are determined by the lieutenant-governor. Both classes of these officers are under the general control of the commissioner of public works.

The powers and duties of these officers are stated at length in the act. They require but little comment, however, as they are such as are usually given to inspection officers. They can enter establishments at all reasonable times, require the production of registers, certificates, etc., be accompanied by a constable if necessary, summon witnesses,

administer oaths, etc. Every person willfully delaying or obstructing them in the performance of their duties, or failing to comply with a summons, or concealing a child, or making a false entry or statement, or generally violating the law, is liable to punishment by fine or imprisonment.

All prosecutions under the act are instituted by the inspector and may be made before the judge of the sessions or the police magistrate in the cities of Montreal and Quebec, or before the district magistrate, or before any justice of the peace of the place where the offense was committed.

MANITOBA.

The regulation of factories was first provided for by the recent act of July 5, 1900, which is known as The Manitoba Factories Act. The fact that this act is modeled after and is very similar to the Ontario act makes it unnecessary to give more than a brief account of its provisions. The definition of a factory under the Manitoba law is quite similar to that given by the Ontario act. The schedule of factories, however, contains the names of but 95 different establishments, but these are establishments of more usual occurrence, and the lieutenant-governor in council has, as in Ontario, the power to add to or take away from this list. Any establishment in this list in which two or more persons are employed comes within the scope of the act. In defining the cases of exemption, the Manitoba act places a maximum limit of 4 employees where the Ontario act specifies 5. Otherwise the application of the act in the two Provinces is the same.

Regarding the provisions in relation to the protection of the health and lives of employees, the Ontario act is closely followed. The Manitoba act, however, adds to the provisions that factories shall not be overcrowded so as to be injurious to the health of employees the clause that "a notice shall be posted in such room specifying the number of employees who shall be allowed to work in such room."

In the provisions regarding the employment of women and children, the most marked difference between the Manitoba and Ontario acts that should be noted is the different definition of what is a "child" and what a "young girl." In the Ontario act a "child" is a person under 14 years of age; in the Manitoba act, a person under 16 years of age. In the Ontario act a "young girl" is a girl of the age of 14 years and under the age of 18 years; in the Manitoba act, a girl of the age of 16 years and under the age of 18 years.

In Manitoba the general rule is laid down that no child shall be employed. As in the case of the Ontario act, the lieutenant-governor in council may prohibit the employment of girls under 18 years and boys under 16 years in factories which are deemed by the lieutenant-governor in council to be dangerous and unwholesome. No child,

young girl, or woman shall be employed in a factory where permanent injury to their health is likely.

No young girl shall be allowed to clean any part of the machinery in a factory when in motion by the aid of steam, water, or other mechanical power. No young girl or woman is to clean any part of the machinery as is mill gearing when in motion for the purpose of propelling any part of the manufacturing machinery. No young girl shall be allowed to work between the fixed and traversing parts of any self-acting machine while in motion by action of such power.

In general, the provisions regarding the duration of labor are more rigid in Manitoba than in either Ontario or Quebec. It is provided that no young girl nor woman shall be employed for more than 8 hours in any 1 day, nor more than 48 hours in any 1 week. The noon hour is secured, as in the case of the Ontario act. The circumstances under which exemptions may be granted are exactly as in Ontario. The limitations where the exemption is granted are also the same, except that the total number of hours in 1 day is limited, as in Quebec, to 10 hours and to 60 hours in 1 week, and must not commence before 6 o'clock in the morning nor end after 9 o'clock at night.

The Manitoba act follows the Ontario act also in the provision that if the inspector so directs in writing the employer shall not allow any young girl or woman to take meals in any room wherein any manufacturing process is then being carried on; and if the inspector so directs in writing the employer shall at his own expense provide a suitable room or place in the factory or in connection therewith for the purpose of a dining and eating room for persons employed in the factory.

In the Manitoba act special provision is made for registration in case work is sublet or allowed to be done outside the factory. It is provided that:

Every employer carrying on business within the meaning of this act who shall sublet any contract or give out any materials to be made, altered, repaired or finished at any other place than at the factory registered under this act, shall keep a register of all such work given out and the location of the premises where the work is to be performed. Such register is subject to the inspection of the inspector at all times, and he shall as far as possible see that such work is performed under sanitary conditions.

Special provision is also made that a factory shall not be kept open or employ any person in or upon the premises on a legal or statutory holiday nor on Labor Day without the permission of the inspector.

The enforcement of the act is intrusted to inspectors having the usual powers and duties.

THE BRITISH CONSPIRACY AND PROTECTION OF PROPERTY ACT AND ITS OPERATION.

BY A. MAURICE LOW.

In the November, 1899, Bulletin of the Department of Labor a lucid presentation was made, by Mr. Willoughby, of the Trade Union Act (Great Britain) of 1871 and its amendment of 1876, and the Conspiracy and Protection of Property Act of 1875. The aim of the present article is to show the effect of the last-named act and what its influence, if any, has been on the relations between capital and labor.

Mr. Willoughby gave a succinct account of the history of labor legislation in the United Kingdom since the beginning of the century. It is not necessary, therefore, in the present article to go into that subject at any length, but merely to trace the causes which brought about the passage of the Conspiracy and Protection of Property Act, 1875 (38 and 39 Vict., c. 86), and in no better way can this be done than to quote from the report made by Mr. John Burnett (*a*), of the Board of Trade. Mr. Burnett says:

Within the last 20 years the laws relating to strikes have been much modified and a considerable amount of pains has been taken to define accurately the things which men on strike may do and those they may not do. Stated simply as an abstract proposition that workmen may now go on strike and have full liberty to do what they please as long as they do not encroach upon the liberty of others, workingmen, as a rule, would perfectly agree with it and admit its justice. To draw the line is, however, by no means so easy, and the difficulty is to decide exactly how far a man may go without crossing the line which separates his right from that of another. The practical question really to be decided is, How far may a workman on strike go in his efforts to keep another man from taking his place in the situation he has vacated. Perhaps the most common of all features in strikes is that when the workmen are out the employers endeavor to obtain other men to fill their places. If efficient men in sufficient numbers can be obtained to replace the strikers it is obvious that the dispute must come to a speedy termination in favor of the employers. It is, therefore, the object of those on strike to prevent other workmen taking their places. How far may they go in this direction has been the much-debated question of recent years, and as yet there has been fixed no absolutely clear and unmistakable limit, and conflicting decisions are sometimes given under the existing law. To make plain the existing situation on this point,

a Report on the Strikes and Lockouts of 1888, by the labor correspondent of the Board of Trade.

it may be as well to give a brief summary of the course that legislation has taken on the subject.

Previous to 1824 strikes of any magnitude or duration were almost impossible, as all attempts at organization for such a purpose were prevented as far as ever possible by the law against combination then in force. The great labor disputes which took place previous to that time, and indeed for many years after, were rather outbreaks of actual industrial revolt against grievances become intolerable than deliberately arranged and skillfully organized movements for bringing about changes in existing conditions.

There were then very few disputes during which the leaders of the men were not sent to prison, and in which there were not committed some acts of violence against property or persons.

The combination laws in operation from 1799 to the time of their repeal in 1825 were very stringent in their character, and a brief summary of a few of their provisions and penalties will show how workmen on strike might be dealt with. The preamble of the act of 1799 (39 Geo. III, c. 8) strikes the keynote of the industrial legislation of that period. It says: "Whereas great numbers of journeymen manufacturers and workmen in various parts of this Kingdom have by unlawful meetings and combinations endeavored to obtain advance of their wages and to effectuate other illegal purposes; and the laws at present in force against such unlawful conduct have been found to be inadequate to the suppression thereof, whereby it is become necessary that more effectual provision should be made against such unlawful combinations, and for preventing such unlawful practices in the future and for bringing such offenders to more speedy and exemplary justice."

The act then goes on to declare null and void all agreements "between journeymen manufacturers or workmen" for obtaining an advance of wages or for lessening or altering their hours of labor, and for various other stated purposes. Workmen entering into any such agreement were, upon conviction before a magistrate, to be committed to jail for 3 months or to the house of correction for 2 months with hard labor. The same punishment was also to be awarded to any journeymen or workmen who entered into any combination to "obtain an advance of wages, lessen or alter the hours of work, decrease the quantity of work, or who by giving money or by persuasion, solicitation, or intimidation endeavor to prevent any unhired or unemployed journeyman or other person wanting employment from hiring himself to any manufacturer or tradesman; or who should, for any purpose contrary to the provisions of the act, directly or indirectly, decoy, persuade, solicit, intimidate, influence, or prevail, or attempt to prevail on any journeyman hired or to be hired to quit or leave his work, service, or employment, or who should hinder or prevent, or attempt to hinder or prevent, any employer from hiring such workman as he might think proper, or who (being hired or employed) should refuse to work with any other journeymen employed therein." Like penalties were enacted for those who attended meetings held for making agreements rendered unlawful by the act, or who should pay money in support of such a meeting, or collect money from other persons, or by any means induce other persons to attend such a meeting. Nor might anyone contribute to the support of persons who had quitted work. Any sums so collected were forfeit one-half to the King and one-half to the informer.

A subsequent act (40 Geo. III, c. 60) somewhat qualified these stringent provisions, but only by inserting such words as "falsely and maliciously" before the various prohibited acts. It will thus be seen that the work of attempting in any way to better his condition was rendered extremely hazardous to the workman. It was even an offense to assist in maintaining men on strike. Stringent as was this legislation, however, it failed in its object; secret societies began to multiply, and trade disputes took place in spite of the law, if not, indeed, by reason of it.

THE ACTS OF 1824 AND 1825.

In 1824 an act was passed "to repeal the laws relative to combinations of workmen," which repealed many acts and parts of acts dating back as far as the reign of Edward I. The passage of this act was marked by numerous strikes and labor disputes, and in the following year Parliament appointed a committee to inquire further into the subject. As a result of this investigation the act of 1825 was passed, one of its most important provisions being that it should not be held unlawful for persons to meet "for the purpose of consulting upon and determining the rate of wages or prices which the persons present at such meeting should demand for their work." But the interpretation of the law was left to the courts, and the judges soon declared labor combinations to be unlawful at common law on the ground that they were in restraint of trade. This led to further agitation and the passage in 1859 (22 Vict., c. 34) of a law which enacted that workmen were not to be held guilty of "molestation" or "obstruction," under the act of 1825, simply for entering into agreements to fix the rate of wages or the hours of labor, or to endeavor peaceably to persuade others to cease or abstain from work to produce the same results. Here again the decisions of the courts gave the law an effect which was unsatisfactory to its creators, and in 1867 a commission was appointed to inquire and report on the subject. The result of this investigation brought forth two acts in 1871—the Trade Union Act and the Criminal Law Amendment Act, the latter repealing the acts of 1825 and 1859. This new act made stringent provisions, both as against masters and men, to prevent coercion, violence, threats, following, molestation, and obstruction, but there was no prohibition against doing or conspiring to do any act on the ground that it was in restraint of trade, unless it came within the scope of the enumerated prohibitions.

FURTHER LEGISLATION DEMANDED.

The foregoing has given a concise account of labor legislation down to the year 1871. An event which happened in the following year showed that a further change in the laws was necessary to suit modern conditions. To again quote Mr. Burnett's report:

It was now thought that strikes as ordinarily conducted were legal and safe, provided the limits here set forth were not exceeded, and it

was certainly assumed that men on strike were not now liable to prosecution for criminal conspiracy. In the following year, however, this opinion was disturbed by a decision given by Justice Brett at the Old Bailey. The gas stokers at the Beckton gas works came out on strike under circumstances which rendered them liable for breach of contract, for which they might under the statute have been sentenced to 3 months' imprisonment.

The sudden stoppage of work had caused a large part of London to be kept in darkness for some nights. The men were indicted for conspiracy, and the judge held that there had been such a conspiracy, and that a threat of simultaneous breach of contract by the men was conduct which the jury ought to regard as a conspiracy to prevent the gas company carrying on its business. The defendants were sentenced to 12 months' imprisonment. The severity of the sentence, however, caused a great deal of agitation in the country, a special fund was raised to support the wives and families of the men convicted, and eventually a remission of 8 months of their punishment was obtained. The feeling thus raised resulted in the appointment of another commission, which reported in favor of further alterations in the law.

In 1875 Mr. R. A. Cross, the home secretary, introduced his conspiracy and protection of property act, which received the royal assent on the 13th of August of that year. While general in its scope and intended to further liberalize the rights of workmen, the animating cause of the act was the decision in the case of the stokers of the Beckton gas works and the desire to substitute for the drastic penalties of conspiracy a milder punishment. In the course of his speech on the first reading of the bill Mr. Cross said:

There is another exposition of the law which was given by a right honorable and learned gentleman for whom we all have the highest respect. I mean the recorder of London (Mr. Russell Gurney), and there can not, in my opinion, be any clearer exposition of the law of 1871 than he laid down to the grand jury in the case of five men who were sent to prison. The right honorable and learned gentleman said: "Among the acts forbidden by that act was this: The molesting or obstructing any person by watching or besetting any place, or the approach to such place where his business was carried on, with the view to coerce such person to alter his mode of carrying on his business. That, then, was the question the jury would have to consider—whether the evidence laid before them was sufficient to establish a *prima facie* case that the defendants did conspire to molest or obstruct the prosecutors by watching or besetting their place of business, in order to coerce them to alter their mode of carrying on their business. And there the grand jury must observe a distinction. The question was not whether they had endeavored to cause them to alter their mode by themselves refusing to work, or by persuading others not to work. That they had a right to do, but the question was whether they agreed to effect their object in the way forbidden by the act. That they did watch the place of business there would probably be no doubt, but there were some purposes for which they had a perfect right to watch. When a contest of that sort was going on it was not unusual, he believed, to watch in order to see that none of the men who received what was

called strike pay were also receiving wages from the employers; but the more important object that the watchers had in view was to inform all comers, who, for instance, might have been brought by advertisement, of the existence of the strike, and to endeavor to persuade them to join in it. All that was lawful so long as it was done peaceably, and without any interference with the perfect exercise of free will by those who otherwise would have been willing to work on the terms proposed by the prosecutors. The sort of questions which the grand jury would have to ask themselves was, whether the evidence showed that the defendants were guilty of obstructing and rendering difficult the access to the prosecutors' place of business, or whether there was anything in their conduct calculated to deter or intimidate those who were passing to and fro, or whether there was an exhibition of force calculated to produce fear in the minds of ordinary men, and whether the defendants or any of them combined for that purpose? If they thought that was proved, it would be their duty to find a true bill, but if they thought their conduct might be accounted for by the desire to ascertain who were the persons working there, and peaceably to persuade them or any others who were proposing to work there to join their fellow-workmen who were contending for what, rightly or wrongly, they thought was for the interests of the general body, then they would ignore the bill."

COMBINATIONS MADE LEGAL.

Emphasis must be laid on the important addition made by the act of 1875 to that of 1871, which was not repealed by later legislation, but became amplified. Practically the picketing clauses of the act of 1871 were retained in the new law, but the important addition made by Mr. Cross was contained in the first paragraph of section 3, reading as follows:

An agreement or combination of two or more persons to do, or to procure to be done, any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be punishable as a conspiracy if such act as aforesaid, when committed by one person, would not be punishable as a crime.

Had this law been in operation in 1872 the Beckton gas stokers could not have been convicted of conspiracy, and had they been convicted under the new law, instead of being sentenced to 12 months' imprisonment the maximum punishment would have been 3 months, as provided for by section 4, as follows:

Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by act of Parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas or water, willfully and maliciously breaks a contract of service with that authority or company or contractor, knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of the city, borough, town, or place, or part, wholly, or to a great extent, of

their supply of gas or water, he shall, on conviction thereof by a court of summary jurisdiction or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 [$97.33] or to be imprisoned for a term not exceeding 3 months, with or without hard labor.

One other citation must be made from Mr. Burnett's report before dismissing this branch of the subject. He says:

In a striking passage, summarizing his general history of all the changes in the laws affecting labor disputes, Sir James Stephen says: "It is one of the most characteristic and interesting passages in the whole history of the criminal law. First, there is no law at all, either written or unwritten. Then a long series of statutes aim at regulating the wages of labor, and ends in general provisions preventing and punishing as far as possible all combinations to raise wages. During the latter part of this period an opinion grows up that to combine for the purpose of raising wages is an indictable conspiracy at common law. In 1825 the statute law is put upon an entirely new basis, and all the old statutes are repealed, but in such a way as to countenance the doctrine about conspiracies in restraint of trade at common law. From 1825 to 1871 a series of cases are decided which give form to the doctrine of conspiracy in restraint of trade at common law, and carry it so far as to say that any agreement between two people to compel any one to do anything he does not like is an indictable conspiracy independently of statute. In 1871 the old doctrine as to agreements in restraint of trade being criminal conspiracies is repealed by statute. But the common law expands as the statute law is narrowed, and the doctrine of a conspiracy to coerce or injure is so interpreted as to diminish greatly the protection supposed to be afforded by the act of 1871. Thereupon the act of 1875 specifically protects all combinations in contemplation or furtherance of trade disputes, and, with respect to such questions at least, provides positively that no agreement shall be treated as an indictable conspiracy unless the act agreed upon would be criminal if done by a single person. * * * In a legal point of view no part of the whole story is so remarkable as the part played by the judges in defining, and, indeed, in a sense creating, the offense of conspiracy. They defined it, I think, too widely; but that their definition was substantially right is proved by the fact that the act of 1875 has made provision for punishing practically all the acts which they declared to be offenses at common law."

EFFECT OF THE ACT OF 1875.

The passage of the act of 1875 was hailed by the workmen with great satisfaction. It was regarded by them as conceding all for which they had so long contended—the right to enter into a legal combination to thwart or restrict the efforts of their employers; to more narrowly define their rights, and to lighten the punishment which they might incur in case of any violation of the law. The employers did not regard the law without apprehension.

How far these hopes on the one side and fears on the other have been realized is a striking commentary on the effect of judicial inter-

pretation of statute law. Dealing for the time being with the law as viewed from the standpoint of the employer, the fact stands forth in bold relief that the law which the employers dreaded twenty-five years ago they would not to-day repeal had they the power. This is not the opinion of a single employer. It is the composite opinion of what may fairly be termed the representative employers of labor in the United Kingdom, men speaking for the basic industries on which must rest all commercial prosperity. The reason given by employers why they are satisfied with the existing law is that it is easier now to prosecute and convict men endeavoring to interfere with their business or their employees than it was prior to the passage of the act, and that the rights of both parties being more narrowly defined, both know precisely what they may or may not be permitted to do, and generally endeavor to keep within those limitations.

The right of workmen to do in combination that which they might do legally as individuals, feared by the employers at the time of the passage of the act and hailed by the workmen as placing a powerful weapon in their hands, has in practice not been either so dangerous or as beneficial as was imagined at the time. That men can strike, either as individuals or in combination, and do other things in combination which would have been illegal under previous laws, does not apparently cause the employers much concern. So long as men go on strike and do not by intimidation or violence prevent other men from taking their places, employers feel able to cope with the situation. It is in dealing with this question that employers believe they have been distinct gainers by the passage of the Conspiracy and Protection of Property Act.

PENALTY FOR INTIMIDATION.

The penalty for intimidation, annoyance, and violence is set forth in section 7 in these words:

Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—(1) uses violence to or intimidates such other person or his wife or children, or injures his property; or (2) persistently follows such other person about from place to place; or (3) hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or (4) watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or (5) follows such other person with two or more other persons in a disorderly manner in or through any street or road, shall, on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20 [$97.33] or to be imprisoned for a term not exceeding 3 months, with or without hard labor.

Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section.

JUDICIAL INTERPRETATION.

Under the above section many prosecutions have been brought. What constitutes "intimidation" or "violence," how far a person may "communicate information" and yet not be deemed guilty of "watching or besetting," are questions which have provided much material for the lawyers and given rise to numerous judicial decisions, generally more satisfactory to the employer than to the employee.

As a general thing it may be said that the courts have given a broad construction to the act and have been inclined to protect workmen against "intimidation," even when that method of coercion has not been attended by violence. A few decisions of recent years are quoted to show the trend of judicial opinion. In all cases, except where otherwise stated, these decisions have been abridged from the Labor Gazette, the official publication of the labor department of the Board of Trade, and therefore are to be regarded as official. The prosecutions were brought under the act of 1875.

In July, 1896, a carpenter was sentenced by the Portsmouth quarter sessions to 21 days' imprisonment with hard labor for having "unlawfully, wrongfully, and without legal authority followed another carpenter with a view to compel him to abstain from doing a certain act." During a carpenters' strike the defendant collected a crowd of persons on three different occasions and followed the defendant about from place to place. There was no violence offered, but the evidence showed that the conduct of the crowd was disorderly and calculated to result in a breach of the peace.

The court of queen's bench devoted 3 days to the hearing of a case in July, 1896, in which a pianoforte maker and his foreman sued three trade societies and six other defendants for damages and an injunction to restrain the defendants from watching or besetting the house where the plaintiffs resided or carried on their business, and from illegally interfering with the business of the plaintiffs, whether by intimidation, the publication of a blacklist, or otherwise. The facts showed that a foreman had been dismissed and another man engaged in his place. In consequence plaintiffs' premises were picketed. The name of the foreman had been blacklisted. The defense claimed that they were acting within their legal rights. In summing up the judge said that what the defendants had done was illegal unless merely for the purpose of obtaining or imparting information. He further added: "If the persuasion be used for the indirect purpose

of injuring the plaintiffs, it is a malicious act, which is in law and in fact a wrong act, and therefore a wrongful act, and therefore an actionable act, if injury ensues from it." A verdict was rendered for the plaintiffs. Damages were awarded to the pianoforte maker in the sum of £300 ($1,460); to the foreman in the sum of £20 ($97.33). An injunction was also granted.

In the sheriff's summary court, Edinburgh, November 1, 1897, two engineers were sentenced to 14 days' imprisonment for having with a large crowd of other persons followed three iron turners with a view to compel them to abstain from working for a certain firm.

CASE OF ALLEN v. FLOOD.

Attention must now be called to one of the most important decisions in English jurisprudence. It is quoted by every employer and every representative laboring man; it is constantly referred to by lawyers; it has governed all subsequent decisions, and, curiously enough, like other things connected with this law, regarded at the time as a great victory for labor, it has since then been relied upon by employers to support their contentions. The case was deemed of so much importance that when it came up on appeal before the House of Lords, the court consisting of Lord Chancellor Halsbury and Lords Watson, Ashbourne, Herschell, Macnaghten, Morris, Shand, Davey, and James of Hereford, their lordships did a thing done once in a generation, viz, requested the attendance of eight of the most eminent judges—Hawkins, Mathew, Cave, North, Wills, Grantham, Lawrance, and Wright—to give their opinion on questions of law, and Parliament ordered these opinions to be printed as a parliamentary paper. The case is officially known as "Allen *v.* Flood and Another." The abstract following is briefed from the parliamentary paper referred to, the Law Journal Reports (Vol. LXVII, Feb., 1898), and the Law Times (Vol. CIV, No. 2863, Feb. 12, 1898). The case was originally heard in the court of queen's bench, appealed to the court of appeal, and thence appealed to the House of Lords, the court of last resort. The substantial facts of the case are as follows:

Flood and Taylor were shipwrights working for the Glengall Iron Company. They were employed by the day, but the particular job on which they were then engaged was expected to last about a fortnight, and there was every reason to suppose that they would be retained until its completion. These two men had previously served an apprenticeship with the Glengall Iron Company. They had been taught to work both in wood and iron, but at the time were employed on woodwork only. They were men of excellent character, had always behaved themselves, and had done their work properly and satisfactorily. There had been no collision between these men and the other men

working for the company. The Independent Society of Boiler Makers and Iron and Steel Shipbuilders, a powerful trade union consisting of about 40,000 members, objected to the employment of shipwrights who were both iron and wood workers. Members of this union employed by the Glengall Iron Company demanded the discharge of Flood and Taylor on this ground. Allen, the London delegate of the union, at the request of its members, had an interview with Mr. Halkett, the managing director of the company, and demanded the discharge of the two obnoxious men, threatening that unless his demand was granted all of the boiler makers then in the employ of the company would leave work that day. Halkett protested against this interference, but Allen was firm. He frankly admitted that his union had no ill feeling against their employers or against any men in particular, but that the union had determined to prevent the employment of shipwrights who had done ironwork; that wherever they were employed the boiler makers would cease work, and that the employers had no option in the matter, as the decision of the union would be enforced in every case. Referring specifically to Flood and Taylor, he said the men were known, and wherever they were employed the same action would be taken. The result of the interview was that Halkett gave instructions to his manager to discharge the two men, and that same day they were discharged.

The men brought suit against Allen, the case being heard before Mr. Justice Kennedy and a jury in the queen's bench. Verdict was rendered for the plaintiffs, who were each awarded damages of £20 ($97.33). From this decision Allen appealed to the court of appeal. The decision of the court below was affirmed. Allen took a further appeal to the House of Lords. The case was argued before the Lords on December 10, 12, 16, and 17, 1895. Their lordships required further argument and on March 25, 26, 29, 30, and April 1 and 2, 1897, the case was reheard, when the judges were called in. The case was argued at great length and with signal ability, eminent counsel being retained on both sides. At the conclusion of the arguments the law lords propounded the following question to the judges: "Assuming the evidence given by the plaintiffs' witnesses to be correct, was there any evidence of a cause of action fit to be left to the jury?"

The judges asked for time to consider the question. On June 3, 1897, they delivered their opinions, the majority of them of considerable length. Of the eight judges, six of them agreed with the two lower courts, Justices Mathew and Wright answering their lordships' question in the negative. The opinions of the judges, however, were simply to assist the law lords, and was not the action of the court. On December 14, 1897, the decision was rendered, the judgment of the court below being reversed (the lord chancellor and Lords Ashbourne and Morris dissenting) and the appellant granted the costs of prosecuting the appeal, in the court below, including the costs of the trial.

MEANING OF THE DECISION.

Put in its concisest form the judgment of the highest court of the British Empire is: Where an act is lawful in itself the motive with which it is done is immaterial. To induce a master to discharge a servant, if the discharge does not involve a breach of contract, or to induce a person not to employ a servant, though done maliciously, and resulting in injury to the servant, does not give him any cause of action.

The vast and far-reaching importance of this decision can be swiftly appreciated. Not only did it break down many of the restraints of the law both civil and criminal, but, as Lord Morris said, it overturned the overwhelming judicial opinion of England. During the course of argument by counsel, and in the delivery of the opinion of the judges, frequent reference was made to two celebrated cases which it was supposed had settled the law relating to malicious discharge. These two cases were Lumley *v.* Gye and Temperton *v.* Russell.

Sir Henry Hawkins, one of the judges who answered their lordships' question in the affirmative, but whose opinion was disregarded by the majority vote of the law lords, in the course of his opinion said:

I look upon the case of Lumley *v.* Gye (2 E. and B., 216) as a binding authority, that if any person, with knowledge of the existence of a contract of service between two other persons, the one to employ the other to render service, willfully causes and induces the employed to break his contract, and an injury to the employer is the result of that breach, an action on the case will lie against him, at the suit of the employer. I see no reason to doubt that a corresponding right of action exists in law at the suit of the employed against a person who wrongfully induces the employer to break his contract, to the injury of the employed. This principle is, in my opinion, sound and in accordance with good sense. * * * Wrongfully to induce an employer to break his contract and discharge his workman, is wrongfully to injure that workman by disabling him from earning his wages. Wrongfully to coerce an employer to terminate an existing contract before its appointed time, brings upon the employed precisely the same character of injury.

Justice North, one of the majority judges, in delivering his opinion, quoted approvingly the decision of the court of appeals in Bowen *v.* Hall:

Merely to persuade a person to break his contract may not be wrongful. But if the persuasion is used for the indirect purpose of injuring the plaintiff, or of benefiting the defendant at the expense of the plaintiff, it is a malicious act, which is in law and in fact a wrong act, and, therefore, a wrongful act, and, therefore, an actionable act if injury ensues from it.

In closing his opinion the lord chancellor said:

I regret that I am compelled to differ so widely with some of your lordships, but my difference is founded on the belief that in denying these plaintiffs a remedy we are departing from the principles which have hitherto guided our courts in the preservation of individual liberty to all. I am encouraged, however, by the consideration that the adverse views appear to me to overrule the views of most distinguished judges, going back now for certainly 200 years, and that up to the period when this case reached your lordships' house there was an unanimous consensus of opinion; and that of eight judges who have given us the benefit of their opinions, six have concurred in the judgments which your lordships are now asked to overrule.

Lord Ashbourne in his dissenting opinion said:

I need not go in detail through the celebrated case of Lumley *v.* Gye, which for nearly half a century has passed into the regular current of legal authority, and which was followed by Lord Selborne and Lord Esher in Bowen *v.* Hall. * * * To intimidate an employer into breaking a contract with a particular workman, and to coerce or maliciously induce an otherwise willing employer not to give him future employment, alike does that workman serious damage in his trade and prevents him from earning his wages. The object of the wrongdoer is the same in each case.

And, again, Lord Morris in his dissenting opinion said:

In my opinion, it is actionable to disturb a man in his business by procuring the determination of a contract at will, or by even preventing the formation of a contract, when the motive is malicious and damage ensues. * * * At common law a workman had a right to work for any person who was willing to employ him. Both had a right to trade in labor as in any other commodity, and as they thought fit. This was part of the personal liberty enjoyed by every man, and, like personal liberty, was the subject of peculiar safeguards; notably, it was a right which, like that of personal liberty, could not be bartered away—a contract restraining one's right to trade, with certain exceptions not material here, was like a contract to become a slave, null and void—the one right as well as the other was inalienable. The existence of this right to trade was established at least as far back as the reign of Queen Anne.

EFFECT OF THE DECISION UPON CAPITAL AND LABOR.

This case of Allen *v.* Flood has been quoted at considerable length because of its far-reaching importance. When the decision was first rendered by the House of Lords it was regarded by the workmen as a sweeping victory won by them. They considered that their position had been immensely strengthened and that by being legally permitted to hold over an employer the threat of a strike, unless men obnoxious to them were discharged, they had a powerful weapon in their hands which could not fail to be effective. But the employers were not slow to perceive that the decision also put a weapon into their hands, which as used by them might become equally effective. If the law permitted officials or members of trade unions to threaten nonunionists or others

with loss of employment, or to threaten employers with suspension of work unless they discharged objectionable men, so also employers could legally refuse to employ members of a trade union in case of molestation of nonunionists by their fellow-workmen. In other words, both threats to strike and threats to lock out had been legalized, and the threat might be converted into an act without subjecting the doer of the act to a civil or criminal prosecution.

The effect of this decision has been to make it impossible to secure a conviction for maliciously causing the dismissal of a workman by his employer, or causing persons not to enter into contracts with him. Swift upon entering judgment by the Lords in Allen *v.* Flood, the court of queen's bench decided a case on all fours to that of Allen *v.* Flood, but in the lower court judgment was deferred until the decision of the highest tribunal was known. The action brought in the court of queen's bench was that of a cabman against three other cabmen who, being then on strike, informed their employer that the strikers would never return to work unless this man was discharged, which was done. In rendering judgment for the defendants the judge stated that the judgment of the House of Lords in Allen *v.* Flood established that nothing proved to have been done by the defendants in the present case amounted to an actionable wrong, and the fact of their having conspired to do those things did not give plaintiff a right of action.

MORE JUDICIAL INTERPRETATION.

What constitutes intimidation and to what lengths men may go in picketing and yet not contravene the seventh section of the act are questions which have frequently occupied the attention of the courts. Of recent years strikers have used picketing as their chief weapon, finding it to be more efficacious than other methods in preventing their places being filled, and the employers, naturally, have endeavored to prove that picketing was of itself an illegal act. The trend of the decisions is clearly to countenance picketing when the purpose of the pickets is to acquire legitimate information, but to hold it to be illegal when persuasion or intimidation is employed.

On July 5, 1876, Baron Huddleston, in pronouncing judgment upon a picketing case (Regina *v.* Bauld), involving charges of intimidation arising out of an engineers' strike, after pointing out that the seventh section of the conspiracy act excludes from criminal restraint action for the purpose of obtaining legitimate information, said:

> It is so dangerous a thing to do at all that it is difficult to guard against the abuse of the practice, and, therefore, if you assert a right to "picket" you are almost certain to get into difficulty, for whatever you may intend by it, others will go beyond it. Most certainly watching and besetting, unless it is only for information, is illegal. If, then, you do not wish to go beyond the law, it is better to avoid such acts altogether, as it is illegal to follow anyone about in the streets.

He further stated in pronouncing judgment:

The intention of the legislature, in inserting this clause in the section, was for the purpose of enabling workmen on strike to find out whether any of their fellow-workmen, who, as members of their trade union, might be drawing strike allowances, were "traitors" to their union, and were going back to work and so getting money from both sides.

The case of Bailey *v.* Pye attracted considerable attention at the time. It was tried before Baron Pollock and a special jury in January, 1897. The plaintiffs, J. and W. O. Bailey, glass merchants, silverers, and bevelers, claimed damages for injury to their business by the acts of the defendants, the members of the National Plate Glass Bevelers' Trade Union, of which Pye was secretary, and they also demanded a perpetual injunction to restrain the defendants from a repetition of their unlawful and malicious conduct. Until this dispute the plaintiffs had had no labor troubles, as they had not objected to employing trade-unionists and had paid rates which accorded with trade-union demands. In September, 1895, however, the firm arranged with an apprentice, on the expiration of his indentures, to employ him as underforeman, and to pay him by the hour instead of by the piece. He accepted the terms offered; but the union ordered that he should be paid piece rates or dismissed. The firm declined to cancel the agreement with their employee. The union thereupon compelled a strike. The following day the firm received a deputation of strikers, who, on matters being explained to them, expressed a desire to return to work. Messrs. Bailey agreed to take them all back, with the exception of one man who had assaulted one of the old hands for continuing to work. The union, however, determined that all must be taken back or none. Messrs. Bailey refused, and within half an hour their premises were "picketed" by their own men and strangers. Messrs. Bailey were awarded damages, and the injunction prayed for was granted.

In order to obtain the opinion of an eminent authority on the interpretation of section 7, the Labor Commission procured from Sir Frederick Pollock this expression:

There is no doubt that the intention of this section was to draw the line between legitimate and illegitimate picketing. The enactment is sufficiently clear, with one exception; and subject to that exception, the difficulties that occur in its application are such difficulties in obtaining sufficient evidence against ascertained persons as can not be established by the wisdom of any legislation or the skill of any legislator. The exception lies in the word "intimidates." Must intimidation be a threat of something which, if executed, would be a criminal offense against persons or tangible property? Or does it include the threat of doing that which would be civilly, though not criminally, wrongful? Or, lastly, can it include the announcement of an intent to do, or cause to be done, something which, without being in itself

wrongful, is capable of putting moral compulsion on the person threatened? A specially constituted court of the queen's bench division, proceeding on the intention of Parliament, as shown in the Trade Union Act of 1871, as well as in the act of 1875, has pronounced the first of these interpretations to be the correct one. * * * It is to be regretted that (notwithstanding express warning uttered by members of Parliament learned in the law when the bill was in commitee) the language of the act of 1875 was left uncertain.

It is only necessary in this connection to call attention to one other case to show that the judicial interpretation of the section depends, and probably will continue to depend, very largely upon the personal view of the interpreter. In January, 1891, the recorder of Plymouth (Mr. Bompas, Q. C.) delivered a decision which caused the widest comment. Treleaven, an employer, had a dispute with his union men, whose leaders issued this notice: "Inasmuch as Mr. Treleaven still insists on employing nonunion men, we, your officials, call upon all union men to leave their work. Use no violence, use no immoderate language, but quietly cease to work, and go home." The question before the recorder was whether this was intimidation within the meaning of the act. The recorder held that it was intimidation, on the ground that it was a strike not to benefit the workmen, but to injure the master. He held that a strike to benefit workmen was a legal combination, but that a strike to injure an employer was an illegal combination. The case was carried to the court of appeal and there reversed, the judges holding that "intimidation" must be confined to the use of violence to the person or to actual damage done to property; a contingent injury to the business of an employer did not, in their opinion, come within the scope of intimidation.

There are two other cases second only to that of Allen *v.* Flood which may be briefly noticed. At the Belfast summer assizes, July, 1896, Leathem, a Lisburn merchant, brought suit (Leathem *v.* Craig) against certain members of the Journeymen Butchers' and Assistants' Association to recover damages for maliciously and wrongfully enticing and procuring persons, workmen in the employment of the plaintiff, to break contracts into which they had entered, and not to enter into other contracts with him, with intent to injure the plaintiff, and intimidating and coercing certain persons to break contracts with the plaintiff. The defense was a traverse of the acts complained of, and that they were not unlawful. The trial was before Lord Justice Fitzgibbon and a special jury, which found for the plaintiff and awarded damages against the defendants. Judgment, however, was reserved until after the lords' decision in Allen *v.* Flood, when it was entered in favor of the plaintiff. An appeal was taken to the Irish queen's bench division and upheld by a divided court, the lord chief baron alone expressing the opinion that Allen *v.* Flood had decided the principle otherwise. As a matter of fact, the latter case did not determine

whether to persuade a person to break his contract is wrongful in law. In Leathem *v.* Craig the question was whether a conspiracy had been entered into. The lord chief baron held that, following the dictum in Allen *v.* Flood, the conspiracy was not criminal, but the court held that "the action complained of was a wreaking of vengeance on the plaintiff," and, as such, not in the same category as Allen *v.* Flood. In Leathem *v.* Craig the question was whether there was a conspiracy against the employer. From the decision of the queen's bench an appeal was taken to the court of appeal, the appeal being argued before the lord chancellor, the master of the rolls, and Lord Justices Walker and Holmes. The verdicts of the courts below were upheld.

The other case referred to is that of Lyons *v.* Wilkins, also regarded as of very great importance. The plaintiffs having become involved in a dispute with their workmen their premises were picketed in the usual manner. They applied for an interlocutory injunction to restrain the defendants from watching or besetting except for the purpose of obtaining or communicating information. This injunction was granted by Mr. Justice North and made perpetual by Mr. Justice Byrne in the chancery division of the high court of justice. An appeal was taken to the court of appeal and came on for hearing before the master of the rolls and Lord Justices Chitty and Vaughan Williams. Judgment was given upholding the original decision. In the course of his judgment the master of the rolls said:

> The truth was that to watch or beset a man's house with a view to compel him to do or not to do what it was lawful for him to do was wrongful and without lawful authority, unless some reasonable justification for it was consistent with the evidence. Such conduct interfered with the ordinary comfort of human existence and the ordinary enjoyment of the house beset, and would support an action for nuisance at common law; and proof that the nuisance was for the purpose of peacefully persuading other people would afford no defense to such action. Persons might be peacefully persuaded, provided that the method employed to persuade was not a nuisance to other people. * * * It was all very well to talk about peaceable persuasion, and to draw fine lines between persuasion and giving information. The line might be fine; but in this case there was no difficulty whatever in coming to the conclusion that what was done was watching and besetting, as distinguished from attending in order merely to obtain or communicate information.

GENERAL CONCLUSIONS.

What effect the passage of the law of 1875 has had in improving the relations between capital and labor is a question so difficult of exact determination, or of mathematical demonstration, that it can only be answered in the most cautious manner and by inference rather than by direct statement. Despite the frequent reference which has been made in this article to litigation—which, perhaps, is always the

natural corollary of any legislative action or a complete change from the old established order—and the admitted discontent with some of the phases of the law, that these relations have been improved must be conceded, and the acknowledgment is frankly made by the representatives of both capital and labor. One of the chief causes for this improvement is the power given to the workmen to do in combination that which they were before permitted to do as individuals only. That permission has removed one source of friction; it has with exactness limited the rights of the men, and there has been no attempt on the part of employers to interfere with this legal right. On the other hand, section 7, as judicially interpreted, enables the employers to prevent intimidation, or coercion, or interference with the carrying on of their business in their own way, and when an attempt is made to interfere with them a ready means is provided for obtaining relief. Perhaps the answer to the question as to the effect of the law on the relations between capital and labor can be best given in the words of two men, one entitled to speak as the representative of federated capital, the other as the representative of federated labor. The representative of capital said:

We are satisfied with the law. We would not change it if we could, except to make clearer the definition of intimidation and coercion. Before the law came into effect we were harassed by picketing and besetting, and it was extremely difficult to secure a conviction. Now, we are far less troubled by these forms of violence, and when it becomes necessary to appeal to the protection of the law it is quickly given us and where the case is a just one we can rely on securing a conviction. But there is another reason why we think the law is a good thing and why it is mutually advantageous, both to capital and labor. Prior to 1875 the relations between masters and men were vague, indefinite, barbaric, archaic. The men were denied the right to improve their condition, to obtain an increase of wages, to reduce their hours of labor; I mean they were denied the right to attempt to do these things by peaceful means, a right which certainly belonged to them. These restrictions have been removed. We are often, I admit, dictated to by trade unions, often severe and burdensome restrictions are imposed upon us in the conduct of our business; still, I concede that the men have a right to try and obtain an amelioration of their condition provided they do not resort to illegal methods. Nor can it be denied that what we now recognize as legitimate was in the old days regarded as illegal; prosecutions were frequently instituted on frivolous grounds. The law has removed this cause of complaint. It has brought the relations between capital and labor into greater harmony. These relations are not yet perfect; but they are better than they were.

From the standpoint of the representative of labor the following:

Speaking broadly, I have no hesitation in saying that the relations between capital and labor are better to-day than they were 25 years ago. I do not attribute all of this improvement to the passage of the law of 1875. I attribute part of that improvement to the law of that year, part to the better understanding which now exists between

employer and employed, to the recognition that both have equal rights, to the recognition that both are mutually dependent on each other, that nothing can be to the advantage of the one without being to the advantage of the other, and, conversely, if one side is dissatisfied the other is sure to be, with the results that the consequences are injurious to both. Referring more directly to the law of 1875, its advantages to labor have been these: It has permitted us to do in combination what we were permitted to do as individuals, but which we were prohibited from doing in association before that law came into effect; it has more particularly established our rights; it has given us certain privileges and restrictions, and at the same time has laid equal privileges and restrictions upon employers; it has made us feel that we are not in a class by ourselves but stand equal in the eye of the law with other men, which has had the effect of removing much of the bitterness, much of the feeling of injustice and inequality which formerly existed between capital and labor. The law is not to be regarded as perfect. It has not quite fulfilled all of our expectations. The courts, in the opinion of labor, have been too prone to construe the law in favor of capital. Some of the convictions under section 7 we regard as unwarranted by the law and the facts. The decision in Allen *v.* Flood was a great victory for us, but the limitation of the power to picket, the restrictions which are imposed upon us, the restraint under which we are held, the fact that we can only do certain negative things, and have no power to act affirmatively, have weakened instead of strengthened us when we are engaged in a conflict with capital. We should like to see the law amended; its amendment has often been discussed by us, but I am frank to say I do not see any prospect of the law being modified to make it more acceptable to the workmen. Still if the question were put to a vote, if we were asked whether we would have the law repealed or let it stand as it now is, faulty although we know it to be, I have no hesitation in saying that a majority of the intelligent workmen of Great Britain would vote in favor of the law being retained on the statute books.

RECENT REPORTS OF STATE BUREAUS OF LABOR STATISTICS.

CONNECTICUT.

Fifteenth Annual Report of the Bureau of Labor Statistics of the State of Connecticut, for the year ending September 30, 1899. Harry E. Back, Commissioner. 266 pp.

The following are the contents of this report: Introduction, 8 pages; private and municipal ownership of electric light and power plants, gasworks, and waterworks, 74 pages; condition of manufactures, 46 pages; free employment offices, 36 pages; Connecticut labor organizations, 35 pages; labor laws of Connecticut, 56 pages.

ELECTRIC LIGHT AND POWER PLANTS, GASWORKS, AND WATERWORKS.—This chapter contains that portion of the report of the United States Department of Labor which relates to private and municipal ownership of the gas, water, and electric-light plants in the State.

CONDITION OF MANUFACTURES.—Statistics are given showing by industries, for each of 668 identical establishments, the number of persons employed on July 1 of each of the years 1896, 1897, 1898, and 1899; the amount of wages paid during each of the years ending July 1, 1896, to 1899, inclusive, and the percentage of increase or decrease in the number employed and in the amount of wages paid during this period. The following tables give a summary of the data:

PERSONS EMPLOYED IN MANUFACTURING ESTABLISHMENTS, BY INDUSTRIES, 1896 TO 1899.

Industry.	Establishments.	Persons employed July 1—				Per cent of increase, 1896 to 1899.
		1896.	1897.	1898.	1899.	
Brass and brass goods	64	13,864	13,773	15,900	17,528	26.4
Carriages and carriage parts	15	613	601	643	699	14.0
Corsets	10	4,425	4,632	4,738	4,840	9.4
Cotton goods and cotton mills	51	12,790	13,018	13,472	13,582	6.2
Cutlery, tools, and general hardware	60	8,658	7,775	8,224	9,912	14.5
Hats and caps	24	2,475	2,442	2,483	2,619	5.8
Hosiery and knit goods	18	2,890	2,678	2,815	3,121	8.0
Iron and iron foundries	38	3,762	3,529	3,997	4,910	30.5
Leather goods	13	479	487	509	551	15.0
Machine shops	72	9,121	8,553	8,492	9,898	8.5
Musical instruments and parts	9	590	702	754	918	55.6
Paper and paper goods	43	2,404	2,259	2,303	2,326	a3.2
Rubber goods	11	3,222	3,739	3,760	3,859	19.8
Shoes	7	366	394	325	332	a9.3
Silk goods	16	3,807	3,980	4,613	5,097	33.9
Silver and plated ware	25	3,684	3,575	3,780	4,319	17.2
Stone cutting and quarrying	10	745	873	986	706	a5.2
Wire and wire goods	16	879	882	958	1,161	32.1
Woodworking	37	1,765	1,889	1,919	2,129	20.6
Woolens and woolen mills	37	5,152	5,308	5,308	5,279	2.5
Miscellaneous	92	3,704	3,762	3,677	4,136	11.7
Total	668	85,395	84,846	89,651	97,922	14.7

a Decrease.

WAGES PAID IN MANUFACTURING ESTABLISHMENTS, BY INDUSTRIES, 1896 TO 1899.

Industry.	Establishments.	Wages paid, year ending July 1—				Per cent of increase, 1896 to 1899.
		1896.	1897.	1898.	1899.	
Brass and brass goods	64	$7,075,745	$6,487,883	$7,651,366	$8,304,562	17.4
Carriages and carriage parts	15	413,944	386,197	396,889	420,680	1.6
Corsets	10	1,450,626	1,409,196	1,551,851	1,571,879	8.4
Cotton goods and cotton mills	51	4,177,470	3,887,922	4,326,674	4,242,126	1.5
Cutlery, tools, and general hardware	60	4,135,846	4,355,692	3,662,662	4,211,450	1.8
Hats and caps	24	1,134,494	1,037,255	1,077,447	1,158,196	2.1
Hosiery and knit goods	18	1,086,885	873,695	907,698	1,038,698	a4.4
Iron and iron foundries	38	1,837,545	1,528,493	1,758,682	2,113,870	15.0
Leather goods	13	228,084	262,370	256,992	233,508	2.4
Machine shops	72	5,485,537	4,909,498	5,456,913	5,517,961	.6
Musical instruments and parts	9	423,341	388,818	365,530	415,051	a2.0
Paper and paper goods	43	931,956	908,127	923,882	814,299	a12.6
Rubber goods	11	1,596,864	1,446,789	1,899,173	1,858,883	16.4
Shoes	7	144,846	169,454	124,092	121,487	a16.1
Silk goods	16	1,421,079	1,358,054	1,541,529	1,822,492	28.2
Silver and plated ware	25	1,804,555	1,700,085	1,924,461	2,065,794	14.5
Stone cutting and quarrying	10	357,320	288,483	419,140	298,287	a16.5
Wire and wire goods	16	427,883	357,501	396,566	456,515	6.7
Woodworking	37	912,624	860,994	979,924	973,271	6.6
Woolens and woolen mills	37	1,816,164	1,540,941	1,817,163	1,675,726	a7.7
Miscellaneous	92	1,714,929	1,637,098	1,754,804	1,817,858	6.0
Total	668	38,577,737	35,794,545	39,193,438	41,132,593	6.6

a Decrease.

The number of employees on the pay rolls of the 668 identical establishments on July 1, 1896, was 85,395, and on July 1, 1899, 97,922, an increase of 14.7 per cent. The increase in the number of employees from July 1, 1898, to July 1, 1899, was 9.2 per cent. The amount paid in wages by these establishments increased from $38,577,737 during the year ending July 1, 1896, to $41,132,593 during the year ending July 1, 1899, or 6.6 per cent. During the last-mentioned year the amount increased 4.9 per cent over the preceding.

FREE EMPLOYMENT OFFICES.—An account is given of the operation and results of the free public employment offices in Illinois, Missouri, New York, and Ohio, and a suggestion is made for the establishment of similar offices in Connecticut.

LABOR ORGANIZATIONS.—This chapter contains a list of labor organizations in the State, classified by towns and by trades, and the names and addresses of their officers.

NORTH CAROLINA.

Thirteenth Annual Report of the Bureau of Labor and Printing of the State of North Carolina, for the year 1899. B. R. Lacy, Commissioner. xvi, 392 pp.

This report treats of the following subjects: Agricultural statistics, 76 pages; trades, 117 pages; organized labor, 15 pages; cotton and woolen mills, 43 pages; miscellaneous factories, 33 pages; tobacco factories, 14 pages; mines and mining, 13 pages; water power, 15 pages; railway employees, 5 pages; newspapers, 28 pages; fisheries, 16 pages.

AGRICULTURAL STATISTICS.—Blanks were sent to representative farmers in every county of the State, making inquiries regarding the financial, social, educational, and moral condition of farmers, wages paid for farm labor, cost of production, and selling price of farm products, etc. Returns were received from 379 farmers and tabulated by counties. The average monthly wages paid for farm labor were: Men, $8.91; women, $5.27; children, $3.58. In addition to wages, rations to the value of $3.82, and house, pasture, garden, etc., to the value of $2.63 were provided, bringing the average monthly earnings of men to $15.36. The cost of production of the principal crops was as follows: Bale of cotton (500 pounds), $24.56; wheat, per bushel, $0.61; corn, per bushel, $0.41; oats, per bushel, $0.29; tobacco, per 100 pounds, $6.91. The selling prices were as follows: Cotton, per pound, $0.05¼; wheat, per bushel, $0.78; corn, per bushel, $0.54; oats, per bushel, $0.39; tobacco, per 100 pounds, $7.71. The returns upon which the above figures are based were received by the bureau from June 15 to September 15, 1899.

TRADES.—An inquiry similar to the one just mentioned was made among skilled workmen throughout the State. Returns were received from 364 persons and tabulated in detail. They relate to the character of wage payments, the wage rate per day, course of wages during year, stability of employment, fines, effects of machinery upon labor, hours of labor, apprenticeship, cost of living, etc. No summary is given. Of the returns received, 22 per cent report an increase, 19 per cent a decrease, and 51 per cent no change in wages, the remaining 8 per cent not reporting.

ORGANIZED LABOR.—Returns from 20 labor unions in the State are published. They show the name and number of each organization, membership, wages, benefit features, hours of labor, etc. Following is a list of organizations reporting, together with their membership:

LABOR ORGANIZATIONS IN NORTH CAROLINA, 1899.

Name of organization.	Number of local unions.	Membership.
Bookbinders' Union	1	11
Bricklayers, Masons, and Plasterers	1	11
Brotherhood of Locomotive Engineers	9	a308
Carpenters' and Joiners' Union	1	125
Federation of Labor	1	(b)
Order of Railway Conductors	2	71
Tobacco Workers' Union	1	55
Typographical Union	4	a115

a One local union not reporting. b Membership not reported.

Eighteen of the 20 local unions replied to the various inquiries in the schedules. Of these, 6 had sick benefit, 7 had death benefit, and 11 had insurance features; 4 reported increased wages and 14 reported no change in wages during the year. None of them were engaged in

strikes during the year. A list is also given of the national and international labor organizations in the United States, their membership, date of organization, etc.

COTTON AND WOOLEN MILLS.—This chapter contains a list of all the cotton and woolen mills in the State, their location, capital stock, number of looms and spindles, character of goods made and of motive power used, and a table giving, by counties, the total horsepower, average wages, number of employees, etc. On June 1, 1899, there were 215 mills in the State, of which 3 produced cotton and woolen goods, 2 cotton and knit goods, 178 cotton goods, 7 woolen goods, and 25 hosiery, knit goods, rope, net, twine, and silk goods. The aggregate capital stock of these mills was approximately $20,500,000. The mills gave employment to 33,764 persons, of whom 14,642 were men, 15,814 women, 1,694 boys, and 1,614 girls under 14 years of age. The average daily wages were as follows: Engineers, $1.43; firemen, $0.85; skilled men, $1.10¼; unskilled men, $0.65¾; skilled women, $0.67; unskilled women, $0.46½; children, $0.32. Of the adults 82.8 per cent and of the children 69.4 per cent could read and write. The hours of labor ranged from 10 to 12 per day.

TOBACCO AND MISCELLANEOUS FACTORIES.—Returns regarding the condition of employees in factories, similar to the above-mentioned, were received for 64 tobacco factories and 176 miscellaneous factories. The returns are published in detail, no summaries or analyses being given.

MINES AND MINING.—This chapter consists of a contributed article on the mining industry in North Carolina, giving an account of the mining resources and mine products of the State.

RAILROAD EMPLOYEES.—A table is given showing for each road, by occupations, the number of employees and their wages. There were 10,987 railway employees in the State. Their occupations and wages were as follows:

RAILWAY EMPLOYEES IN 1899.

Occupation.	Number.	Average daily wages.	Occupation.	Number.	Average daily wages.
Station agents	559	$1.29⅛	Carpenters	414	$1.61⅛
Other station men	1,157	.89	Other shopmen	1,014	1.17
Enginemen	449	2.68½	Section foremen	484	1.35½
Firemen	480	1.04⅜	Other trackmen	2,822	.76
Conductors	315	2.07½	Switch-flag watchmen	373	.97⅝
Other trainmen	772	.87½	Telegraph operators	270	1.47½
Machinists	268	2.23	Other employees	1,610	1.08⅜

FISHERIES.—This chapter was compiled from statistics published by the United States Commission of Fish and Fisheries, and shows the extent of the fishing industry of the State, the number of persons employed, the value of product, etc.

PENNSYLVANIA.

Annual Report of the Secretary of Internal Affairs of the Commonwealth of Pennsylvania. Vol. XXVII, 1899. Part III, Industrial Statistics. James M. Clark, Chief of Bureau. 579 pp.

The present report deals with the following subjects: An article on the relation of the law to economics, 12 pages; articles on the cotton and woolen goods industries of Pennsylvania, 93 pages; statistics of manufactures, 399 pages; production of iron, steel, and tin plate, 20 pages; cotton and wool manufacture, 19 pages; analysis, 23 pages.

STATISTICS OF MANUFACTURES.—Two series of tables are presented under this head, the one showing data for 8 and the other for 4 years. The first series consists of comparative statistics for 354 identical establishments, representing 44 industries, for the years 1892 to 1899. The data comprise average days in operation, persons employed, aggregate wages paid, average daily and yearly wages per employee, value of product, and value per employee of the average annual product. The following table gives a summary of the more important data:

PERSONS EMPLOYED, WAGES PAID, AND VALUE OF PRODUCT FOR 354 MANUFACTURING ESTABLISHMENTS, 1892 TO 1899.

Year.	Average persons employed.		Aggregate wages paid.		Average yearly earnings.		Value of product.	
	Number.	Per cent of increase.	Amount.	Per cent of increase.	Amount.	Per cent of increase.	Amount.	Per cent of increase.
1892	136,882	.....	$67,331,876	.....	$491.90	.....	$269,452,465	.....
1893	122,278	a10.67	56,818,289	a15.61	464.66	a5.54	226,017,762	a16.12
1894	109,383	a10.55	45,229,667	a20.40	413.50	a11.01	185,626,971	a17.87
1895	127,361	16.44	56,704,511	25.37	445.78	7.81	222,730,930	19.99
1896	118,092	a7.28	52,102,365	a8.12	441.29	a1.01	211,252,732	a5.15
1897	121,281	2.70	52,138,941	.07	429.90	a2.58	222,995,654	5.56
1898	137,985	13.77	62,676,615	20.21	454.52	5.73	266,044,530	19.30
1899	154,422	11.91	78,179,383	24.73	506.27	11.38	377,934,411	42.06

a Decrease.

The year 1899 greatly exceeded any other year of the period in manufacturing operations, the number of persons employed, the aggregate and average wages paid, and the total value of the manufactured products being much greater than at any other time. Compared with the year of greatest depression, 1894, the figures for 1899 show an increase of 41.2 per cent in the number of employees, 72.85 per cent in the aggregate wages paid, 22.4 per cent in the wages per employee, and 103.6 per cent in the value of the product.

The second series of tables comprises returns for the years 1896 to 1899 from 855 identical establishments representing 93 industries. The tables show the capital invested, value of basic material, average days in operation, persons employed, wages paid, market value of the product, and value of product per employee. As these returns cover

more ground than the preceding they enable a better comparison for the 4 years considered. Following is a summary of the returns from the 855 establishments:

STATISTICS OF 855 MANUFACTURING ESTABLISHMENTS, 1896 TO 1899.

Year.	Capital invested in plants and fixed working capital.	Value of basic material.(a)	Market value of product.	Per cent of value of basic material of value of product.	Average days in operation.
1896	$205,383,913	b $96,459,277	$195,205,164	c 49.4	268
1897	208,612,073	b 106,263,226	213,083,519	c 49.9	276
1898	214,015,012	b 119,120,802	248,932,544	c 47.9	286
1899	245,877,826	169,586,637	332,808,934	50.9	288

Year.	Persons employed.	Aggregate wages paid.	Average yearly earnings.	Average daily earnings.	Value of product per employee.	Per cent of wages of value of product.
1896	126,578	$51,873,543	$409.81	$1.53	$1,542.17	26.6
1897	142,046	54,395,315	382.94	1.39	1,500.10	25.5
1898	159,010	63,396,675	398.69	1.39	1,565.51	25.5
1899	181,936	78,680,725	432.46	1.50	1,829.26	23.6

a By basic material is meant only the material out of which the product was made, and does not include any of the material used in its development.
b Figures for 852 establishments, 3 not reporting.
c Based on value of basic material for 852 and value of product for 855 establishments.

The amount of capital invested, value of basic material, value of product, number of persons employed, aggregate wages paid, and yearly earnings of employees were greater in 1899 than during any other year of the period, and in no case was the annual increase as great as from 1898 to 1899.

IRON, STEEL, AND TIN-PLATE PRODUCTION.—During the year 1899 the pig-iron production of the State amounted to 6,542,998 gross tons, valued at $98,203,803, or $15.01 per ton. The cost of basic materials, that is, iron-producing materials only such as ore and scrap or cinder, was $38,861,664. Employment was given to 15,347 persons, who received an aggregate of $7,599,533 in wages, or $495.18 per employee. A comparison of the figures for 1899 with those for 1898 shows an increase of 21.9 per cent in the gross production of pig iron, 84.1 per cent in the realized value of the product, 32.3 per cent in the aggregate cost of basic material, 51 per cent in the realized value per ton, 28.8 per cent in the number of persons employed, and 11.9 per cent in the average yearly earnings of employees.

The total steel production in 1899 amounted to 6,446,159 gross tons, an increase of 22.2 per cent over 1898. Of this, 3,971,835 tons were Bessemer, 2,398,210 tons were open hearth, and 75,356 tons were crucible steel, the remaining 758 tons being produced by other processes.

The production of iron and steel in finished form amounted to 6,929,046 net tons. This comprises bar, rods, strip steel, skelp,

shapes, rolled axles, structural iron, plates, sheets, cut nails and spikes, rails, etc., but does not include billets or muck bar. The total product was valued at $225,155,176, or $32.49 per ton. The value of the basic material used in the production was $136,984,908. Employment was given to 69,982 persons, who received a total of $39,120,129 in wages, or $559 per employee. The establishments were in operation an average of 287 days. The above figures do not include the production of 164,439 tons of black plate which are separately considered. A comparison of the above figures with those for the preceding year shows an increase of 25.1 per cent in the net production, 64.6 per cent in the value of the product, 31.5 per cent in the average value per ton, 71.4 per cent in the value of the basic material used, 24.5 per cent in the average number of persons employed, and 12.7 per cent in the average yearly earnings of employees.

In 1899 black plate was produced in 21 establishments, 18 of which turned out a tinned production. The total production of black plate was 368,600,734 pounds, of which 292,164,734 pounds were tinned in the establishments. The value of the tinned product was $10,249,841, and of the untinned black plate $1,902,691, making a total value of $12,152,532. The establishments were in operation an average of 223 days, employed 7,682 persons, and paid an aggregate of $4,054,395 in wages, or $527.78 per employee. A comparison of the data for 1899 with those for 1898 shows an increase of 7.1 per cent in the production of black plate, 30.1 per cent in the value of the product, and 52.5 per cent in the average number of persons employed. In the aggregate amount of wages paid there was an increase of 37.7 per cent, and in the average daily wages an increase of 12.4 per cent, but there was a decrease of 9.7 per cent in the average yearly earnings of employees, and of 19.8 per cent in the average number of days worked during the year.

Seven tin-plate dipping works, which bought all their black plate, produced in 1899 38,918,000 pounds of tin and terne, valued at $1,916,038, a decrease in the production but an increase in the total value over the preceding year. The works were in operation an average of 257 days, employed an average of 326 persons, and paid $127,564 in wages. The total production of tin and terne plate by the 18 black plate and 7 dipping works was, therefore, 331,082,734 pounds, having a total value of $12,165,879. Compared with the year 1898 there was in 1899 an increase of 25.9 per cent in the total production, and of 44.1 per cent in the total value of the tin and terne plate.

Cotton and Wool Manufacture.—This investigation was intended to include all cotton and woolen establishments in active operation in the State during the year 1899. Returns from 813 establishments showed an aggregate capital of $57,493,103, a total cotton production

of 180,441,351 pounds, and a total woolen production of 172,795,284 pounds. The aggregate value of the product was $116,850,782. The establishments employed 78,660 persons, whose aggregate wages during the year amounted to $25,266,144. Of the employees, 30,050 were men, 39,035 were women, and 9,575 were children between the ages of 13 and 16 years. The average yearly earnings of the men were $450.43; of the women, $263.01; and of the children, $152.91.

WEST VIRGINIA.

Report of the Bureau of Labor Statistics of West Virginia. 1899–1900. I. V. Barton, Commissioner. v, 291 pp.

The contents of the present report may be grouped as follows: Condition of manufactures, and increased avenues of employment, 69 pages; benefit features of American trade unions, 44 pages; the Chicago conference on trusts, 17 pages; strike of street-railway employees, 25 pages; arbitration and mediation in the United States, 51 pages; industrial conditions and labor legislation, 33 pages; recommendations, 5 pages.

CONDITION OF MANUFACTURES, ETC.—Returns from 500 establishments are tabulated, showing, by industries, the number of employees on January 1, 1897, 1899, and 1900, with the per cent of increase or decrease during the period; the changes in wage rates from January 1, 1897, to January 1, 1900, and the number of weeks the establishments were in operation during 1899. A directory of the principal manufactures in the State is also given.

The 500 establishments reported 28,334 employees on the pay rolls on January 1, 1897, 34,889 employees on January 1, 1899, and 40,221 employees on January 1, 1900—an increase of 42 per cent during the period. The establishments were in operation an average of 46½ weeks. Of the 500 establishments, 305 reported an advance in wages affecting 22,553 employees, and 3 reported a decrease in wages affecting 24 employees, during the period from January 1, 1897, to January 1, 1900.

Under the head of increased avenues of employment are given the names and locations of 298 mercantile, mining, and manufacturing establishments in the State, together with the number of employees, capital invested, and amount of wages paid monthly in each; also a list of nearly 700 new establishments created during the period from March 1, 1897, to January 1, 1900.

BENEFIT FEATURES OF AMERICAN TRADE UNIONS.—This is a reproduction of an article published in Bulletin No. 22 of the United States Department of Labor.

CHICAGO CONFERENCE ON TRUSTS.—Extracts are given from the report of this conference.

STRIKE OF STREET-RAILWAY EMPLOYEES.—A detailed account is given of a strike of street-railway employees in Wheeling and suburban points in 1899.

ARBITRATION AND MEDIATION.—This chapter contains a brief review of legislation regarding arbitration and conciliation in the United States, and reproductions of laws relating thereto enacted by the various States.

INDUSTRIAL CONDITIONS AND LABOR LEGISLATION.—A statement is given of labor conditions in the State as found by a special investigation and embodied in the governor's message; also copies of labor laws passed in recent years.

STATE REPORTS ON BUILDING AND LOAN ASSOCIATIONS.

CALIFORNIA.

Seventh Annual Report on the Building and Loan Associations of the State of California. October 1, 1900. By the Board of Commissioners of the Building and Loan Associations. 184 pp.

This report contains compilations made from the annual reports of 148 associations in active operation on May 31, 1900, which had then been transacting business for more than 1 year. Each association reported for its own fiscal year, and as these dates occurred at various times during the year, a summary of operations for any one period could not be presented.

The following statement gives miscellaneous statistics for 148 associations whose fiscal years ended some time between May 31, 1899, and May 31, 1900:

Associations	148
Members	37,456
Borrowers	12,369
Mortgage loans during the year	2,697
Stock loans during the year	1,750
Houses built since organization	13,965
Shares in force at time of last report	405,933½
Shares issued since last report	131,659½
Shares withdrawn and matured since last report	123,293¾
Shares in force	414,299½
Shares pledged for loans	111,057
Net profit during the year	$1,070,972.83

In the following tables are shown the assets and liabilities and the receipts and expenditures of the 148 associations for the last fiscal year covered by the report:

ASSETS AND LIABILITIES OF 148 ASSOCIATIONS.

Assets.		Liabilities.	
Loans	$15,404,961.03	Installment stock	$11,712,202.14
Arrearages	405,865.70	Paid-up and prepaid stock	1,861,903.58
Cash on hand	624,393.11	Earnings apportioned	3,530,248.78
Real estate	2,144,226.42	Advance payments	79,383.48
Other assets	356,437.50	Overdrafts and bills payable	752,272.75
		Reserve and undivided profits	421,385.42
		Unearned premiums	122,430.66
		Other liabilities	456,056.95
Total	18,935,883.76	Total	18,935,883.76

RECEIPTS AND EXPENDITURES OF 148 ASSOCIATIONS.

Receipts.		Expenditures.	
Balance, last report	$627,386.46	Overdrafts and bills payable	$870,047.65
Installment stock	3,253,291.42	Loans	3,613,237.95
Paid-up and prepaid stock	781,243.61	Interest	86,956.78
Interest	1,164,405.39	Dues repaid (installment stock)	4,024,916.11
Premium	317,414.33	Profits repaid	1,284,065.63
Fines	22,945.81	Paid-up and prepaid stock	517,481.05
Fees	5,933.17	Salaries	197,130.60
Loans repaid	4,718,274.36	Taxes	213,327.63
Overdrafts and bills payable	853,414.10	Other expenses	153,125.40
Other receipts	800,658.44	All other payments	960,285.18
		Balance on hand	624,393.11
Total	12,544,967.09	Total	12,544,967.09

NEW YORK.

Annual Report of the Superintendent of Banks Relative to Building and Loan and Cooperative Savings and Loan Associations, for the year ending December 31, 1899. Frederick D. Kilburn, Superintendent of Banks. 715 pp.

This report consists of a list of the building and loan and cooperative savings and loan associations that have been organized or authorized under the banking law from 1875 to 1900; a detailed statement of the condition of each association on January 1, 1900; a comparative statement of the assets, liabilities, receipts, disbursements, etc., of associations for the year 1899; a detailed statement of the condition of each building lot association, and copies of the principal laws governing the organization and supervision of building and loan and cooperative savings and loan associations.

The following table shows for the year 1899 miscellaneous statistics regarding shares, borrowers, female shareholders, mortgages, etc., for 347 national and local associations in the State:

MISCELLANEOUS STATISTICS OF 347 ASSOCIATIONS FOR THE YEAR 1899.

Items.	National.	Local.	Total.
Shares in force January 1, 1899	818,554	703,067	1,521,621
Shares issued during the year	292,642	184,351	476,993
Shares withdrawn during the year	253,544	176,670	430,214
Shares in force December 31, 1899	857,652	710,748	1,568,400
Borrowing members	10,587	19,177	29,764
Shares held by borrowing members	183,253	190,779	374,032
Nonborrowing members	59,926	70,242	130,168
Shares held by nonborrowing members	674,399	519,969	1,194,368
Female shareholders (*a*)	10,235	27,921	38,156
Shares held by females (*a*)	129,960	186,473	316,433
Foreclosures in 1899	302	189	491
Amount of mortgages on property in the State	$12,535,083	$28,093,647	$40,628,730
Operating expenses for the year	$830,744	$286,594	$1,117,338

a Not including 32 associations not reporting.

While there was a decrease in the number of associations in the State, and in most of the items shown in the above table, as compared with the preceding year, there was an apparent increase in the total assets and a larger number of shares held in the 347 associations at the

close than at the beginning of the year. If, however, we refer to the table of liabilities we find a large increase in mortgages assumed, which causes a considerable decrease in actual assets. The following tables give the total assets and liabilities and receipts and disbursements for 347 associations reported in 1899:

ASSETS AND LIABILITIES OF 347 ASSOCIATIONS FOR THE YEAR 1899.

Items.	National.	Local.	Total.
ASSETS.			
Loans on bond and mortgage	$19,216,957	$30,445,792	$49,662,749
Loans on shares	593,082	1,020,347	1,613,429
Stocks and bonds	971	32,968	33,939
Contracts for the sale of real estate	462,295	508,934	971,229
Real estate	7,122,984	2,981,026	10,104,010
Cash on hand and in bank	527,713	1,725,861	2,253,574
Furniture and fixtures	55,273	39,368	94,641
Installments due and unpaid	84,091	106,418	190,509
Interest, premium, fees, and fines due and unpaid	269,395	161,031	430,426
Other assets	448,303	231,980	680,283
Total	28,781,064	37,253,725	66,034,789
LIABILITIES.			
Due shareholders, stock payments credited	14,868,131	29,123,024	43,991,155
Dividends credited	1,403,540	4,634,193	6,037,733
Due shareholders, matured shares	9,403	348,460	357,863
Balance to be paid borrowers on mortgage loans	390,215	259,899	650,114
Mortgages assumed	9,197,515	240,645	9,438,160
Borrowed money	296,273	396,833	693,106
Earnings undivided	1,780,057	1,818,246	3,598,303
Other liabilities	835,930	432,425	1,268,355
Total	28,781,064	37,253,725	66,034,789

RECEIPTS AND DISBURSEMENTS OF 347 ASSOCIATIONS FOR THE YEAR 1899.

Items.	National.	Local.	Total.
RECEIPTS.			
Cash on hand January 1, 1898	$485,385	$1,856,041	$2,341,426
Stock payments credited to members	3,907,506	7,920,374	11,827,880
Deductions credited to expense or similar fund	256,820	1,157	257,977
Money borrowed	946,331	996,815	1,943,146
Mortgages redeemed, foreclosed, or transferred	5,415,188	5,563,123	10,978,311
Other loans redeemed	583,294	876,104	1,459,398
Real estate sold	2,707,248	381,448	3,088,696
Fees received by associations and agents	116,566	28,311	144,877
Fines received	41,220	35,956	77,176
Interest received	1,015,246	1,624,961	2,640,207
Premium received	642,850	331,687	974,537
Rent received	200,359	125,731	326,090
Other receipts	4,318,139	329,089	4,647,228
Total	20,636,152	20,070,797	40,706,949
DISBURSEMENTS.			
Loaned on mortgage	7,168,740	5,383,745	12,552,485
Loaned on other securities	520,211	915,004	1,435,215
Paid shares withdrawn and cash dividends	4,704,170	7,977,094	12,681,264
Paid matured shares	96,436	1,678,121	1,774,557
Paid borrowed money and prior mortgages, principal and interest	1,727,469	1,023,588	2,751,057
Paid for real estate	3,195,641	564,225	3,759,866
Paid salaries and clerk hire	370,078	188,899	558 977
Paid agents	210,783	1,317	212,100
Paid advertising, printing, and postage	68,438	25,092	93,530
Paid rent	49,919	33,447	83,366
Paid repairs to real estate	164,009	54,012	218,021
Paid taxes, insurance, etc	108,854	85,503	194,357
Other disbursements	1,723,691	414,889	2,138,580
Cash on hand December 31, 1899	527,713	1,725,861	2,253,574
Total	20,636,152	20,070,797	40,706,949

RECENT FOREIGN STATISTICAL PUBLICATIONS.

BELGIUM.

Rapport sur les Travaux de la Commission des Pensions Ouvrières. Office du Travail, Ministère de l'Industrie et du Travail. 1900. vii, 273 pp.

This report contains the results of the work undertaken by a special commission appointed by the Belgian Government for the purpose of examining the subject of old-age and invalidity pensions and of recommending such legislation as would tend to generalize this form of insurance among the working people in Belgium.

The report contains an account of the nature and workings of the various old-age pension systems in Belgium, the effects of legislation upon the same, and the causes which have retarded the development of this kind of voluntary insurance among the working people in Belgium. A review is also given of foreign legislation and proposed legislation with regard to this form of insurance.

The commission reported in favor of retaining the voluntary system of old-age and invalidity insurance, believing that State intervention can be sufficiently efficacious when it is limited to measures having for their object the facilitating, encouraging, developing, and assisting of individual effort. As a result of the commission's work a law was enacted May 10, 1900, placing the system of State aid for old-age and invalidity insurance upon a new footing and providing for liberal State subsidies to be granted persons availing themselves of the law.

FRANCE.

Annuaire des Syndicats Professionnels Industriels, Commerciaux et Agricoles constitués conformément à la loi du 21 Mars 1884, en France et aux Colonies. Office du Travail, Ministère du Commerce, de l'Industrie, des Postes et des Télégraphes. 10e année, 1898–99. liv, 614 pp.

This is the ninth annual report on trade, commercial, and agricultural associations organized in conformity with the provisions of the law of March 21, 1884 (*a*), in France and her colonies. Under this head are included trade unions, employers' associations, organizations

a For the more important provisions of this law see Bulletin No. 25, pp. 838, 839.

composed of employers and employees, and farmers' associations. The report mainly consists of a directory of these organizations. It also contains short summary tables, a reproduction of the law of March 21, 1884, and the Government decrees enforcing the same, and a review of the orders, instructions, and decisions relating to such organizations. The first of the two tables following shows the number of these organizations on July 1 of each year from 1884 to 1896, and on December 31, 1897 and 1898, and the second table shows their membership each year from 1890 to 1898.

INDUSTRIAL, COMMERCIAL, AND AGRICULTURAL ASSOCIATIONS IN EXISTENCE ON JULY 1 OF EACH YEAR FROM 1884 TO 1896, AND ON DECEMBER 31, 1897 AND 1898.

Date.	Industrial and commercial associations.			Agricultural associations.	Total.	Increase since preceding year.
	Employers'.	Workingmen's.	Mixed.			
July 1, 1884	101	68	1	5	175	.....
July 1, 1885	285	221	4	39	549	374
July 1, 1886	359	280	8	93	740	191
July 1, 1887	598	501	45	214	1,358	618
July 1, 1888	859	725	78	461	2,123	765
July 1, 1889	877	821	69	557	2,324	201
July 1, 1890	1,004	1,006	97	648	2,755	431
July 1, 1891	1,127	1,250	126	750	3,253	498
July 1, 1892	1,212	1,589	147	863	3,811	558
July 1, 1893	1,397	1,926	173	952	4,448	637
July 1, 1894	1,518	2,178	177	1,092	4,965	517
July 1, 1895	1,622	2,163	173	1,188	5,146	181
July 1, 1896	1,731	2,243	170	1,275	5,419	273
December 31, 1897	1,894	2,324	184	1,499	5,901	482
December 31, 1898	1,965	2,361	176	1,824	6,326	425

MEMBERSHIP OF INDUSTRIAL, COMMERCIAL, AND AGRICULTURAL ASSOCIATIONS ON JULY 1 OF EACH YEAR FROM 1890 TO 1896, AND ON DECEMBER 31, 1897 AND 1898.

Date.	Membership of associations.					Increase since preceding year.
	Employers'.	Workingmen's.	Mixed.	Agricultural.	Total.	
July 1, 1890	93,411	139,692	14,096	234,234	481,433	.....
July 1, 1891	106,157	205,152	15,773	269,298	596,380	114,947
July 1, 1892	102,549	288,770	18,561	313,800	723,680	127,300
July 1, 1893	114,176	402,125	30,052	353,883	900,236	176,556
July 1, 1894	121,914	403,440	29,124	378,750	933,228	32,992
July 1, 1895	131,031	419,781	31,126	403,261	985,199	51,971
July 1, 1896	141,877	422,777	30,333	423,492	1,018,479	33,280
December 31, 1897	189,514	437,793	33,963	448,395	1,109,665	91,186
December 31, 1898	151,624	419,761	34,236	491,692	1,097,313	a 12,352

a Decrease.

Saisie-Arrêt sur les Salaires. Office du Travail, Ministère du Commerce, de l'Industrie, des Postes et des Télégraphes. 1899. xxiii, 138 pp.

The present report is the result of an inquiry conducted by the bureau of labor of the French ministry of commerce in response to a request from a senatorial committee charged with the examination of a proposed change in the law regarding the attachment of the wages of working people, clerks, etc. The report contains the text of the existing law relating to the attachment of wages enacted Jan-

uary 12, 1895, the proposed amendment to this law, which passed the French Chamber of Deputies on April 18, 1898, and the results of the inquiry.

The law of January 12, 1895, provides that the wages of working people can not be attached or assigned beyond one-tenth, regardless of the amount of the wages. The same exemption applies to the salaries of clerks and functionaries whose earnings do not exceed 2,000 francs ($386) per annum. Certain exceptions are provided for, which, however, have no bearing upon the object of the present report. The greater part of the text of the law relates to the procedure for the enforcement of attachments of wages, and this procedure is so cumbersome that by the time an attachment can be legally enforced the expenses are frequently greatly in excess of the amount of the debt, thus increasing the burden upon the debtor without conferring any special advantage upon the creditor or employer of the debtor.

While the amendment proposed by the Chamber of Deputies does not contemplate any change in the proportion of the wages that may be attached, it provides for a complete alteration of that part of the law which relates to procedure, with the view of its simplification and the consequent reduction of legal expenses.

When the proposed amendment reached the Senate, after its passage by the Chamber of Deputies, it was referred to a senatorial committee for examination. This committee requested the minister of commerce to institute an inquiry among the larger industrial and commercial establishments and other corporations with the view of ascertaining their opinions as to the advisability of maintaining the principle of attaching a portion of the wages of employees or of adopting the principle of total exemption already in force in England, Germany, Norway, Hungary, Spain, and Brazil. For this purpose 2,000 circulars of inquiry were sent out, of which 817 were answered. These answers were then compiled and analyzed for publication by the French bureau of labor.

Of the 817 responses 412 were in favor of total exemption, 368 favored some form of attachment, while 37 were indefinite. Only 69 responses favored the retention of the law of 1895 in its present form, 172 favored the retention of the law with a reform reducing the legal expenses, 60 favored this reform, together with certain other alterations, and 57 favored the retention of the existing law, with certain alterations other than a reform of the legal expenses. Of the 817 returns 742 were received from industrial and commercial establishments, 709 of which employed 545,597 working people. The remaining 75 responses came from chambers of commerce, employers' and employees' associations, and similar organizations. The report contains a detailed analysis of the returns received, classified according to the nature of the responses, of which the following is a digest.

LEGAL EXPENSES.—In many cases these have been in inverse proportion to the amount of the debt, sometimes reaching 1,000 per cent. The mode of procedure is such that hardly has the workman incurred a debt, no matter how small, in many cases less than 5 francs (96½ cents), than he is immediately pursued by his creditor, who generally disregards the expenses, since they are at the charge of the debtor. These expenses are also largely increased by the formalities observed in the distribution among several creditors of the amount retained from the workman's wages.

A large steel company in one of the eastern departments of France furnished the following statistics of 27 cases of attachment under the law:

PER CENT OF LEGAL EXPENSES OF AMOUNT OF DEBT.

Number of attachments.	Per cent of expenses of amount of debt.
1	Over 1,000.
2	Between 800 and 700.
3	Between 700 and 600.
1	Between 600 and 500.
2	Between 500 and 400.
4	Between 400 and 300.
8	Between 300 and 200.
6	Between 200 and 100.

A director of a tobacco factory furnished the following examples of cases coming within his knowledge.

PER CENT OF LEGAL EXPENSES OF AMOUNT OF DEBT.

Debt.	Expenses.	Per cent of expenses of amount of debt.
$3.3775	$9.6500	285.71
17.3700	38.6000	222.22
19.3000	19.3000	100.00
5.4330	9.6500	177.62
8.6850	19.3000	222.22
62.5899	57.9000	92.51
5.0180	9.6500	192.31

INCREASE IN NUMBER OF SEIZURES.—Since the application of this law the number of seizures has greatly increased, and the merchants resort to it to recover the most insignificant sums. A mining company in the Pas de Calais registered 5,182 attachments, as follows:

ATTACHMENTS AND AMOUNT OF DEBT.

Number of attachments.	Amount of debt.
263	$1.93 or under.
1,722	2.12½ to $9.65
1,445	9.84½ to 19.30
1,035	19.49½ to 38.60
559	38.79½ to 96.50
105	96.69½ to 193.00
53	193.19½ to 1,698.40

LONG DURATION OF ATTACHMENTS.—One result of the exaggerated expenses and the increase in the number of seizures is that the period during which the workman has to yield a part of his wages is greatly prolonged. A paper manufacturer reported that out of 180 workmen whose wages had been attached 100 had not been released during 5 years. Other statements show that at the monthly rate of payment provided by the court it would take, in some cases, 12, 14, 16, 26, 40, and 161 years to pay the debts and added expenses.

DEPARTURE OF THE WORKMEN.—As a result of the above conditions, the workman who is seized does not always resign himself to accept the retaining of the tenth of his wages. After a certain number of pay days, and sometimes after the first, he leaves the country or goes into another factory. If his creditor succeeds in finding him, he disappears again. Over 80 answers to the ministerial circular spoke of the sudden disappearance of workmen seized as of common occurrence, and many directors complained of the inconvenience caused to the establishments by the instability of the personnel as a result of the law.

DISMISSAL OF WORKMEN.—Another factor that renders the law so ineffectual in its application is the dismissal of the workman by his employer as soon as the attachment of his wages is made. The notification of a seizure on a workman frequently creates an unfavorable impression on the mind of his employer, who sees the beginning of a responsibility which he generally does not care to assume. Under this law the employer is obliged to assume a position which produces bad feeling between him and his workmen. It is a source of interminable discussion, renewed every pay day, and finally ends by the employer losing his authority over his men. To avoid the inconveniences arising the employer frequently dismisses the workman.

MATERIAL AND MORAL CONSEQUENCES OF SEIZURE.—A workman who once quits his employer, either voluntarily or by dismissal, the first time a portion of his wages is retained, falls into the habit of shirking payment; he buys and does not pay, and when his credit is exhausted he leaves for other regions. He becomes a rover, working a few months here and a few months there, living a life of disorder, and often finally provokes a break-up in his family. Not only do the men suffer from this law, but also the women and children. Wages of women and children are frequently seized to pay the drinking debts of husbands and fathers, and frequently the wages of children are seized to pay debts of parents who have abandoned them.

NATURE OF DEBTS GIVING RISE TO SEIZURE.—The butcher, the baker, and the grocer are the last to have recourse to the law. The principal use of the law is by saloon keepers, and keepers of certain stores which do business on the long-credit system. The law tends to increase the habit of drinking, owing to the facility with which a

workman can get credit for drink. One manufacturer says, "The law regarding the attachment of wages is partly responsible for the ravages of alcoholism, and if this curse continues to make frightful progress in industrial centers * * * it is because of the facility with which the workman can find a permanent credit with the saloon keeper always out of proportion to his resources, and consequently hurtful and immoral." In one case, out of 70 seizures in 1899, 33 came from drinking saloons; and in another case, out of 10 seizures, 8 came from saloons. The most numerous and the severest criticisms are addressed against the effect of the law in encouraging those houses which sell on the long-credit system. This system, it is said, is fatal to the purse of the workman.

REFORMS SUGGESTED.—Among the reforms suggested are (1) the total abrogation of the law, (2) its retention with reform in the matter of legal expenses, and (3) its reform so that the attachments should be possible only for "obligatory debts;" that is, for those debts contracted for what are called necessaries of life, excluding debts of the saloon and those of establishments practicing the long-credit system.

NEW ZEALAND.

Ninth Annual Report of the Department of Labor of New Zealand, for the year ending March 31, 1900. xxiv, 128 pp.

This report consists of an introduction, 24 pages; statistics of persons assisted by the department of labor, 8 pages; an account of accidents, disputes under the industrial conciliation and arbitration act, 1894, and legal decisions under the factories and other acts, 54 pages; statistics of permits granted for child labor and a statement of accommodations provided for sheep shearers, 2 pages; statistics of hours of overtime in factories and of the number and wages of employees in factories and railway workshops, 64 pages.

INTRODUCTION.—This part of the report consists of a review of labor conditions in New Zealand, an analysis of the statistics presented in the report, remarks upon the workings of various labor laws, and the reports of local factory inspectors and agents of the department.

PERSONS ASSISTED.—Detailed tables are given showing, by occupations and localities, the number of persons who obtained employment through the agency of the department. The statistics are presented by occupations, localities, and months, and show the conjugal condition of persons assisted, the number of their dependents, the number of months unemployed, and the causes of failure to obtain work.

During the fiscal year ending March 31, 1900, the department assisted in this way 2,147 persons, of whom 1,115 were married and 1,032 were single. These persons had 4,471 dependents, of whom 1,115 were wives, 3,032 were children, and 324 were parents or

others. Thirty-seven wives and 40 children were sent to workmen. Of the persons assisted, 486 were sent to private employment and 1,661 to Government works. The cause given for failure to obtain employment was slackness of trade in 2,129 cases and sickness in 18 cases.

In addition to the above cases, 256 women and girls secured employment through the women's branch of the department. These, together with the 2,147 persons assisted by the men's branch, make a total of 2,403 persons who secured employment through the department.

EMPLOYEES IN FACTORIES.—This presentation covers all employees who came under the provisions of the factories act during the fiscal year ending March 31, 1900. The tables show, by localities and industries, the number and average weekly wages of all factory employees, arranged according to sex and age groups. During the year there were 48,938 persons employed in 6,438 factories. This was an increase of 3,633 employees and of 152 factories over the preceding year.

EMPLOYEES IN RAILWAY WORKSHOPS.—The statistics of employees in railway workshops show the number of men and apprentices employed and their average wages, by localities and occupations. During the year ending March 31, 1900, 1,303 men and 161 apprentices were employed in railway workshops in New Zealand.

DECISIONS OF COURTS AFFECTING LABOR.

[This subject, begun in Bulletin No. 2, has been continued in successive issues. All material parts of the decisions are reproduced in the words of the courts, indicated when short by quotation marks and when long by being printed solid. In order to save space, immaterial matter, needed simply by way of explanation, is given in the words of the editorial reviser.]

DECISIONS UNDER STATUTORY LAW.

CONSTITUTIONALITY OF STATUTE—EXEMPTION OF WAGES FROM GARNISHMENT, ETC.—*Kirkman v. Bird, 61 Pacific Reporter, page 338.*—Suit was brought by John M. Kirkman against William Bird, jr., to recover for a debt due for goods and merchandise. May 13, 1896, the plaintiff recovered a judgment in an inferior court of the State of Utah for $285.47, and costs amounting to $11.25. On December 12, 1899, an execution was issued on said judgment, and the Rio Grande Western Railway Company was garnisheed. On December 28, 1899, the railway company answered that it was indebted to the defendant, Bird, in the sum of $77.50 for services rendered from November 1 to December 12, 1899, but that said amount was exempt from execution. The defendant also filed an answer, alleging the same facts as set up by the railroad company. The attorney for the plaintiff filed an affidavit admitting the facts alleged in the foregoing answers, except the conclusion that said earnings were exempt from execution, and alleging that at the time the goods and merchandise were sold and the judgment rendered the said Bird had no property except his monthly earnings for personal services, and that one-half of said earnings at the last-named dates were, and ever since have been, subject to the execution of said judgment. The district court of Salt Lake County, Utah, before which a hearing was had, held that the earnings of the defendant in the possession of the railway company were exempt from execution, and rendered a judgment accordingly in favor of the defendant. The plaintiff, Kirkman, then appealed the case to the supreme court of the State, which rendered its decision May 14, 1900, and affirmed the judgment of the district court.

The opinion of the court, delivered by Judge Baskin, shows the further facts in the case, the legal points in dispute, and the reasons for the decision. It contains the following language:

The respondents claim exemption under an act of the legislature approved March 9, 1899 (Laws 1899, p. 99, sec. 7), which exempts from execution "the earnings of the judgment debtor for personal

services rendered within 60 days next preceding the levy of the execution, by garnishment or otherwise, if the judgment debtor be a married man, or with a family dependent upon him for support." The appellant contends that the legislature did not intend that said provision should have any retroactive effect, and that the judgment in this case giving it such effect is in violation of section 10, article 1, of the Constitution of the United States, and impairs the obligation of the implied contract between the parties which arose upon sale of the said goods and merchandise previous to the passage of said act.

At the date of the implied contract and the rendition of said judgment [May 13, 1896], under the attachment law then in force, garnishment of one-half only of the defendant's earnings for his personal services rendered within 60 days preceding service on the garnishee was permissible. (2 Comp. Laws 1888, p. 307, subd. 7; Laws 1896, p. 214, sec. 7.) Section 7 of the act of 1899 did not abolish the remedy by garnishment, but simply amended the former act so as to exclude the whole of such earnings for services rendered during such period from the operation of that process, when the judgment debtor is a married man or has a family dependent upon him for support. So that the alleged injury complained of in this case is said limitation of the remedy by garnishment. Therefore, the only question presented is whether this limitation impairs the obligation of the contract.

In the case of Bronson *v.* Kinzie, 1 How., 315; 11 L. Ed., 144, Chief Justice Taney in the opinion said: "Undoubtedly a State may regulate at pleasure the modes of proceeding in its courts in relation to past contracts as well as future. It may, if it thinks proper, direct that the necessary implements of agriculture, or the tools of the mechanic, or articles of necessity in household furniture, shall, like wearing apparel, not be liable to execution on judgments. Regulations of this description have always been considered, in every civilized community, as properly belonging to the remedy, to be exercised or not by every sovereignty, according to its own views of policy and humanity. It must reside in every State to enable it to secure its citizens from unjust and harassing litigation, and to protect them in those pursuits which are necessary to the existence and well-being of every community. And, although a new remedy may be deemed less convenient than the old one, and may in some degree render the recovery of debts more tardy and difficult, yet it will not follow that the law is unconstitutional. Whatever belongs merely to the remedy may be altered according to the will of the State, provided the alteration does not impair the obligation of the contract. But, if that effect is produced, it is immaterial whether it is done by acting on the remedy or directly on the contract itself. In either case, it is prohibited by the Constitution."

Creditors as well as debtors are presumed to know that the legislature has an inherent power to enlarge, limit, alter, or repeal remedial statutes, provided that contracts are not directly impaired, and a remedy be left, though less convenient and less prompt and speedy, than the one so changed or repealed. Also to enact such laws as, "according to its own views of policy and humanity, it may deem necessary to protect the citizens of the State from unjust, merciless, and oppressive litigation and other evils detrimental to the common weal, and protect them in those pursuits of industry, and secure to them those privileges and rights, which experience has already shown, or in the

future may be shown, to be necessary to the prosperity and strength of the State, although such necessary laws may in some way or other affect contracts previously entered into." Among such necessary laws are police regulations, exemptions from forced sales on execution of necessary implements of agriculture, the tools of mechanics, necessary household furniture for the use of the family and their wearing apparel, exemption of a portion of the wages of laborers, etc. Parties making contracts, I think, should be charged with notice that the legislature has a right to make such necessary changes in the laws, and that it should be presumed that they intended their contracts to be subject to such reasonable and necessary changes.

Certainly, any change or limitation of the remedy which does not materially abridge the right does not impair the obligation of the contract. As stated in Van Hoffman *v.* City of Quincy, 4 Wall., 554; 18 L. Ed., 403, "every case must be determined upon its own circumstances." In the case at bar it is conceded that the defendant has a family dependent upon him for support, and that his only means of doing so is his wages. It is a matter of common knowledge that, at the time and previous to the passage of the act limiting the remedy by garnishment, many other citizens of the State were in the same situation as the defendant, and that, owing to the financial crisis which prevailed, it was a difficult task for the laborer to earn sufficient to properly support his family. In view of these facts, the limitation of the remedy of garnishment was reasonable and necessary, and is not such a change as impairs the obligation of the contract. It is ordered that the judgment of the court below be affirmed, and that the appellant pay the costs.

CONSTITUTIONALITY OF STATUTE—FORBIDDING THE INSTITUTION IN A FOREIGN STATE BY A RESIDENT OF ONE STATE OF AN ACTION AGAINST THE WAGES OF A RESIDENT OF THE SAME STATE—*In re Flukes, 57 Southwestern Reporter, page 545.*—An application was made in the supreme court of Missouri, division No. 2, by one Helen Flukes for a writ of habeas corpus to procure her discharge from an indictment charging her with suing a resident wage-earner in a foreign State. The court rendered its decision in the April term, 1900, and discharged the prisoner, declaring the statute under which she had been indicted to be unconstitutional and void.

The opinion of the court reverses the statute and gives the facts in the case and the reasons for the decision. It was delivered by Judge Sherwood, and reads in part as follows:

This is an original proceeding instituted in the court, the object of which is to test the constitutionality of an act passed by the fortieth general assembly of this State, which act is the following: "Every person or persons, company, corporation or firm, and every agent of any person or persons, company, corporation or firm, who shall take or send, or cause to be taken or sent, out of this State any note, bond, account or chose in action for the purpose of instituting or causing to be instituted any suit thereon in a foreign jurisdiction against a resident of this State, for the purpose of having execution, attachment,

garnishment, or other process issued in such suit, or upon a judgment rendered in any such suit, against the wages of a resident of this State, and having such process served upon any person who is, or firm, company or corporation which is subject to the processes of the courts of this State, who is indebted or may become indebted to a resident of this State for wages, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail for a period of not less than thirty days nor more than ninety days." (Section 2356, Rev. Stat., 1899.) If the act just quoted be unconstitutional, the petitioner's right to be discharged can be no longer questioned in this court, because we now treat (just as it ought always to have been treated) an unconstitutional law as no law at all.

When put in more condensed form, the section on which the prosecution of the petitioner is based gives forth these results: It subjects any person, etc., to a fine of not less than $100 nor more than $500, and imprisonment in the county jail for not less than 30 nor more than 90 days, who sends out of this State, etc., any note, etc., account, etc., for the purpose of "instituting * * * any suit thereon in a foreign jurisdiction against a resident of this State, for the purpose of having execution, attachment, garnishment," etc., "issued in such suit, or upon a judgment rendered in such suit, against the wages of a resident of this State, and having such process served upon any * * * corporation * * * subject to the processes of the courts of this State, which is indebted * * * to a resident of this State for wages."

Under the provisions of section 3435, Rev. Stat., 1899, no person can be "charged as garnishee, on account of wages due from him to a defendant in his employ for the last thirty days' service: *Provided*, Such employee is the head of a family and a resident of this State." It will thus be seen that under the laws of this State the wages of a single person, an employee and a resident of this State, are not exempt from the process of garnishment here, while under the terms of section 2356 such wages are expressly exempted from the process of garnishment in another State, unless the creditor who attempts to garnish them over there is willing to incur the punishment of both fine and imprisonment for such a course. This, in effect gives to single and unmarried persons who are residents of and employees in this State an exemption in Illinois and other States that they are not allowed in this the State of their residence. This results in exempting all those single men, residents, etc., whose wages are attempted to be seized under process of a foreign court, while it leaves unexempted those whose wages are garnished under process of our own courts. Besides, those wage-earners, residents of this State, who are married, can only claim in this State an exemption of wages due for the last 30 days' service, while they, and all single wage-earners, by the law in question, so far as concerns suits in foreign jurisdictions, are exempt, without any limit to their exemption.

The effects of the section are more widespread than already related, as will presently appear. The creditor of any other than a wage-earner may freely send over to Illinois or elsewhere, without fear of arrest or of fine or imprisonment "any note, bond, account or chose in action," and institute such suit as he may please, and obtain any such process as he may desire, and levy and seize on any personal or real or mixed

property or debts or wages, and may collect his claim in due and usual course of law, without let or hindrance. Why should such discrimination be made among creditors merely because the debtors in one case receive their remuneration for their labor in wages, and in the other case in cash payments day by day, or in a cow, horse, produce, or a tract of land?

Again, the creditor, though resident of this State, while he may not institute suit in a foreign jurisdiction, in the manner contemplated in section 2356, on a "note, bond, account or chose in action," yet, so soon as he converts his note, etc., into a judgment against his wage-earning debtor, he immediately becomes "law proof," so far as concerns the section under discussion, and, securing a copy of his judgment, may do with it as he will, so far as foreign courts and processes are concerned, even against his co-resident and wage-earning debtor, and can not be punished for so doing. This instance affords fresh illustration of the discriminations which the questioned law makes in favor of some creditors and against others—those who live side by side in the same town.

Furthermore, the controverted law does more still. Not content with its rigorous restrictions and severe punishments on creditors resident of this State, it levels its denunciations against all mankind. It comprehends within its forbidding and globe-encircling enactment all creditors having a note, bond, account, or chose in action within the confines of this State who dare to send or cause to be sent such note, etc., to another State, to institute a suit on it as contemplated in the section under review. Is not such a far-reaching, world-embracing law beyond the power of the legislature to make valid? But the act does not stop even there. It separates wage-earners in a way different from any yet suggested. Only those wage-earners who are in the employ of "any person who is, or firm, company or corporation which is subject to the processes of the courts of this State," are under the protection of the statute. If the person, firm, company, or corporation is not subject to such processes, then there is no prohibition against the creditor sending his note, etc., into a foreign jurisdiction for collection.

By the provisions of the litigated statute the act of sending a note out of this State for the purpose, etc., is made a crime. Under the prohibition of section 1, article 14, of the amendments to the Constitution of the United States, "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." Our own constitution contains a provision which declares "that no person shall be deprived of life, liberty or property without due process of law (section 30, art. 2), and also a provision forbidding the legislature to grant "to any corporation, association or individual any special or exclusive right, privilege or immunity" (section 53, art. 4). And section 2, art. 4, of the Constitution of the United States prescribes that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

As is said by an eminent judge: "The rights thus guaranteed are something more than the mere privileges of locomotion. The guaranty is the negation of arbitrary power in every form which results in

the deprivation of a right. These terms, 'life,' 'liberty,' and 'property,' are representative terms, and cover every right to which a member of the body politic is entitled under the law. Within their comprehensive scope are embraced the right of self-defense, freedom of speech, religious and political freedom, exemption from arbitrary arrests, the right to buy and sell as others may—all our liberties, personal, civil, and political; in short, all that makes life worth living; and of none of these liberties can any one be deprived, except by due process of law." (2 Story, Const. (5th ed.) sec. 1950; State *v.* Julow, 129 Mo., 163; 31 S. W., 781; 29 L. R. A., 257.)

Now, as elsewhere stated, each of the rights heretofore mentioned carries with it, as its natural and necessary coincident, all that effectuates and renders complete and full, unrestrained enjoyment of that right. And it has been determined by this court and other courts that no one can be deprived of a vested right of action without infringing on that provision of our constitution and that of the United States respecting the deprivation of life, liberty, and property without due process of law. And this court has also determined that it does not lie in the power of the legislature to make that act a crime which consists in the bare exercise of a simple constitutional right. (State *v.* Julow, *supra.*) The right to bring a suit to enforce a contract is part and parcel of that contract; and one of the essential attributes of property, of which the owner can not be deprived if the organic law of both State and nation be obeyed.

The act under discussion also deprives any creditor, as therein mentioned, of the equal protection of the laws, and abridges the privileges and immunities of citizens of the United States, and denies to such creditors those rights which section 2, art. 4, of the Constitution of the United States grants to them, by declaring that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." A citizen of New York or of California could bring just such a suit as the petitioner has brought, and be held wholly blameless. The act is also obnoxious to the charge that it grants special and exclusive privileges to certain persons or associations of persons, and denies the same to others in the same or similar situations.

Finally, section 2356 undertakes to arbitrarily separate natural classes of people, and to provide different rules of action for each of the dissevered fractions, thus unwarrantably formed into a class of its own. (State *v.* Julow, *supra.*) The premises considered, we declare the law unconstitutional, on the various grounds hereinbefore set forth, and hence discharge the prisoner. All concur.

EMPLOYERS' LIABILITY—CONTRIBUTORY NEGLIGENCE—CONSTRUCTION OF STATUTE—*Hoadley v. International Paper Co., 47 Atlantic Reporter, page 169.*—Action was brought by Justus R. Hoadley, administrator of the estate of Michael Kennedy, deceased, against the above-named company to recover damages for the death of the decedent, who, while at work in the company's mill upon repairs to a pulp digester received injuries which caused his death within 2 or 3 days thereafter. A judgment was rendered in favor of the plaintiff

in the county court of Rutland County, Vt., where the case was heard, and the defendant carried it upon exceptions to the supreme court of the State, which rendered its decision December 4, 1899, and affirmed the judgment of the lower court.

The opinion of the court, delivered by Judge Thompson, contains one point of interest, and in this connection the following was said therein:

The defendant excepted to the refusal of the county court to direct a verdict for it on the ground that the alleged negligence causing the death of the decedent occurred while he was at work Sunday on the defendant's pulp digester in its paper mill at Bellows Falls, Vt. The defendant also excepted to the charge to the jury on this subject. The instruction was, in substance, that the plaintiff was entitled to recover, if his case was made out in other respects, notwithstanding that the decedent at the time of the accident was working for the defendant on Sunday, if the jury found that defendant's negligence was the proximate cause of his death, and his working Sunday the remote cause. It is now contended by the defendant that the decedent was working in violation of V. S., sec. 5140, which prohibits the exercise of any business or employment, except works of necessity or charity, between 12 o'clock Saturday night and 12 o'clock the following Sunday night, under a penalty of not more than $2, and that consequently the plaintiff is precluded from recovery. The jury found that the negligence of the defendant was the proximate cause of the death of the decedent, and that he was not guilty of contributory negligence.

There is a conflict of authorities on this subject, but the view adopted by the weight of authority is against the contention of the defendant. This view accords with reason and the general principles of the law applicable to torts. The fact that the decedent was working for the defendant on Sunday can not be said to be, either in law or in fact, contributory negligence concurring to produce the injury, nor the proximate cause of it. The motion for a verdict on this ground was properly denied. The charge on this subject was more favorable to the defendant than it was entitled to have given, and the exception thereto can not be sustained.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—CONSTRUCTION OF STATUTE—FELLOW-SERVANTS—*Long v. Chicago, Rock Island and Texas Ry. Co., 57 Southwestern Reporter, page 802.*—This was a suit for damages brought by G. J. Long on account of injuries incurred by him while in the employ of the above-named railroad company. The case was tried before an inferior court in the State of Texas, without a jury, and the judge thereof gave judgment for the defendant. His conclusions of fact and law, filed as legally required, showed, among others, the following facts: That the plaintiff was a section man employed by said railroad and was at work on the day of the accident with a gang of about 20 others; that it was their custom to return to the tool house at the close of each day's work and place the

tools therein; that on the day of the accident the plaintiff and others of the gang, at the hour to quit work, started north toward the tool house carrying the tools with which they had worked; that before reaching a bridge they had to cross they met a hand car, used on the section, going south to get some tools to carry back to the tool house; that this car was operated by some of the same gang of section men; that this car, upon returning, on its way to the tool house, overtook the plaintiff and two others while they were on the bridge; that said car was running at a speed of about 8 miles an hour, and struck the plaintiff, knocked him down, ran over and injured him. In this same statement the judge said: "I find that the men operating the hand car were negligent in running upon plaintiff, and that plaintiff did not contribute to his injury by any negligence upon his part. * * * Yet I render judgment for defendant because I conclude that the plaintiff and the section men operating said hand car were fellow-servants, and I further find that plaintiff was not engaged in operating the trains, cars, or locomotives of defendant." From the judgment of the trial judge the plaintiff appealed the case to the court of civil appeals for the second division of the State, which court, after a hearing, affirmed the judgment of the trial court. The plaintiff then carried the case upon a writ of error before the supreme court of Texas, which rendered its decision June 25, 1900, and reversed the judgments of the lower courts.

Chief Justice Gaines delivered the opinion, and, in the course of the same, he said:

The trial court's conclusion that the servants upon the hand car, whose negligence caused the injury, were the fellow-servants of the plaintiff, was assigned as error in the court of civil appeals, and is assigned in this court. That, according to the rulings of this court, these employees would have been fellow-servants at common law, there can be no question. But the common law in regard to fellow-servants has been changed by statute in this State. The legislature has passed three acts upon the subject, each of which has had the effect of placing restrictions upon the rule.

The judge at this point mentions and comments upon the first two acts and then continues:

The act of June 18, 1897, makes more sweeping changes. The first section excludes all persons "engaged in the work of operating the cars, locomotives or trains" of a railroad company from the rule of fellow-servants. Section 3 is a substitute for section 2 of the previous act, and is as follows: "All persons who are engaged in the common service of such person, receiver, or corporation, controlling or operating a railroad or street railway, and who while so employed, are in the same grade of employment and are doing the same character of work or service and are working together at the same time and place and at the same piece of work and to a common purpose, are fellow-servants with each other. Employees who do not come within the provisions of this section shall not be considered fellow-servants."

The additional limitations placed upon the rule by the language just quoted are two: First, the employees must be doing the same character of work; and, second, they must be working at the same piece of work. In determining this case we may concede, for the sake of the argument, that the men who were engaged in carrying in the tools at the time the accident occurred were working together at the same time and place, and to a common purpose. They were clearly of the same grade of employment. The questions, then, to be determined, are: Were the men who were operating the hand car and the plaintiff engaged in the same character of work? and were they engaged in the same piece of work, within the meaning of the statute? Neither the meaning of the terms "character of work" nor that of the words "same piece of work" is at all clear. When applied to the complicated constructions and repairs incident to the business of railroads, terms more indefinite could hardly have been found. We must, therefore, forbear the attempt to lay down any general rule to be followed in their construction and application, and content ourselves with the endeavor to apply them to the particular facts of this case.

The work immediately at hand when the injury was inflicted was the carrying of the tools to a place of safety. For the accomplishment of this purpose, some of the employees (including those through whose negligence the injury was inflicted) were using a hand car, while others, including the plaintiff, were merely carrying them in by hand. The means employed by the former was so distinctly different from those in use by the latter that we are of opinion that they were engaged in a different character of work within the meaning of the statute. Nor do we think that it can be said that at the very time of the accident the plaintiff and those operating the hand car were doing the same piece of work. If the injury had been inflicted by one of the employees working the hand car upon another who was then engaged in operating the same car, it should be held that they were engaged upon the same piece of work. But it would seem that each employee who was carrying one or more tools without the aid of another was engaged in a different piece of work from that which was being done by any one of his coemployees. Our conclusion is that the court erred in holding that the servants upon the hand car were fellow-servants with the plaintiff, and therefore the judgment must be reversed.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—CONTRIBUTORY NEGLIGENCE OF THE EMPLOYEE, ETC.—*Quirouet v. Alabama Great Southern Railroad Co., 36 Southeastern Reporter, page 599.*—Action was brought against the above-named railroad company by A. J. Quirouet to recover damages for injuries incurred by him while in its employ and due, as he alleged, to its negligence. The evidence showed that he was employed as a flagman on one of the company's freight trains; that he sought to mount the fourth car from the caboose while the train was in motion in order to release the brakes, which he himself had "put on," as the set brakes were causing the wheels to slide and smoke, rendering the wheels liable to burst; that when he tried to mount the car he took hold of a standard which was on the car for the purpose of preventing

the pipes, with which the car was loaded, from rolling off; that the standard was so large that he could not grasp it, but was required to throw his hands and wrist around it; that as he did so, and placed his foot upon the journal box, and threw his weight on the standard, it turned with him, threw him down, and threw his foot off the journal box and under the wheel of the car, which passed over his ankle, foot, and leg, and caused him to sustain serious and painful injuries; that the socket in which the standard worked was square, and the standard was round and not properly fitted to it; and that the rules of the road in force when the plaintiff was injured declared that employees must not attempt to get on or off of trains when in motion, and that, if they did so, it would be at their own peril and risk.

The plaintiff claimed that the following, making part of section 2590 of the code of Alabama of 1886, was applicable in his case: "When a personal injury is received by a servant or employee in the service or business of the master or employer, the master or employer is liable to answer in damages to such servant or employee, as if he were a stranger, and not engaged in such service or employment, in the cases following: (1) When the injury is caused by reason of any defect in the condition of the ways, works, machinery, or plant connected with, or used in, the business of the master or employer. * * * (5) When such injury is caused by reason of the negligence of any person in the service or employment of the master or employer, who has the charge or control of any signal, points, locomotive, engine, switch, car, or train upon a railway, or of any part of the track of a railway." The case was heard in the city court of Atlanta, Ga., and the court directed the jury to render a verdict for the defendant company. The plaintiff then carried the case before the supreme court of the State upon a writ of error, which court rendered its decision July 12, 1900, and affirmed the action of the lower court.

The opinion of the supreme court was delivered by Judge Cobb, and the syllabus of the same, prepared by the court, reads as follows:

1. An employee of a railroad company, who was injured in undertaking to mount a rapidly moving flat car by placing his foot upon the lid of the journal box, and seizing a standard which had been inserted in an opening in the side of a car in order to prevent the freight thereon from falling off, was not, either under the general rules of law or any Alabama statute, entitled to a recovery on the ground that the standard slipped in the socket and caused him to fall, when there was no testimony tending to show that the standard was placed on the car as a means of mounting the same, but, on the contrary, positive testimony that it was not placed there or intended to be used for that purpose.

2. When an employee has his choice of two ways in which to perform a duty, the one safe, though inconvenient, and the other dangerous, he is bound to select the safe method; and if, instead of so doing, he elects to pursue the dangerous way, and is, in consequence, injured, he is guilty of such negligence as will bar an action for damages against

the master. The principle here announced is recognized law in the State of Alabama.

3. If there was, in the present case, any evidence tending to show that the plaintiff acted in an emergency, it was one of his own making, and the defendant company could not be held responsible on the theory that it had by its negligence placed him in such a position as to relieve him of the duty of exercising ordinary care for his own safety.

4. The evidence demanded a verdict for the defendant, and there was no error in directing the jury to find accordingly.

SEAMEN—SUIT FOR WAGES—CREDIT FOR PROHIBITED PAYMENTS—*The Alexander M. Lawrence, 101 Federal Reporter, page 135.*—This was a suit in admiralty brought by a seaman to recover wages in the United States district court for the southern district of Alabama. The court rendered its decision March 3, 1900, and gave a decree in the seaman's favor. There is no statement of the facts in the case other than the references thereto made in the opinion of the court delivered by District Judge Toulmin, and which reads as follows:

The statutes of the United States forbid the payment of a seaman's wages in advance, and provide that in no case, except as therein provided, shall such payment absolve the vessel, or the master or owner thereof, from full payment of wages after the same shall have been actually earned, and shall be no defense to a libel for the recovery of such wages. (30 Stat., 763.) The statutes also provide that all seamen discharged from merchant vessels, etc., shall be discharged and receive their wages in the presence of a duly-authorized shipping commissioner, except when some court otherwise directs; and any master or owner of any such vessel, who discharges any such seamen belonging thereto, or pays their wages within the United States in any other manner, shall be liable to a penalty of not more than $50 (Rev. St., sec. 4549); and further provides that, in all cases in which discharge and settlement before a shipping commissioner are required, no payment, receipt, settlement, or discharge, otherwise made, shall operate as evidence of the release or satisfaction of any claim (id., sec. 4552).

It is an elementary principle of law that one who has himself participated in a violation of the law can not be permitted to assert in a court of justice any right founded upon or growing out of the illegal transaction. The authorities, both State and Federal, hold that no rights can spring from or be rested upon an act in the performance of which a criminal penalty is incurred. The penalty implies a prohibition, and the act relating to it is void—as absolutely void as if the law had declared that it should be so.

Hence I am bound to hold that the advance of $10 made by the master to the libelant on his wages not then earned can be no defense to this libel for the recovery of wages, the proof showing that wages were earned; and, in view of the fact that the payment of the $12.36 to the libelant at Mobile on the termination of the voyage was in violation of section 4549, Rev. St., and of the law as declared in the authorities cited, however unjust it may appear, or however harsh such rulings might sometimes be, I am constrained to hold that the

claimant can not be permitted to assert his right to have such payment deducted from or charged against any wages actually earned by the libelant. The claimant can rest no right upon the act of payment, it being done subject to a penalty. Furthermore, the statute expressly says that no such payment shall operate as evidence of the release or satisfaction of the libelant's claim. If the payment can not operate as evidence, is it admissible as evidence? My opinion is that the libelant is entitled to no wages from the time he was imprisoned down to the time he reshipped on the voyage to Mobile, as I find he was himself the cause of the imprisonment. A decree will be entered for the libelant for $22.36, with a division of the costs.

SEAMEN—VALIDITY OF SHIPPING ARTICLES—RIGHT TO LEAVE VESSEL—*The Occidental, 101 Federal Reporter, page 997.*—This suit was heard in the United States district court for the district of Washington, northern division, by seamen to collect wages. The decision in the case was rendered May 12, 1900, and the facts and the legal points settled therein are shown in the opinion of the court, delivered by District Judge Hanford, which reads as follows:

This is a suit to collect seamen's wages which the libelants claim to have earned by services on the ship *Occidental*, on a run from San Francisco to Seattle. The owner of the ship appears as claimant, and has filed an answer in which he resists the demand of the libelants on the ground that they became bound, by signing articles for a definite period of time, to continue in the service of the vessel to the end of the specified period, and until the return of the vessel to San Francisco, the port of discharge, and that, being so bound to service, they were guilty of continued willful disobedience of lawful commands of the captain, and by such disobedience they have forfeited the entire amount of their wages. I find from the evidence that during the run from San Francisco to Seattle the libelants faithfully performed their duties as seamen in doing the work required of them, which was necessary to be done in navigating the vessel, but on two occasions they refused to do seamen's work which was not strictly necessary in maneuvering the vessel or for her preservation, and while at sea they made known their intentions to leave the vessel on arrival at Seattle. After coming to anchor in the harbor, they did repeatedly refuse to work in discharging ballast, and in justification of their refusal to do work other than what was necessary in the navigation of the vessel they charge that the shipping articles for the voyage are unlawful and void, and that the captain imposed upon them by leaving San Francisco without having on board a full complement of men.

I find from the evidence that the captain made a bona fide attempt to employ 10 seamen for the voyage, and that 10 men signed the shipping articles in the presence of the deputy United States shipping commissioner, but 3 of those who signed failed to report for duty. When the ship was ready to cast off her moorings, the captain was informed by the mate that there was a full crew on board, and then, without taking the trouble to muster the crew on deck, the vessel proceeded on her way, although there were then on board only 7 of the

crew who had signed the shipping articles, and, in place of the absentees, the ship agent who had undertaken to supply the crew sent the libelants Knowles and Anderson on board, but these two men did not sign the shipping articles until the vessel was at sea. In view of these facts, the claimant contends that the shipping articles are valid, and that the ship did not leave port without a sufficient crew. As to the libelants Knowles and Anderson, it is clear that, although they went on board the vessel voluntarily, they were not bound to continue in the service of the vessel during the voyage, nor for any definite time. The captain could require them to do work necessary to be done in the proper navigation of the vessel while she was at sea, but they were free to leave the vessel at any place, and, having served as mariners, they are entitled to receive compensation therefor. (Rev. St. U. S., sec. 4521.)

NOTE.—This section provides that if seamen who have not made and signed a contract or agreement, in manner and form as provided by law, are carried out on a voyage by any master of a vessel, he shall pay them wages for the time they continue to do duty on said vessel. By another section it is provided that such contract or agreement to be valid must be signed before a shipping commissioner. In the case of the libelants Knowles and Anderson, this was not done, as stated in the opinion above, as they did not sign the contract until the vessel was at sea.

I will consider only one of the various grounds assigned for impeaching the validity of the shipping articles. The voyage for which the libelants were hired is described as follows: "From the port of San Francisco to Honolulu, H. I., and such other foreign ports as the master may direct, via British Columbia or Puget Sound, thence to return to San Francisco for final discharge via British Columbia or Puget Sound. If the vessel does not go to Honolulu, H. I., or other foreign port, she will return direct to San Francisco, Cal., from British Columbia or Puget Sound for final discharge, as directed by the master." It is clear that the shipping articles provide for a voyage to one or more foreign ports, or for a coasting voyage, at the option of the master, and I consider the objection to be fatal to the contract. Rev. St. U. S., sec. 4511, in terms which are mandatory, requires that shipping articles shall state the nature of the voyage. At the time of engaging themselves in the service of the vessel, seamen have a right to know whether they are engaging for a foreign voyage or merely to serve in domestic trade. A captain may lawfully hire a crew to proceed in a vessel from one port of the United States to another, and then to a foreign port and return to the port of discharge via a number of intermediate ports, but the law does not permit such duplicity in shipping contracts as we have in this instance, where by the specified terms of the shipping articles, the master is given full control to take the vessel and her crew on a long voyage to one or more foreign ports, or make a short run to a near-by domestic port and return to the port of discharge. It is the intention of the law to prohibit the shipment of seamen without their consent, and, to make it appear that the seamen have consented to enter the service of the vessel for a voyage or for a specified term, it is essential, and the law requires, that the shipping articles specify

clearly the nature of the intended voyage. As already intimated, I hold the shipping articles in this case to be void, and consequently the disobedience of the libelants can not be regarded as an offense punishable by forfeiture of their wages.

The libelants went on board the vessel voluntarily, without having any valid contract entitling them to be returned to the port of San Francisco, and therefore they have no just claim for expenses of returning to San Francisco, nor for any compensation, except wages while they were doing the work required of them. A decree will be entered awarding to each of the libelants wages at the rate of $35 per month for 12 days' time, and costs.

DECISIONS UNDER COMMON LAW.

EMPLOYERS' LIABILITY—ASSUMPTION OF RISK BY EMPLOYEE—DANGEROUS MACHINERY—*Rohrabacher v. Woodward, 82 Northwestern Reporter, page 797.*—This action was brought by Edward Rohrabacher against Lyman E. Woodward, his employer, to recover damages for injuries received by him while operating a surface wood-planing machine. In the circuit court of Shiawassee County, Mich., where a trial of the case was had, a judgment was rendered in favor of the defendant, Woodward, and the plaintiff, Rohrabacher, carried the case upon a writ of error before the supreme court of the State, which rendered its decision May 15, 1900, and affirmed the judgment of the lower court, holding that an experienced servant of mature years can not continue to operate a machine, which he knows is dangerous, without assuming the risk, simply because the employer has assured him that it is safe, when the servant has just as much knowledge of the danger arising from its operation as the employer. The evidence showed that the plaintiff, a man 45 years of age, after working for the defendant for eighteen or nineteen months operating a surface wood-planing machine, was put to work upon a new machine of a different plan; that after working a few days upon this machine he perceived that it was dangerous; that he called the attention of the defendant to this fact, but was assured by him that it was not dangerous; that relying upon this assurance he continued to work upon the machine until finally the board he was planing kicked and his hand was thrown into the throat of the machine and he was severely injured.

The opinion of the supreme court was delivered by Judge Moon, who, in the course of the same, made use of the following language:

> The position of counsel [for plaintiff], as stated in their brief, is: "If the plaintiff complained to defendant of what he thought was dangerous, and was commanded by defendant to go on with his work, and gave him the assurance that it was safe, he [the defendant] will not be heard to say afterwards, and when an injury has resulted from the very defect complained of: 'You assumed the risk. You were guilty of contributory negligence in doing what I commanded you to do.'"

We do not think the above statement of counsel is a proper statement of the law, and the cases cited do not so indicate. One can not

continue to operate a machine which he knows is dangerous simply upon the assurance of his employer that it is not, if he has just as much knowledge of the danger arising from the operation of the machine as his principal has. Taking plaintiff's own version of the situation, speaking for myself, I think the court would have been justified in directing a verdict for the defendant. The plaintiff was a man of mature years, acquainted, by actual operation, with machinery. He was put at work upon a new machine of simple construction. He had as much knowledge of its operation within a few days after he began work, and of its dangers, as any one. He says he learned of the danger of planing short pieces with the machine within a day or two after he commenced to work with it, and, after obtaining that knowledge, without any promise of any change in the machine or its conditions, he continued to work upon it for the period of eleven months, when he was hurt. If, under such circumstances, the employer is liable, it is difficult to conceive of a case where an accident occurred that liability would not attach.

EMPLOYERS' LIABILITY—DUTIES OF THE EMPLOYER—NEGLIGENCE—ASSUMPTION OF RISK BY EMPLOYEE—*Frye v. Bath Gas and Electric Co., 46 Atlantic Reporter, page 804.*—Action was brought by Arthur J. Frye, a minor, by his next friend, against the above-named company to recover damages for injuries incurred by him while in the employ of said company. The evidence showed that in the fire room, where the plaintiff was employed, the defendant company had caused four holes to be dug, of varying depths, in which to place stone foundations for the support of iron pillars of a massive machine, known as an "economizer," and required for the business of the power house; that one of these holes, about 2 feet deep, was directly opposite the door at furnace No. 3, being some 11 feet distant; that the plaintiff had known of the existence of the hole for three days; that on March 10, 1898, while "slicing" the fire in furnace No. 3, the plaintiff stepped backward, and either fell into the hole or across and upon a plank lying across the hole, from which fall he received the injuries complained of.

The case was heard in the supreme judicial court sitting in Sagadahoc County, Me., and a verdict was rendered for the plaintiff. The defendant company moved for a new trial and the motion was heard by the full bench of said court which rendered its decision February 12, 1900, and overruled the motion. The opinion of the court was delivered by Judge Strout, and the syllabus of the same, marked "official" by the court, reads as follows:

1. It is the duty of the master to provide a reasonably suitable and safe place where his servant can perform his work. The neglect of that duty by the master's employees is the neglect of the master himself.

2. The plaintiff was a fireman employed in the boiler room of the defendant, and while thus at work fell into a hole that had been dug

and left open, or in a dangerous state, in front of the boiler, by the defendant's employees who were making a foundation there for an "economizer." *Held*, that leaving the hole uncovered, or the excavation in an unsafe condition, was negligence of the master, and that the doctrine as to negligence of a fellow-servant does not apply.

3. While it is settled law that a servant assumes the ordinary and apparent risks of his employment, he does not assume the risks from defects in the plant itself, which the master is bound to make and keep reasonably safe.

4. The fact that a person takes voluntarily some risk is not conclusive evidence, under all circumstances, that he is not using due care. Nor is knowledge of a danger not fully appreciated conclusive that the risk is his.

5. While the defendant may well be chargeable with negligence in not sufficiently covering the hole, considering its proximity to the boiler, where the plaintiff was at work, and also the method and exigencies of that work, *held*, that it is peculiarly for the jury to decide whether he acted recklessly, regardless of his safety, or whether he exercised that degree of care to be reasonably expected in that situation, and under all the circumstances.

6. The verdict of a jury is entitled to respect, and should not be disturbed unless it is so clearly wrong as to compel the conclusion that it is the result of prejudice or failure to comprehend the facts and the legitimate inferences therefrom, or is antagonized by some controlling rule of law.

EMPLOYERS' LIABILITY—DUTIES OF THE EMPLOYER—NEGLIGENCE OF INDEPENDENT CONTRACTOR—*Toledo Brewing and Malting Co. v. Bosch, 101 Federal Reporter, page 530.*—This action was brought in the State court of common pleas of Lucas County, Ohio, by one Bosch against the above-named company, to recover damages for a personal injury sustained by him while in the employ of the same. Upon application of the defendant company the case was removed into the United States circuit court for the western division of the northern district of Ohio. The evidence showed that Bosch was the engineer of an ice machine operated by the defendant company; that it was a part of his duty to aid occasionally in hoisting barrels of salt from the ground to the second floor of the brewery building, and that he was engaged in the discharge of this duty when he was injured; that the company had employed the Schillinger Brothers, a firm engaged in the general roofing business, to repair the roof of the brewery; that said firm in the course of their work found it necessary to remove the weights from a beam which formed a part of the hoisting apparatus by which the barrels of salt were raised; that neither the foreman of the brewery, the plaintiff, nor any other brewery employee had any knowledge that these weights had been removed; that some of said employees with the plaintiff undertook to hoist a barrel of salt when the beam upset and fell, one end coming down into the window where

the plaintiff was stationed, striking him on the head, shoulders, and ankle, breaking his ankle and causing serious injury. The right to recover damages was grounded on the alleged omission of the duty by the master to take reasonable precautions for the safety of the servant, and the defendant company denied this right upon the ground that the acts complained of as negligent were those of an independent contractor, for which the defendant, as employer, was not responsible. The circuit court instructed the jury, in substance, that the defendant was under a positive duty to take reasonable care and precautions for the safety of the servant in providing a safe place in which to work, and safe machinery and apparatus with which to do the work, and that it was not relieved of this duty in consequence of the contract with Schillinger Brothers, and that its responsibility in that respect was the same, under the given facts in this case, as if the work had been done by the defendant company itself. To the charge of the court exception was duly taken and error assigned. The jury returned a verdict in favor of the plaintiff, assessing his damages at $5,000, upon which judgment was pronounced. The defendant company then carried the case, upon a writ of error, to the United States circuit court of appeals for the sixth circuit, which rendered its decision May 8, 1900, and affirmed the judgment of the lower court.

In the opinion of the court of appeals, delivered by District Judge Clark, the following language was used:

The controlling question, then, is whether, in view of the contract between plaintiff in error [the brewing and malting company] and Schillinger Bros., the doctrine in relation to employer and independent contractor is applicable to the facts in the case. The general rule is well settled, and not controverted, that an employer is not liable for an injury resulting from the negligence of an independent contractor, or his servants, such as negligence in the mode of doing a work in itself lawful. One exception to the general rule of exemption from liability in such cases is where the law imposes on the employer the duty to keep the subject of the work in a safe condition. A municipal corporation, for example, being under a duty imposed by law to keep the streets in a safe condition for passage, is liable for injuries in consequence of an obstruction or dangerous excavation caused in the performance of a work, and left exposed, although the work is done by an independent contractor.

Here the court cites numerous cases in support of the above proposition and then continues as follows:

These and other like cases proceed upon the principle that a positive personal duty can not be delegated to an agent or contractor, and that the obligation in such cases is to do the thing required, and not merely to employ another to do it, and, to bring a case within the rule, it is sufficient if the duty is one to the public or a third person, and imposed by law or by statute.

At this point the court quotes from a number of cases and then goes on in its opinion as follows:

In the last case cited [Burnes *v.* Railroad Co., 129 Mo., 41, 56; 31 S. W., 350], the supreme court of Missouri, speaking in relation to the duty of the master, said: "The duty of keeping its road, track, and yards in a reasonably safe condition is a personal duty which the master owes the servant, and it can not delegate this duty to any servant, high or low, nor can it avoid liability by letting out a part of its duties as a common carrier to independent contractors. While, for many purposes, this relation of independent contractor will be recognized, it can not be sustained to shield the master from those positive personal obligations cast upon him by his relation to his servant. (Schaub *v.* Railroad Co., 106 Mo., 74; 16 S. W., 924; Lewis *v.* Railroad Co., 59 Mo., 495; Siela *v.* Railroad Co., 82 Mo., 435.)"

In view of these cases, it must be regarded as established by the weight of authority, supported by reason, that the master is not relieved from the positive personal duty which he is under to the servant by letting work to a contractor, and that he does not avoid liability in case the work is negligently done, and the servant thereby injured in consequence of exposure to a dangerous place or defect against which, in the discharge of the master's duty, he should have been protected. It follows, therefore, that the learned circuit judge rightly ruled the question on which the case turns, and in regard thereto correctly instructed the jury. Judgment affirmed.

EMPLOYERS' LIABILITY—EFFECT OF RELEASE OF CLAIM FOR DAMAGES—*Pioneer Cooperage Co. v. Romanowicz, 57 Northeastern Reporter, page 864.*—Anton Romanowicz brought suit against the above-named company in an inferior court of the State of Illinois to recover damages for injuries incurred by him while in its employ, and recovered a judgment. The case was appealed by the company to the appellate court, first district, which affirmed the judgment of the lower court in favor of Romanowicz. The company then appealed the case to the supreme court of the State, which rendered its decision June 21, 1900, and affirmed the judgments of the lower courts. The plaintiff upon the trial proved the fact of injury and that it was due to the negligence of the company, etc., and the only defense offered by the company was the fact that 17 days after the accident occurred the plaintiff signed a paper, in the presence of the foreman of the company and one Frank Domanske, who was a friend of the plaintiff, reciting that the injury was received through his own carelessness and through no fault of the company, and containing the following language: "In consideration that the company pay my doctor's bill, I relinquish all further claim upon said company." In reply to this the plaintiff furnished evidence to the effect that neither he nor his friend, who was with him and who witnessed the signatures to the release, could read English; and that the foreman represented to them that it was only an agreement or authority for the defendant to furnish a physician, of whose attendance the plaintiff was in urgent need.

The opinion of the supreme court was delivered by Judge Phillips and contains the following:

The effect of this release, under the circumstances under which it was executed, was a question of fact to be determined by the jury under proper instructions.

Appellant complains of the giving of the two following instructions for the plaintiff: "The jury are instructed that if you believe from the evidence that the release in this case was procured from the plaintiff by the defendant, or by any one for it, and that at the time the plaintiff signed the said paper he believed from what was told him before signing it that it was for the purpose of securing the services of a physician, and that the parties who induced him to sign said paper led the plaintiff to believe that he was only signing a paper for the purpose of securing the services of a physician, and that the plaintiff did so believe, you are instructed that a release so procured would not be binding upon the plaintiff, and should not be considered by you in arriving at your verdict."

"You are instructed that it is for the jury to determine, from all the evidence and circumstances in the case, whether the plaintiff understood the contents of the release at the time he signed it, and whether he intended to release, and understood that he was releasing, his claim and right of action against the defendant in consideration of the defendant furnishing him with a doctor; and, unless you so find, you are instructed that it would not release the defendant from liability, if you further find from the evidence that the defendant is liable, and such release should be disregarded by you in arriving at your verdict."

These two instructions, taken together, are supported by the evidence, and, while they might have been given in better form, are within the rule announced in Syrup Co. *v.* Carlson, 47 Ill. App., 178, which case is reported in this court in 155 Ill., 210; 40 N. E., 492. In that case the appellate court said that a release may be regarded as not fairly obtained, and hence as inoperative, where it is taken from one unable to read the language, and is not read over to him, and he is made to believe that it is a paper for some other purpose.

We find no sufficient ground for a reversal of the judgment, and the judgment of the appellate court for the first district is affirmed.

EMPLOYERS' LIABILITY—MUNICIPAL CORPORATIONS—*Rhobidas v. City of Concord, 47 Atlantic Reporter, page 82.*—In the supreme court of the State of New Hampshire action was brought by Edward Rhobidas against the city of Concord for damages for personal injuries alleged to have been caused by the defendant's negligence while the plaintiff was employed as a servant in the waterworks department of said city. The defendant entered a special plea, the details of which it is not necessary to mention, to the effect that being a municipal corporation it was not liable under the law in a suit of this nature. The plaintiff then filed a demurrer to this plea and, after a hearing, the supreme court rendered its decision March 16, 1900, and sustained the demurrer, holding that a servant in a city waterworks department who

has received personal injuries by reason of the negligence of the city's officers or agents, may recover therefor against the city, notwithstanding the city was in the performance of a public duty.

From the opinion of the court, delivered by Judge Peaslee, the following is quoted:

The plaintiff's demurrer raises the question whether there is in this State any common-law liability of a municipal corporation, and, if there is, whether it exists in the class to which the present case belongs. While it is the law of this jurisdiction that towns are to a certain extent a part of the State, and therefore not suable at common law, no case has gone so far as to hold that this rule applies to all cases. The mere fact that a town is engaged in the performance of a public duty is not enough to free it from all common-law liability for its acts, if the word "public" is to be taken in the broad sense of including every enterprise which may be supported by taxation. There is no case laying down such a doctrine in this State.

Taking the law as it has been declared in this State, a town is liable for the negligence of its agents which affects the private property right of others. Is it any less liable when the right involved is personal instead of proprietary? The basis of the cause of action is the infringement of a private right—a violation of those rules of conduct which from being custom became law, and which now govern the conduct of all in their relations to others, be those relations either personal or proprietary. A private right is infringed when a person's health is injured by emptying a sewer wrongfully in the vicinity of his residence, the same as when water is wrongfully turned upon his land.

The rule which governs this case is clearly stated by Perley, C. J., in Eastman *v.* Town of Meredith, 36 N. H., 284, 295, where it is said: "The plaintiff in cases of this character does not recover on the ground that he has been denied any public right which the corporation owed to him as a citizen of the town, or because he has suffered an injury in the exercise of a public right, from neglect of the town to perform a public duty. The corporation being authorized by law to execute the work, if in their manner of doing it they cause a private injury they are answerable in the same way and on the same principle as an individual who injures another by the wrongful manner in which he performs an act lawful in itself. It has been sometimes made a question whether in the particular case the corporation were liable as principals for the conduct of those who performed the work on their account; but, where a work is once conceded to be done by the corporation, it would seem to be clear, on authority and general principles, that a corporation, public or private, must be held liable, like an individual, for injuries caused by negligence in the process of executing the work." For more than 40 years this decision has been acted upon as correctly stating the law applicable to this class of cases. It states the law, not only of this jurisdiction, but of every jurisdiction where the common law prevails.

"It is * * * universally considered, even in the absence of a statute giving the action, that" municipal corporations "are liable for acts of misfeasance positively injurious to individuals, done by their authorized agents or officers in the course of the performance of cor-

porate powers constitutionally conferred, or in the execution of corporate duties." (2 Dill. Munn. Corp., sec. 966.)

The case at bar falls within the rules laid down by these authorities. The complaint is of wrongful acts injurious to an individual.

Except as to those guarantied by the constitution, private rights may be modified or enlarged by legislative action; but until this is done they remain as they were at common law. So in this case the contract of the parties created a situation which gave the plaintiff the common-law right to be furnished a reasonably safe place in which to work. The existence of the right can not be doubted. It was a "particular right" concerning the individual only, and not one which "affected the whole community." It was in every sense such a right that a negligent violation of it would be a civil injury or private wrong. It in no way depended upon the performance or nonperformance by the defendants of any public duty. Demurrer sustained.

LAWS OF VARIOUS STATES RELATING TO LABOR ENACTED SINCE JANUARY 1, 1896.

[The Second Special Report of the Department contains all laws of the various States and Territories and of the United States relating to labor in force January 1, 1896. Later enactments are reproduced in successive issues of the Bulletin from time to time as published.]

GEORGIA.

ACTS OF 1899.

ACT No. 311.—*Forgery, etc., of cards and receipts for dues given by associations of railroad employees and of employers' letters or certificates of recommendation.*

(Page 79.)

SECTION 1. From and after the passage of this act, any person who shall make, alter, forge or counterfeit any card or receipt of dues purporting to be given or issued by any association of railway employees, or by any of its officers, to its members, with intent to injure, deceive or defraud, shall be punished as hereinafter provided.

SEC. 2. Any person who shall falsely make, alter, forge or counterfeit any letter or certificate purporting to be given by any corporation or person, or officer or agent of such corporation or person to an employee of such corporation or person at the time of such employee's leaving the service of such corporation or person, showing the capacity or capacities in which such employee was employed by such corporation or person, the date of leaving the service or the reason or cause of such leaving, with the intent to injure, deceive or defraud, shall be punished as hereinafter provided.

SEC. 3. Any person who shall willfully and knowingly utter, publish, pass or tender as true, or who shall have in his possession with intent to utter, publish, pass or tender as true, any false, altered, forged or counterfeited letter, certificate, card or receipt, the forging, altering or counterfeiting whereof is prohibited by either of the preceding sections of this act, with intent to injure, deceive or defraud, knowing the same to be forged, shall be punished as hereinafter provided; *provided* that nothing in this act shall be construed to repeal, change or modify any of the existing laws in this State against the crime of forgery.

SEC. 4. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1039, Vol. III, of the Penal Code of 1895.

SEC. 5. All laws and parts of laws in conflict with this act be, and the same are, hereby repealed.

Approved December 20, 1899.

IOWA.

ACTS OF 1900.

CHAPTER 79.—*Compensation of mine inspectors.*

SECTION 1. Section twenty-four hundred and eighty-three (2483) of the code [shall] be amended, as follows: Strike out the words "twelve hundred" in the ninth line and insert in lieu thereof the following "fifteen hundred." Also by striking out the words "five hundred" in the tenth line, and inserting in lieu thereof the words "seven hundred and fifty."

Approved April 7, 1900.

CHAPTER 80.—*Mine regulations—Payment to be made for slack mined.*

SECTION 1. Section two thousand four hundred and ninety (2490) of the code be and the same is hereby amended by striking out the word "slack" in the twenty-eighth line of said section.

Approved March 23, 1900.

CHAPTER 81.—*Payment of wages of coal miners.*

SECTION 1. Section two thousand four hundred and ninety (2490) of the code [shall] be amended by striking out the period at the end of the word "semi-monthly" in line thirty-seven and inserting in lieu thereof a comma, and by adding after said word "semi-monthly" in said line thirty-seven the following, to wit: "By paying for those earned during the first fifteen days of each month not later than the first Saturday after the twentieth of said month, and for those earned after the fifteenth of each month not later than the first Saturday after the fifth of the succeeding month."

Approved March 29, 1900.

CHAPTER 82.—*Examination, etc., of mine foremen, pit bosses, and hoisting engineers.*

SECTION 1. From and after January 1st, 1901, it shall be unlawful for any person to discharge, or attempt to discharge, any of the duties of mine foreman, pit boss, or hoisting engineer at any coal mine, whose daily output is in excess of twenty-five tons, unless he shall hold a certificate of competency for such position as provided in this act. But in case of the discharge, resignation, or disability of any person lawfully performing such duties the owner, agent, operator, or managing officer of said mine shall have a reasonable time within which to secure the services of a certificated person to take the place of the one so discharged, resigned, or disabled; and during such time a competent and capable person, whether certificated as provided in this act or not, may be temporarily employed to perform such services.

SEC. 2. Any person may secure the certificate of competency herein provided for by appearing before the board created by section twenty-four hundred and seventy-nine (2479) of the code for the examination of State mine inspectors, and submitting to such examination as to his qualifications, or producing such evidence of service, as required by this act.

SEC. 3. The board of examiners referred to in the last preceding section shall meet at such times and places, shall adopt such rules, conditions, and regulations, and shall prescribe and conduct such examinations as shall be most efficient to give effect to the spirit and intent of this act. The members of said board shall each receive the sum of five dollars per day for every day actually employed in the discharge of the duties imposed herein, together with their actual expenses incurred in the performance of such duties, which expenses shall be itemized and verified as provided by section 2480 of the code, but they shall not be allowed compensation for more than seventy days in any one year.

SEC. 4. The certificate of competency herein provided shall be issued (1) to any person who shall satisfactorily pass such examination, written or oral, as may be prescribed by said board; (2) to any person who shall produce satisfactory evidence that he has, for a period of four years immediately preceding the examination, continuously and capably performed the duties of mine foreman, pit boss, or hoisting engineer as the case may be.

SEC. 5. Every person applying for a certificate under this act shall pay to said examining board a fee of two dollars, and every successful applicant shall pay to said board an additional fee of two dollars; all of said fees to be accounted for and covered into the State treasury. Each certificate issued under this act shall be recorded in the office of the examining board, and shall show the name, age, residence, and years of experience of the person to whom it was issued.

SEC. 6. No owner, agent, operator, or managing officer of any coal mine to which this act applies shall employ any mine foreman, pit boss, or hoisting engineer who does not hold the certificate herein contemplated. And any person violating any of the provisions of this act shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment, in the discretion of the court.

Approved March 23, 1900.

CHAPTER 138.—*Convict labor—State penitentiaries.*

SECTION 1. It shall not be lawful except to complete existing contracts made by the board of control to manufacture for sale any pearl buttons or butter tubs in the penitentiaries of this State, and it shall be the duty of the board of control and wardens

of said penitentiaries to enforce the provisions of this act, and to prohibit the manufacture of pearl buttons or butter tubs, in whole or in part, by the inmates confined in said penitentiaries.

SEC. 2. This act shall not alter or impair the conditions of any contract actually made and entered into by and between any contractor and the board of control, which shall have been made prior to the passage of this act.

SEC. 3. This act, being deemed of immediate importance, shall take effect and be in force on and after its publication in the Iowa State Register and Des Moines Leader, newspapers published at Des Moines, Iowa.

Approved April 7, 1900.

KENTUCKY.

ACTS OF 1900.

CHAPTER 12.—*Protection of employees as voters.*

SECTION 3. Any corporation chartered under the laws of this State, or authorized to do business therein, which shall, through any officer, attorney, agent or employee, or otherwise, directly or indirectly, influence or attempt to influence by bribe, favor, promise, inducement, threat or otherwise, the vote or suffrage of any employee or servant of such corporation against or in favor of any candidate, platform or principles or issue in any election held under the laws of the Commonwealth, shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than five hundred dollars nor more than five thousand dollars for each offense, and its charter, or authority to do business in this State, shall, upon such conviction, be repealed, revoked, annulled and held for naught.

Approved March 17, 1900.

LOUISIANA.

ACTS OF 1900.

ACT No. 55.—*Seats for female employees, time for lunch, etc.*

SECTION 1. Hereafter it shall be unlawful for any person, firm or corporation doing business in the State of Louisiana, where female labor or female clerks are employed, not to maintain seats, chairs or benches which shall be so placed as to be accessible to said employees, for their use during the times when said employees are not actually engaged in the attention to their duties as employees of such firm, person or corporation.

SEC. 2. Hereafter all persons, firms or corporations doing business at retail in the State of Louisiana where female labor or female clerks are employed, shall be required to give every employee each day, between the hours of ten (10) a. m. and three (3) p. m. not less than thirty (30) minutes for lunch or recreation.

SEC. 3. Whoever shall be found guilty of evading or disobeying any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon arrest and conviction therefor shall be fined in a sum of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100), and in default of the payment thereof shall be sentenced to imprisonment for a period not less than five (5) days nor more than six (6) months.

SEC. 4. All acts or parts of acts contrary to or in conflict herewith shall be and the same are hereby repealed.

Approved July 5, 1900.

ACT No. 66.—*Sunday labor—Barber shops.*

SECTION 1. The municipal authorities of any incorporated city or town in this State having a population not exceeding fifty thousand shall have power and authority to regulate or prohibit the opening and closing of barber shops within their corporate limits on Sunday.

SEC. 2. Said cities and towns shall have authority to punish by penal ordinance violations of their ordinances passed in pursuance of this act.

SEC. 3. All laws and parts of laws in conflict with this act are hereby repealed.

Approved July 6, 1900.

ACT No. 70.—*Convict labor.*

SECTION 1. All persons sentenced to the penitentiary shall be confined in the State penitentiary, at Baton Rouge, on State farms, on quarter boats or other suitable quarters.

SEC. 2. The control and management of the penitentiary and convicts shall be vested in a board, styled "The Board of Control of the State Penitentiary." * * *

SEC. 4. * * * It [the board] shall, at all times, have general charge of all convicts and employees of the penitentiary farms, manufactories, quarter boats and other places where convicts are kept. * * *

SEC. 10. The board of control, on its organization, may with the approval of the governor, purchase or lease a tract or tracts of land on such terms and conditions as the governor may approve, and after due advertisement, * * * for the establishment of one or more State convict farms, to be cultivated by the State, or for the establishment of manufactories. * * *

SEC. 11. The buildings to be erected by the board of control, or quarter boats or other quarters shall be of the most modern and sanitary kind on plans approved by the governor, and shall be constructed, as far as possible, with convict labor. * * *

SEC. 14. The board of control is hereby authorized to contract for building by the convicts, of public levees, public roads or other public works, or for stopping crevasses within the State of Louisiana, and to bid for the construction of the same or for work in connection therewith, the same as a private contractor; and when such work is to be paid for by the parishes, the cities, towns, villages, or the levee boards of the State the board of control shall be exempt from giving bond, and State board engineers, so far as practicable, shall on any levee work whether for construction or repair of levees employ the State convicts, by contract and agreement, with the board of control of the penitentiary, and the price of said labor, shall be paid to the board of control out of the general engineer fund.

SEC. 19. This act shall take effect on promulgation, * * * and all laws or parts of laws in conflict with this act are hereby repealed.

Approved July 6, 1900.

ACT No. 79.—*Bureau of labor statistics.*

SECTION 1. The governor shall, by and with the advice and consent of the senate, appoint some suitable person who shall be designated "Commissioner of Statistics of Labor," with headquarters at the capital at Baton Rouge, and who shall hold his office for the term of four (4) years.

SEC. 2. The duties of such commissioner shall be to collect, assort, systematize and present in annual reports to the governor and to be by him biennially transmitted to the legislature within 10 days after the convening thereof every 2 years statistical details relating to all departments of labor in the State; especially in relation to the commercial, industrial, social and sanitary condition of workingmen and to the productive industries of the State.

SEC. 3. Said commissioner shall also have power to send for persons and papers, to examine witnesses under oath, to take depositions, to cause them to be taken by others by law authorized to take depositions; and said commissioner, may depute any uninterested person to serve subpœnas upon witnesses who shall be summoned in the same manner, and paid the same fees as allowed by district courts, but for this purpose persons are not required to leave the parish in which they reside nor to answer questions respecting their private affairs.

SEC. 4. The commissioner shall receive a salary of fifteen hundred dollars ($1,500) per annum, shall employ a clerk at a salary of one thousand dollars ($1,000) per annum, and shall be allowed one thousand dollars ($1,000) for all necessary expenses attendant upon the proper exercise of the duties of his office, all of which amounts shall be payable monthly out of a general fund upon the warrant of the said commissioner.

SEC. 5. All laws or parts of laws in conflict herewith are repealed.

Approved July 9, 1900.

ACT No. 89.—*Civil service law—Laborers, etc., exempt—New Orleans.*

SECTION 1. There shall be a board of civil service commissioners for the city of New Orleans; * * *

SEC. 3. Said commissioners shall, as soon after their appointment as possible, classify, with reference to the examinations hereinafter provided for, all offices and places of employment in said city, except only such offices and places to which appointment or election is otherwise expressly provided for by law, and except such offices and places as are exempted from the provisions and operations of this act. * * *

SEC. 29. The following persons shall be entirely exempt from the provisions and operations of this act:

* * * * * * *

Fourth. Street laborers, street bridge carpenters, drivers, watchmen, porters and janitors, except as to physical ability to perform the duties of the position to which they seek appointment.

Approved July 10, 1900.

MASSACHUSETTS.

ACTS OF 1900.

CHAPTER 171.—*Boston—Establishment of industrial or trade school.*

SECTION 1. The city of Boston is hereby authorized to establish and maintain, or to contribute to the establishment and maintenance of, an institution for giving practical instruction in industrial occupations and in the arts and sciences allied therewith.

SEC. 2. This act shall take effect upon its passage.

Approved March 23, 1900.

CHAPTER 191.—*Exemption from attachment—Wages—Trustee process.*

SECTION 1. Section thirty of chapter one hundred and eighty-three of the Public Statutes is hereby amended * * * so as to read as follows: *Section 30.* When wages for the personal labor and services of a defendant are attached for a debt or demand other than for necessaries furnished to him or to his family, there shall be reserved in the hands of the trustee a sum not exceeding twenty dollars, which shall be exempt from such attachment; and when such wages are attached on a demand for such necessaries, there shall be so reserved a sum not exceeding ten dollars, provided the writ contains a statement showing the demand to be for such necessaries; otherwise in such cases there shall be so reserved a sum not exceeding twenty dollars.

SEC. 2. This act shall take effect on the first day of July in the year nineteen hundred.

Approved April 3, 1900.

CHAPTER 201.—*Examination, licensing, etc., of stationery engineers and firemen.*

SECTION 1. Section four of chapter three hundred and sixty-eight of the acts of the year eighteen hundred and ninety-nine is hereby amended by striking out all after the word "other," in the seventeenth line, and inserting in the place thereof the following:—but no person shall be examined for a special license for a particular plant unless a written request for such examination, signed by the owner or user of said plant, is filed with the application— * * *

SEC. 2. This act shall take effect upon its passage.

Approved April 4, 1900.

CHAPTER 223.—*Safety appliances on railroads—Platform gates on cars.*

SECTION 1. On and after the first day of January in the year nineteen hundred and one every drawing-room or sleeping car, passenger, baggage, mail and express car, owned or regularly used on any railroad in this Commonwealth, shall be provided at each end thereof with platform gates of a pattern approved by the board of railroad commissioners.

SEC. 2. Any railroad corporation running, hauling or permitting to be hauled or used on its road any car in violation of the provisions of this act shall be liable to a penalty of one hundred dollars for each offense, to be recovered in an action of tort, to the use of the Commonwealth, by the attorney-general or the district attorney for the district in which such violation occurred.

SEC. 3. This act shall take effect on the first day of January in the year nineteen hundred and one.

Approved April 12, 1900.

CHAPTER 269.—*Convict labor.*

SECTION 1. The public institutions named in chapter three hundred and thirty-four of the acts of the year eighteen hundred and ninety-eight, being "An act to provide for the employment of prisoners in making goods for the use of the prisons and other

public institutions," shall include every institution of the Commonwealth or of any county which is established, maintained, or supported wholly or in part by the appropriation of public moneys.

SEC. 2. The provisions of said chapter three hundred and thirty-four are hereby extended and applied to the public institutions of any city having a population of forty thousand inhabitants according to the census of the year eighteen hundred and ninety-five; and the principal officer of any institution supported by the appropriation of public moneys in any city included under the terms of this act shall make requisition for any articles that can be furnished by the labor of prisoners, in the same manner in which principal officers of State and county institutions are now required to make requisition under said chapter.

Approved April 26, 1900.

CHAPTER 282.—*Bonds not to be required of employees by certain corporations.*

SECTION 1. No corporation engaged in carrying passengers or in transporting freight for hire shall require or receive from any person employed or about to be employed by it any bond or other security, either with or without surety or sureties, for the purpose of indemnifying such corporation against loss or damage to persons or property resulting from any act or neglect of any employee or person about to become an employee of such corporation; but this act shall not apply to bonds for the proper accounting of money or other property belonging to any such corporation.

SEC. 2. Any violation of the provisions of this act by any such corporation or by any person in its behalf shall be punished by a fine not exceeding fifty dollars for the first offense, and not exceeding one hundred dollars for a second offense.

Approved May 2, 1900.

CHAPTER 298.—*Workingmen's trains.*

SECTION 1. Upon the filing with the board of railroad commissioners of a petition for workingmen's trains to be run by any specified railroad company whose line terminates in the city of Boston such trains shall be furnished by the company in such number, not less than two each way, as the said board may order. Such trains shall arrive at Boston between six and half past seven in the morning and between six and half past seven in the evening, every week day, and shall depart between the same hours. For such trains the company, for distances not exceeding fifteen miles, shall furnish season tickets at a rate not exceeding three dollars per mile per year, and quarterly and weekly tickets at a rate not exceeding one dollar per mile per quarter. All such tickets shall be good once a day, each way, for six days in the week. For such trains the company may provide special cars.

SEC. 2. This act shall take effect on the first day of July in the year nineteen hundred.

Approved May 4, 1900.

CHAPTER 335.—*Fire escapes on factories, etc.*

SECTION 1. Section twenty-four of chapter four hundred and eighty-one of the acts of the year eighteen hundred and ninety-four is hereby amended by inserting after the word "stairways," in the twenty-third line, the words:—or by such other way or device as the owner shall elect, provided the same shall be approved in writing by said inspector, * * *

SEC. 2. Section eighty-two of chapter four hundred and nineteen of the acts of the year eighteen hundred and ninety-two, as set out in section one of chapter three hundred and ten of the acts of the year eighteen hundred and ninety-seven, is hereby amended by striking out the words "a flight of stairs," in the twenty-ninth and thirtieth lines, * * *

Approved May 23, 1900.

CHAPTER 357.—*Hours of labor for workmen, etc., employed by cities or towns.*

Section three of chapter three hundred and forty-four of the acts of the year eighteen hundred and ninety-nine is hereby amended by striking out the whole of said section and inserting in place thereof the following:—*Section 3.* This act [eight-hour law] shall take effect in any city or town upon its acceptance by a majority of the voters present and voting thereon by ballot at any annual election thereof, and it shall be submitted for such acceptance upon the petition of one hundred or more registered voters of any city, or of twenty-five or more registered voters of any town, filed with the city or town clerk thirty days or more before any annual election.

Approved May 31, 1900.

CHAPTER 378.—*Hours of labor of women and children in mercantile establishments.*

SECTION 1. Section ten of chapter five hundred and eight of the acts of the year eighteen hundred and ninety-four is hereby amended * * * so as to read as follows:—*Section 10.* No minor under eighteen years of age, and no woman, shall be employed in laboring in any mercantile establishment more than fifty-eight hours in any one week: *provided*, that the restrictions imposed by this section shall not apply during the month of December in each year to persons employed in shops for the sale of goods at retail.

SEC. 2. This act shall take effect on the first day of July in the year nineteen hundred.

Approved June 13, 1900.

CHAPTER 414.—*Protection of street-railway employees—Inclosed platforms.*

SECTION 1. All street cars hereafter purchased, built or rebuilt by any street railway company and used for the transportation of passengers during the months of January, February, March and December, and all cars in use for the transportation of passengers during said months after the first day of November in the year nineteen hundred and two, except as otherwise provided in section two, shall have their platforms inclosed in such manner as to protect the motormen, conductors or other employees operating the cars from exposure to wind and weather, and in such manner as the board of railroad commissioners shall approve.

SEC. 2. Any street railway company operating cars in a city of more than one hundred and fifty thousand inhabitants may, on or before the first day of October in the year nineteen hundred, petition the board of railroad commissioners to be exempted from the provisions of this act so far as relates to such lines or routes owned or controlled by said company, where said company claims cars can not be operated with safety; and if after hearing and investigation said board decides that in its opinion street cars with the platform inclosed, as required by section one of this act, can not be operated with safety in such city, upon any or all of its lines or routes, this act shall not be applicable to said company, its officers or cars, so far as relates to such lines or routes so decided to be unsafe for such operation. Said board shall render its decision on all petitions brought under this section, with the reasons for such decision, on or before the first day of January in the year nineteen hundred and one, but said decision shall at any time be subject to revision by said board. If however said board shall decide adversely to the claim of said company in regard to any lines or routes included in said petition, then said petitioning railway company shall inclose the platforms of its cars operated on such lines or routes, in the manner provided in section one, within such time as said board shall deem reasonably requisite, not however exceeding four years from the date of the decision of the said board.

SEC. 3. The term "car," as used herein, includes all street cars operated by steam, cable or electricity which require while in motion the constant care or service of an employee upon the platforms or upon one of the platforms of the car. The term "company," as used herein, includes any corporation, partnership or person owning or operating a street railway.

SEC. 4. Any street-railway company which fails or neglects to comply with the provisions of this act shall be punished by a fine not exceeding one hundred dollars for each day during which such failure or neglect continues.

SEC. 5. The superintendent or manager of any street railway, and any other officer or agent thereof, who causes or permits any violation of this act, shall be jointly and severally liable with the company employing him to the fine hereinbefore designated, and in default of payment may be committed to jail until his fine is paid: *Provided*, That he shall not so be committed for a period longer than 3 months.

SEC. 6. So much of chapter four hundred and fifty-two of the acts of the year eighteen hundred and ninety-seven as is inconsistent herewith is hereby repealed.

Approved June 27, 1900.

CHAPTER 425.—*Hours of labor of employees of county jails, etc.*

The hours of labor for employees of county jails and houses of correction shall not exceed 60 hours in a week. Any county officer who violates this act by inducing or compelling any employee to work more than 60 hours a week shall be punished by a fine of not less than twenty-five nor more than fifty dollars for each offense.

Approved June 29, 1900.

CHAPTER 446.—*Employers' liability—Extension of time for giving notice under act.*

Section three of chapter two hundred and seventy of the acts of the year eighteen hundred and eighty-seven, as amended by * * * is hereby further amended by striking out the word "thirty," in the sixteenth and twenty-seventh lines, and inserting in each instance in place thereof the word:—sixty,— * * *

Approved July 10, 1900.

CHAPTER 469.—*Protection of employees on public works.*

SECTION 1. No person or corporation, and no agent or employee of any person or corporation, under contract with the Commonwealth or any municipal corporation or any county therein, or with any board, commission or officer acting on behalf of the Commonwealth or any county or municipal corporation therein, for the doing of public work, shall, either directly or indirectly, make it a condition of the employment of any person that he shall lodge, board or trade at any particular place or with any particular person; but every employee in such work shall have full liberty to lodge, board and trade wheresoever and with whomsoever he may choose.

SEC. 2. It shall be the duty of every board, commission or officer contracting as aforesaid, to make the provisions of this act a part of the contract.

SEC. 3. Any person who violates the provisions of this act shall be punished by fine not exceeding one hundred dollars for each offense.

Approved July 17, 1900.

CHAPTER 470.—*Payment of wages to employees of the State.*

The provisions of section fifty-one of chapter five hundred and eight of the acts of the year eighteen hundred and ninety-four, relative to the payment of weekly wages, so far as applicable to the cities of the Commonwealth, shall apply to the Commonwealth, and its officers, boards and commissions, when acting as employers of mechanics, workmen and laborers.

Approved July 17, 1900.

RESOLVES—CHAPTER 72.—*In favor of the New Bedford textile school.*

Resolved, That there be allowed and paid out of the treasury of the Commonwealth to the trustees of the New Bedford textile school the sum of eighteen thousand dollars, for the use of said school: *provided, however*, that no part of this sum shall be paid until satisfactory evidence is furnished to the auditor of accounts of the Commonwealth that an additional sum of seven thousand dollars has been paid to the said trustees for the use of said school by the city of New Bedford, or received by them from other sources; and *provided, further*, that the yearly tuition at said institution for day pupils who are nonresidents of the Commonwealth shall be not less than one hundred and fifty dollars. The city of New Bedford is hereby authorized to raise by taxation and pay to said trustees such sum of money, not exceeding seven thousand dollars, as may be necessary to secure the amount provided for by this resolve.

Approved May 18, 1900.

RESOLVES—CHAPTER 73.—*In favor of the Lowell textile school.*

Resolved, That there be allowed and paid out of the treasury of the Commonwealth to the trustees of the Lowell textile school a sum not exceeding thirty-five thousand dollars, to be expended under the direction of said trustees in erecting a building or buildings for the use of said school: *provided, however*, that no part of this sum shall be paid until satisfactory evidence is furnished to the auditor of accounts of the Commonwealth that a lot of land suitable and ample for such building or buildings has been contributed and conveyed in fee to said trustees, free from all incumbrances; and *provided, further*, that no part of said sum shall be paid to said trustees in excess of the combined fair market value of the land so conveyed to them and of machinery hereafter given absolutely to them for the use of the school, together with the amount of contributions of money made to the trustees for the general purposes of the school or for the erection of said building or buildings, exclusive however of any contribution of money for the use of said school provided for in any other act or resolve of the present year.

Approved May 18, 1900.

RESOLVES—CHAPTER 76.—*In favor of the Lowell textile school.*

Resolved, That there be allowed and paid out of the treasury of the Commonwealth to the trustees of the Lowell textile school the sum of sixteen thousand dollars, to be applied to the purposes of the school: *provided*, that no part of this sum shall be paid until satisfactory evidence is furnished to the auditor of accounts of the Commonwealth that an additional sum of six thousand dollars has been paid to said trustees by the city of Lowell or received by them from other sources. The city of Lowell is hereby authorized to raise by taxation and pay to said trustees such sum of money, not exceeding six thousand dollars, as may be necessary together with that received from other sources to secure the amount provided for by this resolve.

Approved May 28, 1900.

NEW YORK.

ACTS OF 1900.

CHAPTER 298.—*Hours of labor.*

SECTION 1. Section three of chapter four hundred and fifteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to labor, constituting chapter thirty-two of the general laws," as amended by chapter five hundred and sixty-seven of the laws of eighteen hundred and ninety-nine, is hereby amended to read as follows:

§ 3. Eight hours shall constitute a legal day's work for all classes of employees in this State except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for overwork at an increased compensation, except upon work by or for the State or a municipal corporation or by contractors or subcontractors therewith. Each contract to which the State or a municipal corporation is a party which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than 8 hours in any one calendar day except in cases of extraordinary emergencies caused by fire, flood or danger to life or property. The wages to be paid for a legal day's work as hereinbefore defined to all classes of such laborers, workmen or mechanics upon all such public works or upon any material to be used upon or in connection therewith shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the State where such public work on, about or in connection with such labor is performed in its final or completed form is to be situated, erected or used. Each such contract hereafter made shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, subcontractor or other person on, about or upon such public work shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum, nor shall any officer, agent or employee of the State or of a municipal corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract which in its form or manner of performance violates the provisions of this section, but nothing in this section shall be construed to apply to persons regularly employed in State institutions, or to engineers, electricians and elevator men in the department of public buildings during the annual session of the legislature.

SEC. 2. This act shall take effect immediately.

Became a law, April 6, 1900, with the approval of the governor. Passed, three-fifths being present.

CHAPTER 327—ARTICLE 3.—*Examination, licensing, etc., of plumbers.*

§ 40. The existing boards for the examination of plumbers in cities of this State are continued and each shall hereafter be known as the examining board of plumbers. Such board in each city shall continue to consist of five persons to be appointed by the mayor, of whom two shall be employing or master plumbers of not less than 10 years' experience in the business of plumbing, and one shall be a journeyman plumber of like experience, and the other members of such board shall be the chief inspector of plumbing and drainage of the board of health of such city, or officer performing the

duties of such inspector, and the chief engineer having charge of sewers in such city, but in the event of there being no such officers in such city, then any two other officers having charge or supervision of the plumbing, drainage or sewerage, whom the mayor shall designate or appoint, or two members of the board of health of such city having like duties or acting in like capacities.

§ 41. The term of office of each member of such board shall be 3 years, from the first day of January following his appointment. Vacancies occurring by expiration of a term shall be filled by the mayor for a full term. Vacancies by death, removal, inability to act, resignation or removal from the city of any member shall be filled by him for the unexpired term. The chief inspector of plumbing and drainage and the engineer in charge of sewers or the officers holding equivalent positions or acting in like capacities designated or appointed by the mayor as herein provided, shall be ex officio members of such examining board, and when they shall cease to hold their offices by reason or on account of which they were so designated or appointed, their successors shall act on the examining board in their stead.

§ 42. The master and journeymen plumbers serving as members of such board shall severally be paid the rate of five dollars per day for each day's service when actually engaged in the performance of the duties pertaining to the office; but such compensation shall not exceed five dollars per month in a city of the third class, nor the sum of ten dollars per month in a city of the second class, nor the sum of twenty dollars per month in a city of the first class. It shall be the duty of such ex officio members of the board of examiners to discharge their duties as members of such board without compensation therefor.

§ 43. All members of such board shall be citizens and actual residents of the cities in which they are appointed.

§ 44. The several examining boards of plumbers shall have power and it shall be their duty:

1. To meet at stated intervals in their respective cities; they shall also meet whenever the board of health of such city or the mayor thereof shall in writing request them so to do.

2. To have jurisdiction over and to examine all persons desiring or intending to engage in the trade, business or calling of plumbing as employing plumbers in the city in which such board shall be appointed with the power of examining persons applying for certificates of competency as such employing or master plumbers or as inspectors of plumbing, to determine their fitness and qualifications for conducting the business of master plumbers or to act as inspector of plumbing, and to issue certificates of competency to all such persons who shall have passed a satisfactory examination before such board and shall be by it determined to be qualified for conducting the business as employing or master plumbers or competent to act as inspectors of plumbing.

3. To formulate in conjunction with the local board of health of the city or an officer, board or body performing the duties of a board of health a code of rules regulating the work of plumbing and drainage in such city, including the materials, workmanship and manner of executing such work and from time to time to add to, amend or alter the same.

4. To charge and collect from each person applying for examination the sum of five dollars for each examination made by such board, and all moneys so collected shall be paid over by the board monthly to the chamberlain or treasurer of such city in which such board shall be appointed.

§ 45. A person desiring or intending to conduct the trade, business or calling of a plumber or of plumbing in a city of this State as employing or master plumber, shall be required to submit to an examination before such examining board of plumbers as to his experience and qualifications for such trade, business or calling, and it shall not be lawful in any city of this State for a person to conduct such trade, business or calling, unless he shall have first obtained a certificate of competency from such board of the city in which he conducts or proposes to conduct such business.

§ 46. Every employing or master plumber carrying on his trade, business or calling in any city of this State shall register his name and address at the office of the board of health of the city in which he shall conduct such business, under such rules as the respective boards of health of each of the cities shall prescribe, and thereupon he shall be entitled to receive a certificate of such registration, provided, however, that such employing or master plumber shall at the time of applying for such registration hold a certificate of competency from an examining board of plumbers.

§ 47. Such registration may be canceled by such board of health for a violation of the rules and regulations for the plumbing and drainage of such city duly adopted and enforced therein, after a hearing had before such board of health and upon a prior

notice of not less than ten days stating the ground of complaint and served on the person charged with the violation, but such revocation shall not be operative unless concurred in by the local board of examiners. It shall not be lawful for any person to engage in or carry on the trade, business or calling of an employing or master plumber in any of the cities of this State, unless his name and address shall have been registered in the city in which he carries on or conducts such business.

§ 50. All certificates of registration issued under the provisions of the preceding sections * * * shall expire on the thirty-first day of December of the year in which they shall be issued, and may be renewed within thirty days preceding such expiration. Such renewals to be for one year from the first day of January in each year.

§ 54. Each of such examining boards of plumbers shall have power to procure suitable quarters for the transaction of business, to provide the necessary books and stationery and to employ a clerk to keep such books and record the transactions of such board. The board of estimate and apportionment or the common council of a city as the case may be shall annually insert in their tax levy a sufficient sum to meet all the expenditures incurred under the provisions of this article. The expenses incurred by the several examining boards of plumbers in the execution and performance of the duties imposed by this article shall be a charge on the respective cities and shall be audited, levied, collected and paid in the same manner as other city charges are audited, levied, collected and paid.

§ 55. Any person violating any of the provisions of this article, or any rules or regulations of the board of health or of the examining board of plumbers in any city regulating the plumbing and drainage of buildings in such city, shall be guilty of a misdemeanor, and on conviction if a master plumber, shall in addition, forfeit any certificate of competency or registration, which he may hold under the provisions thereof.

§ 57. Nothing in this article shall affect or supersede any provision of chapter eight hundred and three of the laws of eighteen hundred and ninety-six, relating to plumbing in the city of New York.

Became a law, April 6, 1900, with the approval of the governor. Passed, three-fifths being present.

CHAPTER 378.—*Convict labor—State reformatory.*

SECTION 1. The State reformatory at Elmira is continued and shall be known as the Elmira reformatory.

§ 18. * * * The prisoners therein may be employed in agricultural or mechanical labor as a means of securing their support and reformation.

Became a law, April 11, 1900, with the approval of the governor. Passed, three-fifths being present.

CHAPTER 533.—*Seats for female employees.*

SECTION 1. Section seventeen of chapter four hundred and fifteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to labor, constituting chapter thirty-two of the general laws," is hereby amended to read as follows:

§ 17. Every person employing females in a factory or as waitresses in a hotel or restaurant shall provide and maintain suitable seats for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health.

SEC. 2. This act shall take effect immediately.

Became a law, April 19, 1900, with the approval of the governor. Passed, three-fifths being present.

CHAPTER 549.—*Railroads—Use of "coal jimmies" prohibited—Air brakes to be furnished.*

SECTION 1. Section two of chapter five hundred and forty-three of the laws of eighteen hundred and ninety-three, entitled "An act to promote the safety of railway employees by compelling the equipment of freight cars with continuous power or air brakes, and locomotives with driving wheel brakes," as amended by chapter four hundred and eighty-six of the laws of eighteen hundred and ninety-six, is hereby amended to read as follows:

§ 2. That on and after the first day of January, eighteen hundred and ninety-eight, the use of cars known and designated as "coal jimmies" in any form shall be unlawful within the State, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile, under a penalty of one hundred dollars for each offense, said penalty to be

recovered in an action to be brought by the attorney-general in the name of the people and in the judicial district where the principal office of the company within the State is located. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

SEC. 2. Section three of said chapter is hereby amended so as to read as follows:

§ 3. That on and after the first day of January, nineteen hundred and one, it shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within this State any freight train that has not a sufficient number of cars in it so equipped with continuous power or air brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

SEC. 3. Section five of said chapter is hereby amended so as to read as follows:

§ 5. That on and after January first, nineteen hundred and one any railroad or other company hauling or permitting to be hauled on its line or lines any freight train in violation of any of the provisions of this act, shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in any action to be brought by the attorney-general in the name of the people and in the judicial district wherein the principal office of the company within the State is located, and it shall be the duty of the board of railroad commissioners of the State to notify the attorney-general of all such violations coming to its notice.

SEC. 4. Section six of the said chapter is amended so as to read as follows:

§ 6. That the board of railroad commissioners may, from time to time, after full hearing given and for good cause shown, extend the time within which any company shall comply with the requirement of this act, not exceeding, however, four years from the first day of January, eighteen hundred and ninety-eight.

SEC. 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 6. This act shall take effect immediately.

Became a law, April 20, 1900, with the approval of the governor. Passed, three-fifths being present.

CHAPTER 709.—*Inspection of steam boilers and licenses of stationary engineers—New York City.*

SECTION 1. Section three hundred and twelve of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York" as amended by chapter six hundred and thirty-five of the laws of eighteen hundred and ninety-seven, is hereby amended by adding at the end of subdivision three thereof a new paragraph E, to read as follows:

E. Any person or persons violating any provision of this section or of any of its subdivisions shall be guilty of a misdemeanor.

SEC. 2. This act shall take effect immediately.

Accepted by the city. Became a law, May 1, 1900, with the approval of the governor. Passed, three-fifths being present.

CHAPTER 762.—*Conditional sales—Sale of property retaken by vendor.*

SECTION 1. Section one hundred and sixteen of chapter four hundred and eighteen of the laws of eighteen hundred and ninety-seven, entitled "An act in relation to liens, constituting chapter forty-nine of the general laws," is hereby amended to read as follows:

§ 116. Whenever articles are sold upon the condition that the title thereto shall remain in the vendor, or in some other person than the vendee, until the payment of the purchase price, or until the occurrence of a future event or contingency, and the same are retaken by the vendor, or his successor in interest, they shall be retained for a period of thirty days from the time of such retaking, and during such period the vendee or his successor in interest, may comply with the terms of such contract, and thereupon receive such property. After the expiration of such period, if such terms are not complied with, the vendor, or his successor in interest, may cause such articles to be sold at public auction. Unless such articles are so sold within thirty days after the expiration of such period, the vendee or his successor in interest may recover of the vendor the amount paid on such articles by such vendee or his successor in interest under the contract for the conditional sale thereof.

SEC. 2. This act shall take effect immediately.

Became a law, May 4, 1900, with the approval of the governor. Passed, three-fifths being present.

RHODE ISLAND.

ACTS OF 1900.

CHAPTER 735.—*Trade-marks, etc., of trade unions.*

SECTION 1. Whenever any person, or any association or union of workingmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device, or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise, or other product of labor as having been made, manufactured, produced, prepared, packed, or put on sale by such person, or association or union of workingmen, or by a member, or members, of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device, or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device, or form of advertisement.

SEC. 2. Whoever knowingly counterfeits or imitates any such label, trade-mark, term, design, device, or form of advertisement which has been filed and recorded in the office of the secretary of state as hereinafter provided; or knowingly sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device, or form of advertisement, or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise, or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped, or impressed; or knowingly sells or disposes of any goods, wares, merchandise, or other product of labor contained in any box, case, can, or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, or impressed; or knowingly keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise, or other product of labor in any box, case, can, or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, or impressed, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months.

SEC. 3. Every such person, association, or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, device, or form of advertisement as provided in section 1 of this act, shall file the same for record in the office of the secretary of state by leaving two copies, counterparts, or facsimiles thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association, or union on whose behalf such label, trade-mark, term, design, device, or form of advertisement shall be filed; the class of merchandise, and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing, or on whose behalf such label, trade-mark, term, design, device, or form of advertisement shall be filed, has the right to the use of the same, that no other person, firm, association, union, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile or counterparts filed therewith are true and correct, before there shall be any liability to any suit or proceeding for any violation of this act. There shall be paid for such filing and recording a fee of one dollar. Said secretary of state shall cause a description of such label, trade-mark, term, design, device, or form of advertisement to be published once a week for 3 successive weeks, at the expense of the applicant, in some newspaper published in the city of Providence. After such publication said secretary shall deliver to such person, association, or union so filing or causing to be filed any such label, trade-mark, term, design, device, or form of advertisement so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade-mark, term, design, device, or form of advertisement. Said secretary of state shall not record for any person, union, or association any label, trade-mark, term, design, device, or form of advertisement that would probably be mistaken for any label, trade-mark, term, design, device, or form of advertisement theretofore filed by or on behalf of any other person, union, or association.

SEC. 4. Any person who shall, for himself or on behalf of any other person, association, or union, procure the filing of any label, trade-mark, term, design, or form of advertisement in the office of the secretary of state under the provisions of this act by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in

consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding 3 months. In any suit or prosecution under the provisions of this act, the defendant may show that he or it was the owner of such label, trade-mark, term, design, device, or form of advertisement prior to its being filed under the provisions of this act, and that it has been filed wrongfully or without right by some other person, association, or union.

SEC. 5. Every such person, association, or union adopting or using a label, trade-mark, term, design, device, or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits, or imitations thereof, and all courts of competent jurisdiction may grant injunctions to restrain such manufacture, use, display, or sale, and may award the complainant in any such suit damages resulting from such manufacture, use, sale, or display, as may be by the said court deemed just and reasonable, and may require the defendants to pay to such person, association, or union all profits derived from such wrongful manufacture, use, display, or sale; and such court may also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause to be delivered to an officer of the court, or to the complainant, to be destroyed.

In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union, on behalf of and for the use of such association or union.

SEC. 6. Any person or persons who shall in any way use the name or seal of any such person, association, or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to use the same, shall be guilty of a misdemeanor, and shall be punished by imprisonment for not more than 3 months or by a fine of not more than one hundred dollars.

SEC. 7. The provisions of this act shall not abridge any rights to any trade-marks existing at the time of the passage of this act, whether the same shall be recorded or not, nor any remedies or rights of action otherwise or theretofore existing in favor of owners of trade-marks.

SEC. 8. The district courts of the several judicial districts shall have jurisdiction of all complaints for violations of this act.

SEC. 9. This act shall take effect and be in force from and after the first day of June, A. D. 1900, and all acts and parts of acts inconsistent herewith are hereby repealed.

Passed April 12, 1900.

CHAPTER 751.—*Exemption from attachment, etc.—Wages.*

SECTION 1. Clause 12 of section 5 of chapter 255 of the General Laws is hereby amended so as to read as follows:

12. The salary or wages due or payable to any debtor, not exceeding the sum of ten dollars.

SEC. 2. This act shall take effect immediately, and all acts and parts of acts inconsistent herewith are hereby repealed.

Passed May 4, 1900.