



ANNO TRICESIMO NONO ET QUADRAGESIMO
VICTORIÆ REGINÆ.
A.D. 1876.

No. 41.

An Act to provide for the Formation and Registration of Trade Unions.

[Assented to, 27th October, 1876.]

WHEREAS it is expedient to provide for the formation and registration of certain societies, known as Trade Unions—Preamble.
Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

PRELIMINARY.

1. This Act may be cited as "The Trade Union Act, 1876." Short title.

CRIMINAL PROVISIONS.

2. 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. Trade Union not criminal. Imperial Act, "Trade Union Act, 1871," Sec. 2.
3. 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. Trade Union not unlawful for civil purposes. Sec. 3.
4. Nothing in this Act shall enable any Court to entertain any legal proceedings instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely—Trade Union contracts when not enforceable. Sec. 4.

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- i. 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 :
- ii. Any agreement for the payment by any person of any subscriptions or penalty to a Trade Union :
- iii. 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
- iv. Any agreement made between one Trade Union and another ; or
- v. 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.

Provisions of certain Acts not to apply to Trade Unions.
Sec. 5 altered.

5. The following Acts, that is to say—

- i. The Friendly Societies Acts, 1850 and 1852, and the Acts amending the same : and
- ii. The Industrial Societies Act, 1864, and any Act amending the same : and
- iii. The Companies Act, 1864, and any Act amending the same :

shall not apply to any Trade Union, and the registration of any Trade Union under any of the said Acts shall be void.

REGISTERED TRADE UNIONS.

Registry of Trade Unions.

Sec. 6 altered.

6. Any seven or more members of a Trade Union may, by subscribing their names to the rules of the union, and by making application in the form set forth in the First Schedule hereto, and otherwise complying with the provisions of this Act with respect to registry, register such Trade Union under this Act: Provided that if any one of the purposes of such Trade Union be unlawful such registration shall be void.

Land may be purchased or leased, &c., for Trade Unions.

Sec. 7.

7. It shall be lawful for any Trade Union registered under this Act to purchase or take upon lease in the names of the trustees for the time being of such union any land, and to sell, exchange, mortgage, or let the same, and no purchaser, assignee, mortgagee, or tenant shall

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shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom; and for the purpose of this section every branch of a Trade Union shall be considered a distinct union.

8. All real and personal estate whatsoever belonging to any Trade Union registered under this Act shall be vested in the trustees for the time being of the Trade Union appointed as provided by this Act, for the use and benefit of such Trade Union and the members thereof, and the real or personal estate of any branch of a Trade Union, shall be vested in the trustees of such branch, and be under the control of such trustees, their respective executors or administrators, according to their respective claims and interests, and upon the death or removal of any such trustees the same shall vest in the succeeding trustees for the same estate and interest as the former trustees had therein, and subject to the same trusts, without any conveyance or assignment whatsoever; and in all actions, or suits, or indictments, or summary proceedings before any Court of summary jurisdiction, touching or concerning any such property, the same shall be stated to be the property of the person or persons for the time being holding the said office of trustee, in their proper names, as trustees of such Trade Union, without any further description.

Property of the Trade Union vested in Trustees.
Sec. 8.

9. The trustees of any Trade Union registered under this Act, or any other officer of such Trade Union who may be authorized so to do by the rules thereof, are hereby empowered to bring or defend, or cause to be brought or defended, any action, suit, prosecution, or complaint in any Court of Law or Equity, touching or concerning the property, right, or claim to property of the Trade Union, and shall and may, in all cases concerning the real or personal property of such Trade Union, sue and be sued, plead and be impleaded, in any Court of Law or Equity, in their proper names, without other description than the title of their office; and no such action, suit, prosecution, or complaint shall be discontinued or shall abate by the death or removal from office of such persons, or any of them, but the same shall and may be proceeded in by their successor or successors as if such death, resignation, or removal had not taken place; and such successors shall pay or receive the like costs as if the action, suit, prosecution, or complaint had been commenced in their names for the benefit of or to be reimbursed from the funds of such Trade Union; and the summons to be issued to such trustee or other officer may be served by leaving the same at the registered office of the Trade Union.

Actions, &c., by or against trustees, &c.
Sec. 9.

10. A trustee of any Trade Union registered under this Act shall not be liable to make good any deficiency which may arise or happen in the funds of such Trade Union, but shall be liable only for the moneys which shall be actually received by him on account of such Trade Union.

Limitation of responsibility of trustees.
Sec. 10.

11. Every

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Treasurer, &c., to
account.
Sec. 11.

11. Every treasurer or other officer of a Trade Union registered under this Act, at such times as by the rules of such Trade Union he should render such account as hereinafter mentioned, or upon being required so to do, shall render to the trustees of the Trade Union, or to the members of such Trade Union at a meeting of the Trade Union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds or securities of such Trade Union, which account the said trustees shall cause to be audited by some fit and proper person or persons by them to be appointed; and such treasurer, if thereunto required, upon the said account being audited, shall forthwith hand over to the said trustees the balance which on such audit appears to be due from him, and shall also, if required, hand over to such trustees all securities and effects, books, papers, and property of the said Trade Union in his hands or custody; and if he fail to do so, the trustees of the said Trade Union may sue such treasurer in any competent Court for the balance appearing to have been due from him upon the account last rendered by him, and for all the moneys since received by him on account of the said Trade Union, and for the securities and effects, books, papers, and property in his hands or custody, leaving him to set off in such action the sums, if any, which he may have since paid on account of the said Trade Union; and in such action the said trustees shall be entitled to recover their full costs of suit, to be taxed as between attorney and client.

Punishment for with-
holding money, &c.
Sec. 12 altered.

12. If any officer, member, or other person being, or representing himself to be, a member of a Trade Union registered under this Act, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatsoever, by false representation or imposition, obtain possession of any moneys, securities, books, papers, or other effects of such Trade Union, or, having the same in his possession, wilfully withhold or fraudulently misapply the same, or wilfully apply any part of the same to purposes other than those expressed or directed in the rules of such Trade Union, or any part thereof, any Special Magistrate or two Justices of the Peace may, by summary order, order such officer, member, or other person to deliver up all such moneys, securities, books, papers, or other effects to the Trade Union, or to repay the amount of money applied improperly, and to pay, if the Court think fit, a further sum of money not exceeding Twenty Pounds, together with costs, and in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty and costs aforesaid, the said Court may order the said person so convicted to be imprisoned, with or without hard labor, for any time not exceeding three months: Provided that nothing herein contained shall prevent the said Trade Union, or the Attorney-General, or other proper officer from proceeding by indictment against the said party: Provided also, that no person shall be proceeded against by indictment if a conviction shall have been previously obtained for the same offence under the provisions of this Act.

REGISTRY

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REGISTRY OF TRADE UNION.

13. With respect to the registry under this Act of a Trade Union and of the rules thereof, the following provisions shall have effect—

Regulations for
registry.
Sec. 13 altered.

- I. An application to register the Trade Union and printed copies of the rules, together with a list of the titles and names of the officers, shall be sent to the Registrar under this Act:
- II. The Registrar upon being satisfied that the Trade Union has complied with the regulations respecting registry in force under this Act, shall register such Trade Union and such rules:
- III. No Trade Union shall be registered under a name identical with that by which any other existing Trade Union has been registered, or so nearly resembling such name as to be likely to deceive the members or the public:
- IV. Where a Trade Union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the Registrar before the registry thereof a general statement of the receipts, funds, effects, and expenditure of such Trade Union in the same form, and showing the same particulars, as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the Registrar:
- V. The Registrar upon registering such Trade Union shall issue a certificate of registry, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this Act with respect to registry have been complied with:
- VI. The Registrar may from time to time make regulations respecting registry under this Act, and respecting the seal (if any) to be used for the purpose of such registry, and the forms to be used for such registry, and the inspection of documents kept by the Registrar under the Act, and generally for carrying this Act into effect.

14. With respect to the rules of a Trade Union registered under this Act, the following provisions shall have effect—

Rules of registered
Trade Union.
Sec. 14.

- I. The rules of every such Trade Union shall contain provisions in respect of the several matters mentioned in the Second Schedule to this Act:
- II. A copy of the rules shall be delivered by the Trade Union to every person on demand on payment of a sum not exceeding one shilling.

15. The fees specified in the Third Schedule of this Act shall be paid to the Registrar in respect of the matters therein referred to.

Fees.

16. Every

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Registered Office of
Trade Union.
Sec. 15 altered.

16. Every Trade Union registered under this Act shall have a registered office to which all communications and notices may be addressed; if any Trade Union under this Act is in operation for seven days without having such an office, such Trade Union and every officer thereof shall each incur a penalty not exceeding Five Pounds for every day during which it is so in operation. Notice of the situation of such registered office, and of any change therein, shall be inserted in the *Government Gazette*, and be given to the Registrar, and recorded by him; until such notice is given, the Trade Union shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

Annual Returns to be
prepared as Registrar
may direct.
Sec. 16 altered.

17. A general statement of the receipts, funds, effects, and expenditure of every Trade Union registered under this Act shall be transmitted to the Registrar before the first day of June in every year, and shall show fully the assets and the liabilities at the date, and the receipts and expenditure during the year preceding the date to which it is made out, of the Trade Union, and shall show separately the expenditure in respect of the several objects of the Trade Union, and shall be prepared and made out up to such date in such form, and shall comprise such particulars, as the Registrar may from time to time require; and every member of, and depositor in, any such Trade Union shall be entitled to receive on application to the treasurer or secretary of that Trade Union a copy of such general statement, without making any payment for the same. Together with such general statement there shall be sent to the Registrar a copy of all alterations of rules and new rules and changes of officers made by the Trade Union during the year preceding the date up to which the general statement is made out, and a copy of the rules of the Trade Union as they exist at that date.

Penalties.
Sec. 16 altered.

18. Every Trade Union which fails to comply with or acts in contravention of the preceding section, and also every officer of the Trade Union so failing, shall each be liable to a penalty not exceeding Five Pounds for each offence; and every person who wilfully makes or orders to be made any false entry in or any omission from any such general statement, or in or from the return of such copies of rules, or alterations of rules, shall be liable to a penalty not exceeding Fifty Pounds for each offence.

Registrar.
Sec. 17 altered.

19. The Governor may appoint a Registrar under this Act. The Registrar shall lay before Parliament annual reports with respect to the matters transacted by such Registrar in pursuance of this Act. Until the appointment of a Registrar, the Master of the Supreme Court shall exercise the powers and perform the duties of Registrar.

Circulating false
copies of rules, &c.,
a misdemeanor.
Sec. 18.

20. If any person, with intent to mislead or defraud, gives to any member of a Trade Union registered under this Act, or to any person intending or applying to become a member of such Trade Union, a copy of any rules, or of any alterations or amendments of the same, other than those respectively which exist for the time being, on the pretence that the same are the existing rules of such Trade Union,

or

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or that there are no other rules of such Trade Union ; or if any person, with the intent aforesaid, gives a copy of any rules to any person on the pretence that such rules are the rules of a Trade Union registered under this Act, which is not so registered, every person so offending shall be deemed guilty of a misdemeanor.

21. All penalties imposed by this Act may be recovered in a summary way before a Special Magistrate or two Justices of the Peace, as directed by Ordinance No. 6 of 1850. Recovery of penalties.

22. There shall be an appeal from any order or conviction of any Special Magistrate or Justices under this Act, or from any order dismissing any information, or for the payment of costs or otherwise, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only ; and the proceedings on such appeal shall be conducted in the manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts, or by any Act amending the same. Appeal.

DEFINITIONS.

23. In this Act—

The term "Trade Union" means such 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, as would, if this Act had not 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: Provided that this Act shall not affect— Definitions.
"Trade Union."
Sec. 23.

- I. Any agreement between partners as to their own business :
- II. Any agreement between an employer and those employed by him as to such employment :
- III. Any agreement in consideration of the sale of the goodwill of a business, or of instruction in any profession, trade, or handicraft.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.

*The Trade Union Act.—1876.***FIRST SCHEDULE.***Form of Application for Registry.*

1. This application is made by the seven persons whose names are subscribed at the foot hereof.
2. The name under which it is proposed that the Trade Union, on behalf of which this application is made, is
as set forth in Rule No. . . . To the best of our belief there is no other existing Trade Union, whether registered or not registered, the name of which is identical with the proposed name, or so nearly resembles the same as to cause confusion,
- Name of Trade Union. 3. The place of meeting for the business of the
and the office to which all communications and notices may be addressed
is at as set forth in Rule No. . . .
- Name of Trade Union. 4. The . . . was established on the
day of
- Name of Trade Union. 5. The whole of the objects for which the
is established, and the purposes thereof for which the funds thereof
are applicable, are set forth in Rule No. . . .
6. The conditions under which members may become entitled to benefits assured are set forth in Rule No. . . .
7. The fines and forfeitures to be imposed on members are set forth in Rule No. . . .
8. The manner of making, altering, amending, and rescinding rules is set forth in Rule No. . . .
9. The provision for the appointment and removal of a General Committee of Management, of Trustee or Trustees, Treasurer, and other officers is set forth in Rule No. . . .
10. The provision for the investment of funds, and for the periodical audit of accounts, is set forth in Rule No. . . .
11. The provision for the inspection of the books and names of the members by every person having an interest in the funds is set forth in Rule No. . . .
12. Accompanying this application are sent—
- I. Two printed copies, marked A, of the rules :
 - II. A list, marked B, of the titles and names of the officers :
 - III. A general statement, marked C¹, showing—
 - (a) The assets and liabilities of the²
 - (b) The receipts and expenditure of³
during the year preceding the date⁴ up to which the statement is made out, such expenditure being set forth under separate heads corresponding to the several objects of the Union.
13. We have been duly authorized by the Trade Union to make this application on its behalf, such authorization consisting of (*a resolution of a general meeting of the Trade Union, or otherwise, as the case may be*).

Signed

1.
2.
3.
4.
5.
6.
7.

Dated the . . . day of . . . , 18 . . .

SECOND SCHEDULE.*Of matters to be provided for by the Rules of Trade Unions registered under this Act.*

1. The name of the Trade Union, and place of meeting for the business of the Trade Union.
2. The whole of the objects for which the Trade Union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such Trade Union.
3. The

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3. The manner of making, altering, amending, and rescinding rules.
4. A provision for the appointment and removal of a general committee of management, of a trustee or trustees, treasurer, and other officers.
5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.
6. The inspection of the books and names of members of the Trade Union by every person having an interest in the funds of the Trade Union.

THIRD SCHEDULE.*Fees.*

	<i>£</i>	<i>s.</i>	<i>d.</i>
For registering Trade Union	1	0	0
For registering alterations in rules.....	0	10	0
For inspection of documents	0	1	0