

1909.

THE PARLIAMENT OF THE COMMONWEALTH.

## HOUSE OF REPRESENTATIVES.

Read 1<sup>o</sup> 3rd September, 1909.*(Brought from the Senate.)*

## A BILL

FOR

## AN ACT

To amend the *Commonwealth Conciliation and Arbitration Act 1904*.

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Commonwealth Conciliation and Arbitration Act 1909*, and this Act and the *Commonwealth Conciliation and Arbitration Act 1904* may together be cited as the *Commonwealth Conciliation and Arbitration Acts 1904-1909*. Short title.

2. Part II. of the *Commonwealth Conciliation and Arbitration Act 1904* is amended by inserting therein after section nine and section ten respectively the following sections:—

9A.—(1.) No employer shall dismiss any employee from his employment or injure him in his employment by reason merely of the fact that the employee is an officer or member of an association that has applied to be registered as an organization. Employer not to dismiss employee on account of application.

15 Penalty: Twenty pounds.

(2.) In any proceeding for any contravention of this section, it shall lie upon the employer to show that any employee, proved to have been dismissed or injured in his employment whilst an officer or member of an association that has applied to be registered as an organization, was dismissed or injured in his employment for some reason other than that mentioned in this section. Onus on employer.

Employee not  
to cease work  
on account of  
application of  
employer.

10A.—(1.) No employee shall cease work in the service of an employer by reason merely of the fact that the employer is an officer or member of an association that has applied for registration as an organization under this Act. .

Penalty : Ten pounds.

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(2.) No proceeding for any contravention of this section shall be instituted without the leave of the President or the Registrar.

Onus on  
employee.

(3.) In any proceeding for any contravention of this section, it shall lie upon the employee, proved to have ceased work in the service of an employer whilst the employer was an officer or member of an association that has applied to be registered as an organization, to show that he ceased so to work for some reason other than that mentioned in this section. 10

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COMMONWEALTH CONCILIATION AND ARBITRATION  
BILL.

*(Amendments to be proposed by the Attorney-General.)*

Page 1, clause 1, line 5, omit " and this Act and the *Commonwealth Conciliation and Arbitration Act 1904* may together be cited as the *Commonwealth Conciliation and Arbitration Acts 1904-1909*". Insert—

"(2.) The *Commonwealth Conciliation and Arbitration Act 1904* is in this Act referred to as the Principal Act.

"(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Conciliation and Arbitration Act 1904-1909*."

Page 1, clause 2, line 8, omit "*Commonwealth Conciliation and Arbitration Act 1904*." Insert "Principal Act".

Page 1, clause 2, line 9, omit "inserting therein after section nine and section ten respectively". Insert "omitting sections nine and ten and inserting in lieu thereof".

Page 1, clause 2, line 11, omit after "9" the letter "A".

Page 1, clause 2, line 13, insert after "member" the words "of an organization, or".

Page 1, clause 2, line 14, insert after "organization" the words "or is entitled to the benefit of an industrial agreement or award".

Page 1, clause 2, line 15, insert after sub-clause (1.) new sub-clause (1A.) as follows:—"(1A.) No proceeding for any contravention of this section shall be instituted without the leave of the President or the Registrar."

Page 1, clause 2, line 19, insert after "of" the words "an organization or such".

Page 1, clause 2, line 19, omit "that has applied to be registered as an organization". Insert "or whilst entitled as aforesaid,".

Page 2, clause 2, line 1, omit after "10" the letter "A".

Page 2, clause 2, line 3, insert after "member" the words "of an organization, or".

Page 2, clause 2, line 4, omit "under this Act". Insert "or is entitled to the benefit of an industrial agreement or award".

Page 2, clause 2, line 10, insert after "of" the words "an organization or such".

Page 2, clause 2, line 11, omit "that has applied to be registered as an organization." Insert "or was entitled as aforesaid,".

New clauses to follow clause 2—

"3. After section thirty-eight of the Principal Act the following section is inserted :—

Costs of proceedings other than industrial disputes.

'38A. The Court or the President may order any party to any proceeding before it or him, not being an industrial dispute, to pay to any other party such costs and expenses, including the expenses of witnesses, as are specified in the order.'

"4. Section forty-three of the Principal Act is repealed and the following section substituted in lieu thereof :—

Rules of Court.

'43.—(1.) The President may, subject to the approval of the Governor-General, make rules not inconsistent with this Act or the Regulations—

(a) for regulating the practice and procedure of the Court ;  
and

(b) for prescribing the duties of the Industrial Registrar, the Deputy Industrial Registrars, and any other officers of the Court.

'(2.) Subject to this Act and to the rules, the practice and procedure of the Court and the duties of the Industrial Registrar, the Deputy Industrial Registrars, and other officers of the Court shall be as directed by the President.

'(3.) All such rules shall—

(a) be notified in the *Gazette* ;

(b) take effect from the date of notification, or from a later date specified in the rules ; and

(c) be laid before both Houses of the Parliament within thirty days of the making thereof, or, if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

‘(4.) If either House of the Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule, such rule shall thereupon cease to have effect.’

“5. Section fifty-nine of the Principal Act is amended by omitting the words ‘in the State in which the application is made.’ Amendment of s. 59 of Principal Act.

“6. Section eighty-three of the Principal Act is amended by adding at the end thereof the following sub-section :— Amendment of s. 83 of Principal Act.

‘(2.) Nothing in this section shall be taken to derogate from the power of the Court to punish for contempt.’”



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HOUSE OF REPRESENTATIVES.

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REPRINT

OF THE

COMMONWEALTH CONCILIATION AND  
ARBITRATION BILL 1909 (NO. 2),

SHOWING THE

AMENDMENTS TO BE PROPOSED

BY THE

ATTORNEY-GENERAL.

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(CIRCULATED BY THE HON. P. McMAHON GLYNN,  
ATTORNEY-GENERAL.)

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By Authority:

J. KEMP, GOVERNMENT PRINTER, MELBOURNE.





Note.—Type ruled through indicates the matter proposed to be omitted. Black type indicates the matter proposed to be inserted.

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**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Commonwealth Conciliation and Arbitration Act 1909*, and this Act and the *Commonwealth Conciliation and Arbitration Act 1904* may together be cited as the *Commonwealth Conciliation and Arbitration Acts 1904-1909*. Short title.

(2.) The *Commonwealth Conciliation and Arbitration Act 1904* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Conciliation and Arbitration Act 1904-1909*.

2. Part II. of the *Commonwealth Conciliation and Arbitration Act 1904* Principal Act is amended by inserting therein after section nine and section ten respectively omitting sections nine and ten and inserting in lieu thereof the following sections:—

9a.—(1.) No employer shall dismiss any employee from his employment or injure him in his employment by reason merely of the fact that the employee is an officer or member of an organization, or of an association that has applied to be registered as an organization, or is entitled to the benefit of an industrial agreement or award. Employer not to dismiss employee on account of application.

Penalty: Twenty pounds.

(1a.) No proceeding for any contravention of this section shall be instituted without the leave of the President or the Registrar.

(2.) In any proceeding for any contravention of this section, it shall lie upon the employer to show that any employee, proved to have been dismissed or injured in his employment whilst an officer or member of an organization or such an association that has applied to be registered as an organization, or whilst entitled as aforesaid, was dismissed or injured in his employment for some reason other than that mentioned in this section. Onus on employer.

10a.—(1.) No employee shall cease work in the service of an employer by reason merely of the fact that the employer is an officer or member of an organization, or of an association that has applied Employee not to cease work on account of application of employer.

for registrant as an organization under this Act, or is entitled to the benefit of an industrial agreement or award.

Penalty : Ten pounds.

(2.) No proceeding for any contravention of this section shall be instituted without the leave of the President or the Registrar.

Onus on  
employee.

(3.) In any proceeding for any contravention of this section, it shall lie upon the employee, proved to have ceased work in the service of an employer whilst the employer was an officer or member of an organization or such an association that has applied to be registered as an organization or was entitled as aforesaid, to show that he ceased so to work for some reason other than that mentioned in this section.

3. After section thirty-eight of the Principal Act the following section is inserted :—

Costs of  
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“38A. The Court or the President may order any party to any proceeding, before it or him, not being an industrial dispute, to pay to any other party such costs and expenses, including the expenses of witnesses, as are specified in the order.”

4. Section forty-three of the Principal Act is repealed and the following section substituted in lieu thereof :—

Rules of Court.

“43.—(1.) The President may, subject to the approval of the Governor-General, make rules not inconsistent with this Act or the Regulations—

- (a) for regulating the practice and procedure of the Court ; and
- (b) for prescribing the duties of the Industrial Registrar, the Deputy Industrial Registrars, and any other officers of the Court.

“(2.) Subject to this Act and to the rules, the practice and procedure of the Court and the duties of the Industrial Registrar, the Deputy Industrial Registrars, and other officers of the Court shall be as directed by the President.

“(3.) All such rules shall—

- (a) be notified in the Gazette.
- (b) take effect from the date of notification, or from a later date specified in the rules ; and
- (c) be laid before both Houses of the Parliament within thirty days of the making thereof, or, if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

“(4.) If either House of the Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule, such rule shall thereupon cease to have effect.”

Amendment of  
s. 59 of Principal  
Act.

5. Section fifty-nine of the Principal Act is amended by omitting the words “ in the State in which the application is made.”

Amendment of  
s. 88 of Principal  
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6. Section eighty-three of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(2.) Nothing in this section shall be taken to derogate from the power of the Court to punish for contempt.”