[HIGH COURT OF AUSTRALIA.]

MELBOURNE AND METROPOLITAN TRAMWAYS BOARD . . . . . } APPLICANT;

AND

MUNICIPAL OFFICERS' ASSOCIATION OF AUSTRALIA . . . . . } RESPONDENT.

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MELBOURNE, *Feb.* 28; *Mar.* 23.

Latham C.J., Rich, Starke and McTiernan JJ.

Conciliation and Arbitration—Registration of organization of employees—Validity—Rules relating to membership—Certificate of registration—"Local Government Municipal and Statutory Corporations Industry"—Commonwealth Conciliation and Arbitration Act 1904-1934 (*No.* 13 *of* 1904—*No.* 54 *of* 1934), *ss.* 4, 55, 58A.

An association of employees was registered as an organization under Part V. of the *Commonwealth Conciliation and Arbitration Act* 1904-1934. The association's rules provided that it should consist of an unlimited number of persons employed or usually employed by local Authorities, Cities, Municipalities, Towns, Boroughs or Shires, or by statutory authorities, corporations, trusts, boards or commissions in any of a large number of occupations ranging from town clerks, architects and engineers to clerks, typists, &c. As it appeared in an amended certificate of registration issued by the Registrar, the description of the industry in connection with which the association was registered was "The Local Government Municipal and Statutory Corporations Industry."

Held that the association was validly registered under s. 55 of the Act and that the description of the industry in connection with which it was registered was a sufficient description.

SUMMONS under s. 21AA of the *Commonwealth Conciliation and Arbitration Act* 1904-1934.

In April 1921 the Municipal Officers' Association of Australia was registered under that name under Part V. of the *Commonwealth Conciliation and Arbitration Act* as an organization of employees in or in connection with the municipal industry, and a certificate of registration was issued accordingly. On 12th October 1928 the association, purporting to act under s. 58A of the Act, changed the

description of the industry in connection with which it had been registered to a registration "in connection with the Local Government Municipal and Statutory Corporations Industry." No new document was brought into being, but the original certificate of registration was amended to accord with the change. At all material times prior to 12th October 1928 the constitution of the association was as follows:—"The Association shall consist of an unlimited number of persons employed in the Municipal Industry who are employed or are usually employed as City, Town, District, or Shire Clerks, Secretaries, Engineers, Surveyors, Architects, Electricians, Inspectors; Assistant Town Clerks, Engineers, Surveyors, Architects, Electricians, Inspectors, Receivers, Paymasters, Treasurers, Accountants, Clerks, Auditors, Valuers, Rate Collectors, Registrars, Collectors, Foremen, Overseers, Curators, Draughtsmen, Superintendents. Provided that such persons shall have been appointed Officers by a Local Government Authority and shall be Officers having some supervision over other employees and/or are officers employed in administrative work; together with such other persons whether employees in the Industry or not as have been appointed Officers of the Association and admitted as members thereof." Upon the amendment of the name of the industry in connection with which the association was registered, its constitution, so far as related to its membership, was altered to read as follows:—"The Association shall consist of an unlimited number of persons employed or usually employed by local Authorities, Cities, Municipalities, Towns, Boroughs, or Shires, or by Statutory Authorities, Corporations, Trusts, Boards or Commissions in the following callings or avocations namely, City, Town, District, Borough or Shire Clerks, Secretaries, Treasurers, Engineers, Surveyors, Architects, Electricians or Electrical Engineers, Inspectors, Superintendents, Paymasters, Receivers, Accountants, Auditors, Valuers, Rate Collectors, Registrars, Collectors, Clerks, Typists, Stenographers, Foremen, Overseers, Draughtsmen, Curators, or in similar callings or avocations, or as assistants to employees so employed whether employed as aforesaid or not together with such other persons as have been appointed Officers of the Association and admitted as members thereof." An industrial dispute occurred to which the association and the Melbourne and Metropolitan Tramways Board, which was incorporated under the *Melbourne and Metropolitan Tramways Act* 1928 (Vict.), were parties. The Board took out a summons under s. 21AA of the Act for the determination of certain questions. The summons came before *Rich* J., who directed that the questions, as amended by his Honour, be argued before a Full Court of the High Court.

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The questions, as so amended, were as follows :—

(1) Whether the change in the description of the industry in connection with which the claimant organization was registered made on 12th October 1928 or any and what part of such change was valid in law.

(2) Whether the change in the constitution of the claimant organization made on 12th October 1928 was valid in law.

The relevant provisions of the *Commonwealth Conciliation and Arbitration Act* 1904-1934 are set out in the judgments hereunder.

Fullagar K.C. (with him *Spicer*), for the applicant. The amended description purporting to describe the industry in connection with which the respondent is registered is meaningless and invalid. Even if there is an industry which can be described as the " local government " or " municipal " industry, there is no such thing as a " statutory corporations industry " within the meaning of the Act. The expression " Statutory Corporations " must include many corporations which do not engage in industry. There is no description which is common to the activities of all statutory corporations. The definition of " industry " in s. 4 of the *Commonwealth Conciliation and Arbitration Act* is in very wide terms, but the phrase in that section, " a group of industries," does not, in its natural meaning, comprehend wholly unrelated industries. There must be some identifiable unity as between the activities of industries in a " group." The respondent is not a craft union organized by relation to the work done, because all sorts of work are included, nor is it organized by relation to industry carried on by employers, because there is no such unity as to admit of its description by relation to the industry or industries carried on by employers. Accordingly, the respondent is clearly not entitled to registration under s. 55 (1) (*b*) of the Act. Moreover, it is not within s. 55 (1) (*c*) : its conditions of eligibility for membership are so wide and vague that they will admit—or will not exclude—persons who are not engaged in any industrial pursuit at all. For instance, clerks may or may not be engaged in industry according to the nature of their employment : See *Bank Officials' Association* v. *Bank of Australasia* (1), where it was held that bank clerks were engaged in industry. [He referred to Statutory Rules 1928 No. 81, reg. 6 ; ss. 57, 58, 65, of the Act ; *Federated Municipal and Shire Council Employees' Union of Australia* v. *Melbourne Corporation* (2) ; *Federated Engine-Drivers and Firemen's Association of Australasia* v. *Broken Hill Pty. Co. Ltd.* (3).]

(1) (1923) 33 C.L.R. 517.
(2) (1919) 26 C.L.R. 508, at pp. 510, 511.
(3) (1911) 12 C.L.R. 398.

Ham K.C. (with him *Fraser*), for the respondent. The phrase " statutory corporations industry " relates only to those engaged in industry, and therefore is much more limited and real than has been suggested on behalf of the applicant. The rules show clearly the scope of the industry, and no practical difficulty arises. The phrase " statutory corporations " should be treated as *ejusdem generis* with the preceding words of the description. If the description is not satisfactory, it should be amended. Section 55 (1) (*c*) permits the registration of an association of employees engaged in any industrial pursuits whatever; the pursuits need not be related to each other. For instance, the Australian Workers' Union includes workers of all kinds, and it has never been suggested that it was not properly registered. The paragraphs of s. 55 (1) are not exclusive of one another. The respondent's membership is defined—and properly so—by reference both to the character of the industry conducted by the employer and the nature of the avocation of the employee. Section 4 of the Act does not support any narrower view.

Fullagar K.C., in reply.

Cur. adv. vult.

Mar. 23.

The following written judgments were delivered :—

LATHAM C.J. Questions directed to be argued before a Full Court under s. 18 of the *Judiciary Act* 1903-1940. The questions arise under a summons under s. 21AA of the *Commonwealth Conciliation and Arbitration Act* 1904-1934. The questions are as follows : first, whether a change in the description of the industry in connection with which the respondent association was registered as an organization under the Act was valid in law ; and secondly, whether a change in what is described as the " constitution " of the association was valid in law. These changes were made on 12th October 1928.

The first change, relating to the description of the industry, consisted in describing the industry as " The Local Government Municipal and Statutory Corporations Industry." Previously the organization had been registered as " in or in connection with the Municipal Industry."

The original provision in the rules relating to conditions of eligibility for membership was as follows :—" The Association shall consist of an unlimited number of persons employed in the Municipal Industry who are employed or are usually employed as City, Town, District, or Shire Clerks, Secretaries, Engineers, Surveyors, Architects, Electricians, Inspectors ; Assistant Town Clerks, Engineers, Surveyors, Architects, Electricians, Inspectors, Receivers, Paymasters,

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Treasurers, Accountants, Clerks, Auditors, Valuers, Rate Collectors, Registrars, Collectors, Foremen, Overseers, Curators, Draughtsmen, Superintendents. Provided that such persons shall have been appointed Officers by a Local Government Authority and shall be officers having some supervision over other employees and/or are officers employed in administrative work; together with such other persons whether employees in the Industry or not as have been appointed Officers of the Association and admitted as members thereof."

By the alteration made on the 12th October 1928 this rule was altered to read as follows:—"The Association shall consist of an unlimited number of persons employed or usually employed by local Authorities, Cities, Municipalities, Towns, Boroughs, or Shires, or by Statutory Authorities, Corporations, Trusts, Boards or Commissions in the following callings or avocations namely, City, Town, District, Borough or Shire Clerks, Secretaries, Treasurers, Engineers, Surveyors, Architects, Electricians or Electrical Engineers, Inspectors, Superintendents, Paymasters, Receivers, Accountants, Auditors, Valuers, Rate Collectors, Registrars, Collectors, Clerks, Typists, Stenographers, Foremen, Overseers, Draughtsmen, Curators, or in similar callings or avocations, or as assistants to employees so employed whether employed as aforesaid or not together with such other persons as have been appointed Officers of the Association and admitted as members thereof."

In September 1940 the association served a log of wages and working conditions upon (*inter alios*) the applicant, the Melbourne and Metropolitan Tramways Board. The Board and other bodies did not accede to the claims made, and Chief Judge *Piper* referred the alleged dispute into the Arbitration Court. Objection was taken on behalf of the Board that the amended registration of the association was invalid on the ground that there was no such industry as a statutory corporations industry, and that the rules relating to eligibility for membership were such that the association did not satisfy the requirements of s. 55, which provides for the registration of associations as organizations. Chief Judge *Piper* overruled the objections, and the Board took out a summons under s. 21AA. My brother *Rich* directed that the questions already mentioned be argued before a Full Court.

The *Commonwealth Conciliation and Arbitration Act* 1904-1934, s. 4, provides that:—

"'Industry' includes—

(*a*) any business, trade, manufacture, undertaking, or calling of employers, on land or water;

(*b*) any calling, service, employment, handicraft, or industrial occupation or avocation of employees, on land or water; and

(*c*) a branch of an industry and a group of industries ".

Section 55 provides as follows :—

" 55.—(1) Any of the following associations or persons may, on compliance with the prescribed conditions, be registered in the manner prescribed as an organization :—

(*a*) Any association of employers in or in connexion with any industry, who have in the aggregate, or any employer who has, throughout the six months next preceding the application for registration, employed on an average taken per month not less than one hundred employees in that industry:

Provided that an association of employers may be registered as an organization notwithstanding that it contains, in addition to employers in or in connexion with the industry, such other persons, whether employers in the industry or not, as have been appointed officers of the association and admitted as members thereof;

(*b*) Any association of not less than one hundred employees in or in connexion with any industry, together with such other persons, whether employees in the industry or not, as have been appointed officers of the association and admitted as members thereof; and

(*c*) Any association of not less than one hundred employees engaged in any industrial pursuit or pursuits whatever, together with such other persons, whether employees engaged in any industrial pursuit or pursuits or not, as have been appointed officers of the association and admitted as members thereof."

The changes in the description of the industry and in the conditions of eligibility for membership were made in pursuance of an application which was made under s. 58A, which is as follows :—

" 58A. An organization may, in the prescribed manner, and on compliance with the prescribed conditions, change its name or the conditions of eligibility for membership or the description of the industry in connexion with which it is registered, and the Registrar shall thereupon record the change in the register and upon the certificate of registration."

It is said on behalf of the Board that there is no industry which can be described as " a statutory corporations industry." " Statutory corporations " (whether or not the term includes ordinary trading companies) carry on many kinds of industries, and some

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statutory corporations, such as universities, are not engaged in industry at all. I agree that the words "statutory corporations industry" are as meaningless in ordinary language, by way of definition of any industry, as the words "partnership industry." But it does not follow that an agglomeration of separate and differing enterprises or occupations may not be an "industry" for the purposes of the Act. Further, it is argued that the conditions of eligibility for membership cover such a heterogeneous set of occupations, ranging from town clerks, architects and engineers, to clerks, typists, stenographers, foremen and overseers, that there is no common characteristic which can entitle such an aggregation of persons to be regarded as engaged in one and the same industry. It is contended that for these reasons the association cannot be validly registered under the Act.

An industry can be described from the point of view of the employer, that is, of the enterprise which the employer conducts, or from the point of view of the employee, that is, of the craft, calling or vocation which the employee follows. Thus, timber-yards, tanneries and soap and candle works may all employ engine-drivers. From the point of view of the employers, the industries would be described as timber-working, tanning, soap and candle manufacture. From the point of view of the employees, their industry would be described as the industry of engine-driving. Before the amending *Commonwealth Conciliation and Arbitration Act* 1911, No. 6, which introduced into the Act the definition of industry as already quoted, industry was defined as meaning "business, trade, manufacture, undertaking, calling, service, or employment, on land or water, in which persons are employed for pay, hire, advantage, or reward," with an exception relating to domestic service and rural pursuits which is immaterial for the present purpose. Under this provision it was held in *Federated Engine-Drivers and Firemen's Association of Australasia* v. *Broken Hill Pty. Co. Ltd.* (1) that "industry" so defined meant an enterprise in which both employers and employees were associated, that is, a collective enterprise in which employees and employers were engaged together, and that it did not cover the craft or vocation of employees. Accordingly an association of engine-drivers (engaged in differing industrial enterprises) could not be registered.

By Act No. 6 of 1911 the present definition of "industry" was substituted for the former definition. The result was to change the law as declared in the *Federated Engine-Drivers' Case* (2) by including

(1) (1911) 12 C.L.R. 398.

(2) (1911) 12 C.L.R. 398.

under " industry," not only enterprises of employers, but also callings and crafts of employees. Accordingly it became possible to register as an organization, e.g., an association of engine-drivers who were engaged as engine-drivers in what, from an employer's point of view, would be many different industries.

In 1915 Act No. 35 added par. *c* to sub-s. 1 of s. 55—which has already been quoted. Under this provision it was expressly provided that associations of not less than 100 employees " engaged in any industrial pursuit or pursuits whatever " could be registered. Generally, the singular includes the plural (*Acts Interpretation Act* 1901-1941, s. 23 (*b*)). But Parliament was not content to rely upon the application of this provision. Section 55 (1) (*c*) refers to " any industrial pursuit *or pursuits* whatever." It is clear that it was intended that employees engaged in different industrial pursuits could combine in one organization.

The change of the definition of " industry " in s. 4 shows that Parliament intended to allow the registration of associations of employees organized by reference to the callings which they pursued, though they pursued them in enterprises of differing industrial character. It might still have been argued that, although employees could register in respect of their several crafts, each association, in order to become registrable, must be an association in or in connection with a particular craft and with that craft only. But Act No. 7 of 1910, s. 2, provided that " industry " should include " a branch of an industry and a group of industries." This provision shows that, for the purposes of the Act, several industries may be regarded as one industry.

Section 55 (1) (*c*) allows the registration of an association of employees who may be engaged in different industrial pursuits. Thus under the law as it existed in October 1928, when the changes in question were made, it was possible for an association to be registered, though, as in the present case, it consisted of employees in diverse callings or occupations who are employed by employers who are engaged in diverse industries.

It is true that such provisions may lead to embarrassing cross-divisions of employees, with consequent overlapping of awards and possible confusion, but these matters are considerations to be borne in mind by the Registrar when he registers an organization under s. 55 or allows an alteration in rules under ss. 58A or 58C (See *R.* v. *Industrial Registrar*; *Ex parte Sulphide Corporation Ltd.* (1)) and by the Arbitration Court upon appeal from the Registrar (see s. 17) or upon an application for cancellation of registration (see s. 60).

(1) (1918) 25 C.L.R. 9.

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In my opinion the decision of his Honour the Chief Judge was right. The questions directed to be argued are as follows:—

(1) Whether the change in the description of the industry in connection with which the claimant organization was registered made on 12th October 1928 or any and what part of such change was valid in law.

(2) Whether the change in the constitution of the claimant organization made on 12th October 1928 was valid in law.

In my opinion the questions should be answered as follows:—

(1) The said change was valid in law.

(2) Yes.

RICH J. In the course of an application for an award by the respondent association with respect to employees of the applicant Board a preliminary objection was raised before the Chief Judge of the Arbitration Court that the amended registration of the association was invalid and that the amendment in the rules (constitution) of the association was outside the provisions of s. 55 of the *Commonwealth Conciliation and Arbitration Act* 1904-1934. The learned judge overruled the objection, whereupon a summons under s. 21AA of the Act was filed submitting certain questions for the decision of this Court, which as amended appear in the order of reference.

Part V. of the *Commonwealth Conciliation and Arbitration Act* 1904, as amended, provides by s. 55 for the registration as organizations of associations of employers in or in connection with any industry, of associations of employees in or in connection with any industry and of associations of employees engaged in any industrial pursuit or pursuits whatever. "Industry" is defined by s. 4 as including, *inter alia*, a group of industries. The organization in question was originally registered as "The Municipal Officers' Association of Australia." Afterwards, in pursuance of s. 58A, the description of the industry in respect of which it was registered was changed to "The Local Government Municipal and Statutory Corporations Industry." The rules of the organization, as amended, contain the following provision:—"The Association shall consist of an unlimited number of persons employed or usually employed by local Authorities, Cities, Municipalities, Towns, Boroughs, or Shires, or by Statutory Authorities, Corporations, Trusts, Boards or Commissions in the following callings or avocations namely City, Town, District, Borough or Shire Clerks, Secretaries, Treasurers, Engineers, Surveyors, Architects, Electricians or Electrical Engineers, Inspectors, Superintendents, Paymasters, Receivers, Accountants, Auditors,

Valuers, Rate Collectors, Registrars, Collectors, Clerks, Typists, Stenographers, Foremen, Overseers, Draughtsmen, Curators, or in similar callings or avocations, or as assistants to employees so employed whether employed as aforesaid or not together with such other persons as have been appointed Officers of the Association and admitted as members thereof." That is to say, the association consists of persons employed by local government or statutory authorities in certain specified capacities, or in similar capacities, or as assistants to employees so employed whether employed as aforesaid or not, together with officers of the association who have been admitted as members.

To ascertain the scope of the amended description of the organization, it is legitimate to take into account any relevant provisions of its rules. The short phrase in the title is " Local Government Municipal and Statutory Corporations." The expanded phrase in the rules is " local Authorities, Cities, Municipalities, Towns, Boroughs or Shires, or . . . Statutory Authorities, Corporations, Trusts, Boards, or Commissions." The local authorities specified are all authorities exercising functions of a public nature; and when the phrase " statutory corporations " or " statutory authorities, corporations, trusts, boards, or commissions " is found in such a collocation, I think that the natural and reasonable inference is that what is meant is bodies of a public character exercising functions of a public nature analogous to those of local government bodies, and not private bodies established by or under statute, whether public or private, for the purpose of conducting private enterprises or activities. So construed—and I think that it should be so construed—the registration is in my opinion intelligible and valid. In the words of *Jessel* M.R.: " The duty of the court is to put a fair meaning on the terms used, and not, as was said in one case, to repose on the easy pillow of saying that the whole is void for uncertainty " (*In re Roberts*; *Repington* v. *Roberts-Gawen* (1)).

I agree with the answers proposed by the Chief Justice to the questions submitted.

STARKE J. Order and direction pursuant to the *Judiciary Act* 1903-1940 that the questions whether changes in the conditions of eligibility for membership of the Municipal Officers' Association of Australia and the description of the industry in connection with which it was registered are valid in law. The questions turn upon the meaning of ss. 4, 55 and 58A of the *Commonwealth Conciliation and Arbitration Act* 1904-1934.

(1) (1881) 19 Ch. D. 520, at p. 529.

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Section 4: "'Industry' includes—

(*a*) any business, trade, manufacture, undertaking, or calling of employers, on land or water;

(*b*) any calling, service, employment, handicraft, or industrial occupation or avocation of employees, on land or water; and

(*c*) a branch of an industry and a group of industries."

Section 55 (1): "Any of the following associations or persons may . . . be registered . . . as an organization . . .

(*b*) Any association of not less than one hundred employees in or in connexion with any industry, together with such other persons, whether employees in the industry or not, as have been appointed officers of the association and admitted as members thereof; and

(*c*) Any association of not less than one hundred employees engaged in any industrial pursuit or pursuits whatever, together with such other persons, whether employees engaged in any industrial pursuit or pursuits or not, as have been appointed officers of the association and admitted as members thereof."

Section 58A: "An organization may . . . change . . . the conditions of eligibility for membership or the description of the industry in connexion with which it is registered."

In 1910 (No. 7 of 1910) the Act was amended by including in the definition of "industry" the words "and includes a branch of an industry and a group of industries." But this amendment did not alter the construction of the Act (*Federated Engine-Drivers' and Firemen's Association of Australasia* v. *Broken Hill Pty. Co. Ltd.* (1)): In 1911 this Court in the *Federated Engine-Drivers' and Firemen's Case* (2) held, in substance, that vocational or craft unions could not be registered as organizations under the *Commonwealth Conciliation and Arbitration Act* of 1904. But, after this decision, in 1911 (No. 6 of 1911), a more radical amendment was made and "industry" was defined as in s. 4 of the principal Act above set out. A further and even more radical amendment was made by the Act No. 35 of 1915, for it added to s. 55 of the principal Act clause *c* as above set out. And it validated every association registered before the commencement of the Act and constituted, either originally or by change of constitution or alteration of rules, in accordance with the provisions of the principal Act and its amendments and declared that the registration should be deemed to have constituted the association

(1) (1911) 12 C.L.R. 398: *Griffith* C.J., at p. 408; *Higgins* J., at p. 458.
(2) (1911) 12 C.L.R. 398.

an organization as effectively as if the Act of 1915 had been in force at the date of such registration. The legislature by these provisions clearly intended and in my opinion effectively provided for the registration of vocational or craft unions as well as unions in connection with industries in which the employer was engaged as well as employees. And this was the opinion of *Higgins* J. as President of the Arbitration Court (*Federal Palace Hotel Ltd.* v. *Federated Liquor and Allied Trades Employees' Union of Australasia* (1)). This opinion does not bind this Court and is of persuasive authority only. But it has stood for over twenty-five years without question and has been constantly relied upon in the administration of the *Commonwealth Conciliation and Arbitration Act.* It would require very convincing reasons at this date to overturn the opinion and administrative action based upon it. Further still, *Isaacs* J. in this Court, speaking of the validity of the organization in question there, observed : " It follows also from the facts and considerations above stated that, whether we treat the organization as registered under s. 55 (1) (*b*) or (*c*) " (as set out above), " Parliament has full power to permit industrial employees to group themselves in any way it thinks convenient to carry out arbitration and conciliation for the prevention or settlement of industrial disputes extending beyond the limits of any one State " (*Federated Municipal and Shire Council Employees' Union of Australia* v. *Melbourne Corporation* (2) ; *Federated Engine-Drivers and Firemen's Case* (3)).

In my opinion, therefore, an association of not less than one hundred employees in or in connection with any industry or constituted with regard only to the nature of the work its members personally do (vocational or craft unions), and entirely disregarding the class of industrial operations in which they and their employers are mutually engaged, may now be registered as an organization, and there is no provision in the Act which precludes the association or organization from combining both characteristics. Consequently the changes in the conditions of eligibility for membership made in the present case and which are set out in the case are valid enough in law.

It was suggested, however, that the description of the industry in connection with which the organization was registered, " The Local Government Municipal and Statutory Corporations Industry," was meaningless and invalid. But if an organization can combine the characteristics of a union connected with an industry or industries and also a craft or crafts union, some generic term must be found

(1) (1918) 12 C.A.R. 652. (2) (1919) 26 C.L.R., at p. 569.
(3) (1911) 12 C.L.R., at p. 445.

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to describe it, and that used by the organization in the present case is as descriptive of the industry in connection with which it is registered and as effective as any other description. The suggestion that the changes in the conditions of eligibility for membership of the organization will allow persons who are not engaged in any industrial pursuit, as the staff of a university, access to the Arbitration Court is ill founded. That Court has only authority to deal with industrial disputes and matters under the *Commonwealth Conciliation and Arbitration Act*.

Perhaps I may say that the changes in the conditions of eligibility for membership registered in this case are "grotesque," to use the words of Mr. Justice *Higgins* in the *Liquor Trades Case* (1), and made "without proper care," and are calculated to bring powerful unions into conflict with one another. The Registrar "has some discretion as to allowing an organization to make a change—or, at all events, to have the change recorded in the register" (*Liquor Trades Case* (2); *R.* v. *Industrial Registrar*; *Ex parte Sulphide Corporation Ltd.* (3)). It is a pity that this discretion is not more freely used, especially in view of the provisions of s. 59, which authorize the Registrar to refuse to register any association as an organization if its members might conveniently belong to another registered organization. And why not use a similar discretion in applications under s. 58A? Here the new conditions of membership may result in conflict with the powerful Tramways Union and possibly other unions if any attempt be made to seduce their members from their allegiance and in any case may bring about overlapping awards, which is unfair to employers, and lead to industrial troubles.

The questions stated should each be answered in the affirmative.

McTIERNAN J. The points to be decided arise upon ss. 55, 58A and other provisions of the *Commonwealth Conciliation and Arbitration Act* relating to the registration of associations of employees as organizations. The respondent association was originally registered in pursuance of Part V. of the Act, under its name, as an organization of employees in or in connection with the "Municipal Industry." Its rules then provided that persons who were engaged in that industry and followed certain callings were eligible for membership. Purporting to act in pursuance of s. 58A, the organization changed the description of the industry in or in connection with which it was registered to the "Local Government Municipal and Statutory Corporations Industry," and changed the conditions of eligibility

(1) (1918) 12 C.A.R., at pp. 654, 657. (2) (1918) 12 C.A.R., at p. 654.
(3) (1918) 25 C.L.R. 9.

for membership by making eligible persons employed or usually employed by local authorities, cities, municipalities, towns, boroughs or shires, or by statutory authorities, corporations, trusts, boards or commissioners in a wider list of callings, all of which pertained to the services undertaken by these bodies, than that in the original rules.

The first point that arises is whether the words "statutory corporations," used in connection with industry, are appropriate to describe any industry for the purpose of the Act.

The work which is carried on by a local government or municipal body in pursuance of its statutory powers enters the field of industry according to the meaning of that word in the *Commonwealth Conciliation and Arbitration Act.* Section 4 says that industry includes a group of industries. The various industrial services which these bodies perform form a natural group. A union of their employees may be appropriately described as an association in or in connection with an industry, and it comes within the class of associations which are capable of being registered under the provisions of s. 55 of the Act. It is according to usage in this jurisdiction to describe such a union as an organization in or in connection with the local government and municipal industry: See *Federated Municipal and Shire Council Employees' Union of Australia* v. *Melbourne Corporation* (1).

The inclusion in the amended description in the certificate of the respondent's registration of the expression "Statutory Corporations" shows that the respondent is an association in or in connection with a wider field than the local government and municipal industry. But, as the expression is used in relation to industry, the field, whatever be its exact limits, does not extend beyond industry. The extension is to any services which lie within industry and are conducted by a "statutory corporation." This expression is to be construed as a part of the whole description in the amended certificate of registration and in that context. It seems to me that the contention that the expression means any corporation whose existence can be traced to a statute, and that it is too wide to stand as a part of the certificate, should fail. The meaning and application of the expression are limited by its association with the words "Local Government" and "Municipal" and "Industry." It is used to refer to corporations which, in the exercise of the statutory powers conferred on them respectively for public purposes, carry on any work or service which is an industry within the meaning of the Act. In my opinion the words "Local Government, Municipal and Statutory Corporations Industry" upon their proper construction

(1) (1919) 26 C.L.R. 508.

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may appropriately describe an industry in or in connection with which there may be a registered organization of employees: and it follows that the amended description of the industry in or in connection with which the respondent is registered is good and sufficient for the purposes of the Act.

The second point arises upon the conditions of eligibility for membership of the organization. It is whether these conditions bring the organization within the class of associations of employees which is capable of being registered under s. 55. To belong to that class an association of employees needs to be one in or in connection with any industry or an association of employees engaged in any industrial pursuit or pursuits. Section 4 says that an employee means any employee in any industry and includes any person whose usual occupation is that of employee in any industry: and industry includes, besides the operations of employers, the occupations of employees. It further says that industry includes a branch of an industry and a group of industries. According to these definitions, each occupation mentioned in the conditions of eligibility, which is carried on in connection with the industrial services of any local government, municipal or statutory corporation, is by itself an industry: and the whole of those occupations, under the aspect of a group of such industries, also constitutes an industry. The organization therefore is an association of employees in or in connection with an industry: it is also an association of persons engaged in industrial pursuits.

In my opinion the questions should be answered by saying that the registration of the respondent association under Part V. of the Act and its constitution are both wholly valid.

Questions answered as follows:—(1) *The said change was valid in law.* (2) *Yes. Costs of argument to be costs in the summons.*

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Solicitor for the respondent, *J. T. Hally.*

E. F. H.