

1950.
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VICTORIA.

FINAL REPORT
OF THE
BOARD OF INQUIRY

APPOINTED TO INVITE AND EXAMINE SUGGESTIONS FOR
AMENDMENT OF THE FACTORIES
AND SHOPS ACTS.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COM. AND.

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[Extract from *Victoria Government Gazette*, 26th November, 1940.]

BOARD OF INQUIRY—FACTORIES AND SHOPS ACTS.

At the Executive Council Chamber, Melbourne, the twenty-sixth day of November, 1940.

PRESENT:

His Excellency the Governor of Victoria
Mr. Old | Mr. Hyland

WHEREAS representations have been made that the Factories and Shops Acts require amendment: And whereas it is deemed expedient that an expert examination be made of any proposals for amendment: Now therefore His Excellency the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council of the said State, doth by this Order constitute and appoint—

The Honorable PERCY JAMES CLAREY, M.L.C.,
CHARLES HERBERT GRANT, Esquire,
GEORGE HAYES, Esquire,
PERCY COLLINGWOOD OAKE, Esquire,
JAMES VICTOR STOUT, Esquire, and
ERNEST WILLIAM TREND, Esquire,

to be a Board to invite and examine suggestions for amendment of the Factories and Shops Acts and to report upon the same with full power and authority to call before them or any four of them, any person whose evidence in the judgment of the Board, or of any member thereof, is material to the subject matter of the inquiry to be made by the Board, and to inquire of and concerning the premises by all other lawful means whatsoever: And it is hereby directed that the members of the said Board shall, from time to time, select a Chairman from their own number: And it is further directed that the said Percy James Clarey, Charles Herbert Grant, George Hayes, Percy Collingwood Oake, James Victor Stout, and Ernest William Trend shall, with as little delay as possible, report under their hands their opinions resulting from this inquiry, provided that in making such report only suggestions for amendment which are unanimously approved by the said Board shall be included, and where a difference of opinion is entertained both the subject-matter and the contending views shall be stated:

Whereof the said Percy James Clarey, Charles Herbert Grant, George Hayes, Percy Collingwood Oake, James Victor Stout, and Ernest William Trend, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

And the Honorable Henry Stephen Bailey, His Majesty's Chief Secretary for the State of Victoria, shall give the necessary directions herein accordingly.

C. W. KINSMAN,
Clerk of the Executive Council.

[Extract from *Victoria Government Gazette*, 3rd March, 1943.]

BOARD OF INQUIRY—FACTORIES AND SHOPS ACTS.

At the Executive Council Chamber, Melbourne, the first day of March, 1943.

PRESENT:

His Excellency the Governor of Victoria

Mr. Dunstan		Mr. Hogan
Mr. Lind		Mr. Hyland

WHEREAS by an Order made on the twenty-sixth day of November, 1940—

The Honorable PERCY JAMES CLAREY, M.L.C.,
CHARLES HERBERT GRANT, Esquire,
GEORGE HAYES, Esquire,
PERCY COLLINGWOOD OAKE, Esquire,
JAMES VICTOR STOUT, Esquire, and
ERNEST WILLIAM TREND, Esquire,

were constituted and appointed a Board to invite and examine suggestions for amendment of the Factories and Shops Acts and to report upon the same:

And whereas Percy Collingwood Oake, Esquire, one of the persons aforesaid, has since died:

And whereas it is considered expedient to appoint another person to be a member of the Board in place of the said Percy Collingwood Oake:

Now therefore His Excellency the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council of the said State, doth by this Order appoint—

ROBERT OSWALD SNAPE, Esquire,

to be a member of the said Board.

Whereof the said Percy James Clarey, Charles Herbert Grant, George Hayes, James Victor Stout, Ernest William Trend, and Robert Oswald Snape, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

And the Honorable Henry Stephen Bailey, His Majesty's Chief Secretary for the State of Victoria, shall give the necessary directions herein accordingly.

C. W. KINSMAN,
Clerk of the Executive Council.

[Extract from *Victoria Government Gazette*, 20th December, 1944.]

BOARD OF INQUIRY—FACTORIES AND SHOPS ACTS.

At the Executive Council Chamber, Melbourne, the eighteenth day of December, 1944.

PRESENT:

His Excellency the Lieutenant-Governor of Victoria.

Mr. Tuckett | Mr. Chandler.

WHEREAS by an Order made on the twenty-sixth day of November, 1940—

The Honorable PERCY JAMES CLAREY, M.L.C.,

CHARLES HERBERT GRANT, Esquire,

GEORGE HAYES, Esquire,

PERCY COLLINGWOOD OAKE, Esquire,

JAMES VICTOR STOUT, Esquire, and

ERNEST WILLIAM TREND, Esquire,

were constituted and appointed a Board to invite and examine suggestions for amendment of the Factories and Shops Acts, and to report upon the same:

And whereas by an Order made on the 1st day of March, 1943, Robert Oswald Snape, Esquire, was appointed to be a member of the said Board in place of the said Percy Collingwood Oake, Esquire:

And whereas the said Robert Oswald Snape, Esquire, has since resigned:

And whereas it is considered expedient to appoint another person to be a member of the Board in place of the said Robert Oswald Snape:

Now therefore His Excellency the Lieutenant-Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council of the said State, doth by this Order appoint—

KENNETH HEBBERT BOYKETT, Esquire,

to be a member of the said Board:

Whereof the said Percy James Clarey, Charles Herbert Grant, George Hayes, James Victor Stout, Ernest William Trend, and Kenneth Hebbert Boykett, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

And the Honorable Herbert John Thornhill Hyland, His Majesty's Chief Secretary for the State of Victoria, shall give the necessary directions herein accordingly.

C. W. KINSMAN,
Clerk of the Executive Council.

[Extract from *Victoria Government Gazette*, 17th April, 1946.]

BOARD OF INQUIRY—FACTORIES AND SHOPS ACTS.

At the Executive Council Chamber, Melbourne, the ninth day of April, 1946.

PRESENT:

His Excellency the Governor of Victoria.
Mr. McKenzie | Mr. Clarey.
Mr. Galvin |

WHEREAS by Orders made on the twenty-sixth day of November, 1940, and the eighteenth day of December, 1944—

The Honorable PERCY JAMES CLAREY, M.L.C.,
CHARLES HERBERT GRANT,
GEORGE HAYES,
JAMES VICTOR STOUT,
ERNEST WILLIAM TREND, and
KENNETH HEBBERT BOYKETT,

were constituted and appointed a Board to invite and examine suggestions for amendment of the Factories and Shops Acts, and to report upon the same:

And whereas the said Charles Herbert Grant has since died:

And whereas it is considered expedient to appoint another person to be a member of the Board in place of the said Charles Herbert Grant:

Now therefore His Excellency the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council of the said State, doth by this Order appoint Robert Oswald Snape to be a member of the said Board:

Whereof the said Percy James Clarey, George Hayes, James Victor Stout, Ernest William Trend, Kenneth Hebbert Boykett, and Robert Oswald Snape, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

And the Honorable William Slater, His Majesty's Chief Secretary for the State of Victoria, shall give the necessary directions herein accordingly.

C. W. KINSMAN,
Clerk of the Executive Council.

The Honorable the Premier.

SIR,

1. We, the members of the Board which was appointed by His Excellency the Governor in Council to invite and examine suggestions for amendment of the Factories and Shops Acts and to report upon the same, now, after having submitted three progress reports, have the honour to present to you our final report. The many suggestions received have now been thoroughly examined and, although in several instances it was considered that no action should be taken, wherever we felt the proposal placed before us indicated an improvement, a recommendation, thought to be suitable to meet the position, has been made.

2. Suggestions were received from various sources, including Employers' Organizations, Employees' Organizations, the Melbourne Trades Hall Council, individual employers and workers, and from the Department of Labour.

3. A number of files on many different subjects were submitted to the Board through the Department for consideration.

4. Giving to all these matters the necessary attention, and exploring the effects of the suggestions, have involved a tremendous amount of time and concentration.

5. During the long period that the Board has been in existence a series of extraordinary events, particularly the war and a number of industrial disturbances which have followed, has caused lapses—lengthy lapses at times—between the Board's meetings.

6. Then, too, it must be remembered, the activities of the Board were, with the approval of the Government, suspended for a very lengthy period during the war as members were heavily engaged on other important tasks mainly associated with the war effort.

7. In these circumstances the presentation of this final report comes much later than would otherwise have been the case.

8. *Members.*—Of the six members who at present constitute the Board four have been with it since its inception, while two—Messrs. R. O. Snape and K. H. Boykett—were appointed at later stages.

9. When the death of Mr. P. C. Oake occurred, Mr. R. O. Snape became a member but he afterwards found it necessary to resign and, in his place, Mr. K. H. Boykett was appointed. Some time later Mr. C. H. Grant unfortunately lost his life in the Tasmanian aeroplane disaster, and Mr. Snape again became a member, being appointed to fill the vacancy caused by the death of Mr. Grant.

10. References were made in earlier reports to the splendid services rendered by both Mr. Oake and Mr. Grant.

11. *Sittings.*—Altogether the Board held 112 sittings in Victoria. In addition it was engaged in a number of conferences and interviews in other States. The results of the Board's examination of the wage-fixing systems were the subject of Interim Report (No. 3) which gave the members' views concerning the different systems obtaining in the various States for the fixation of wages and working conditions although it was not possible at that stage to make any unanimous recommendations.

12. The recommendations contained in this report will be found at the conclusion of this explanatory statement which deals briefly with several of the subjects in connexion with which suggestions were received.

13. Following the recommendations is a statement indicating certain matters which have been considered but upon which the Board has not been able to make any unanimous recommendations.

WAGES BOARDS.

14. Notwithstanding the fact that special attention has already been given to the Wages Board system in earlier reports and a number of recommendations previously made, most of which were embodied in amending legislation, there are further suggestions which it is now desired to offer and recommendations to submit.

15. In view of the powers conferred upon Wages Boards, particularly those enumerated in Section 147 of the *Factories and Shops Act 1928* it would appear that some reconstruction of Section 136—the section under which Boards are constituted

—would dispel doubts which apparently exist as to conflict between the two sections referred to concerning the powers of Boards. It is certain, too, that several sections introduced into the statutes many years ago, when Boards' powers were very limited, may well be repealed as they are now redundant because of the general powers under Section 147. What we consider as suitable recommendations dealing with these matters have been included in this Report.

16. That a Wages Board should be able to make a Determination for an individual employer or a particular establishment is a power which, it has been maintained for a considerable time, would speedily settle differences arising between an employer and his employees or between a group of employees and their employer.

17. Flexibility and speed of action are essential for the most efficient functioning of the Wages Board system and the recommendations made in relation to the Boards will, it is felt, assist in these directions.

18. Another power which, it has been advocated, a Wages Board should possess, is the making, if it so desires, of provision for the setting up of a Board of Reference.

19. To be able to turn to a Board of Reference for a decision when there is a difference of opinion concerning classifications and other such matters in a Determination would be a distinct advantage and a recommendation favouring this has been included.

20. In order that Boards may become fully aware of any unrest or any impending disturbance in industry it should be compulsory for Employers' and Employees' Organizations to notify the Chairman of the Wages Board concerned of any threatened, impending, or actual dispute in their industry, and the Chairman should be required to immediately call the Board together to deal with the matter.

21. To overcome what has been put forward as a weakness of the Wages Boards, namely, that certain sections of an industry are not able to secure representation on the Board, it is felt that when an interested person or persons desire to submit evidence before a Board it should be mandatory for the Board to hear such evidence. Furthermore, after having seen the effect of this Board's recommendation made in 1941 that the maximum number of representative members of a Wages Board should be six we are now of the opinion that in a very few cases it may be advantageous to have slightly increased representation. A recommendation is made to the effect that, after the view of the Industrial Appeals Court has been obtained concerning a request for an increase in the number of members, the Minister may appoint additional members provided the total number of members on either side does not exceed five.

22. In addition the Board has come to the conclusion that in any case where a party feels aggrieved or adversely affected by a Determination of a Wages Board the Board should again meet. This, we suggest, would in some instances clear up a difficulty which might arise when the time for lodging an appeal to the Industrial Appeals Court has expired.

23. Some clarification is needed in regard to Section 155 of Act No. 3677, as amended by Section 12 of Act No. 4874, which now reads as follows:—

“(1) All powers of any Wages Board may be exercised by a quorum which shall consist of at least half the representative members and the chairman.

(2) All questions which arise at any meeting of any Wages Board shall be decided by a majority of votes of the members present: Provided that the chairman may decide any question upon which a majority of members present cannot agree.”

24. In our first Report we recommended that a chairman should be empowered to make decisions on matters upon which a majority of the members present at a meeting of the Board cannot agree.

25. It was intended that this should provide the Chairman with something much more than a casting vote; rather would it enable him to himself determine a matter should a deadlock be reached in the Board's deliberations. Envisaging a position where the representatives of one side could not agree with the representatives on the other side in a particular matter and the Chairman felt he could not support either side then he should, the Board thinks, be able to determine the matter. In such circumstances his determination should be deemed to be the determination of the Board.

26. Other matters concerning Wages Boards which were referred to in the Board's first Report and later embodied in legislation but which now, we believe, should be amended, include the following:—

The Minister should have the power not only to allot the Chairmen to Wages Boards but to reallocate them from time to time, if he considers it desirable.

The annual salary payable to the Chairmen should be such as to provide adequate remuneration for the onerous nature of their task and the great responsibility attached to their positions.

INTERPRETATION TRIBUNAL.

27. The Board is fully convinced that some kind of interpretation tribunal is urgently needed. Employers and employees, as well as the Department of Labour, should be able to readily approach some authoritative body to secure interpretations on matters pertaining to the Determinations and to provisions of the Acts.

28. So far as Determinations are concerned it is felt that the appropriate Wages Board might well be the body to give interpretations with the right of appeal to the Industrial Appeals Court.

29. For interpretations on provisions of the Acts application should have to be made direct to the Industrial Appeals Court.

FACTORIES AND FACTORY BUILDINGS.

30. The suggestion that the Act should be amended so that plans must be submitted to and approved by the Labour Department before any building is commenced or any alteration or addition to an existing building is undertaken, is one which the Board fully supports. Many difficult situations would not arise, it is considered, if plans had to be submitted to the Department before any constructional work in connexion with factory buildings takes place.

31. Another amendment which members feel is essential is one making it compulsory in every instance for an application for registration of premises as a factory to be lodged with the Department before the applicant goes into occupation. As the law stands at present it is possible for a factory to be in operation for any period up to a fortnight before any steps whatever are taken to notify the Department of its existence. Consequently factories are at times established in buildings which can be made to comply with the provisions under the Acts only with much difficulty and expense or which are totally unsuitable for use as factories.

32. It is also considered highly desirable that some provision should be made so that for the purpose of any structural alteration or building additions required by the Acts to be made to a factory, or even to a shop, the *owner* of the premises concerned or the person receiving the rent, whether on his own account or on account of any other person, shall be deemed to be the occupier of the factory or shop on his being notified by the Minister that, for such purposes, he will regard him as the occupier.

33. A provision of this nature would, members are convinced, expedite improvements in many cases, particularly where the occupier, being a tenant in the building, may be anxious to carry out instructions to comply with the Regulations but the owner either is reluctant or refuses to have the necessary improvements effected.

34. After examining representations made by the Municipal Association of Victoria and certain municipal councils expressing opposition to the procedure of registering factories in certain instances, notwithstanding that the municipal council had refused to approve of such registrations, the Board is satisfied that some alteration should be made to the present provisions which require the Chief Inspector to issue a certificate of registration in every case where it is shown that all the requirements of the Act have been fulfilled.

35. To meet the objection raised by the municipal councils it is thought that the Act should contain a provision to the effect that the factory shall not be registered in any case where either the premises become a factory for the first time or a change of trade takes place and the municipal council certifies that the existence of such factory is in contravention of the council's by-laws.

36. Recommendations have been made concerning other matters which relate to factories, including an alteration in the minimum fee for annual registration, as the amount of 2s. 6d. is unreasonably low.

37. It is also considered that the method by which the registration fee payable by the occupier of two or more separate factories is calculated on the aggregate number of all employees in all of the separate factories should be discontinued and a separate fee thus be payable for each separate factory as is the case in connexion with shop registration fees.

GUARDING OF MACHINERY AND SAFETY OF WORKERS GENERALLY.

38. Although the Act contains provisions requiring the guarding of dangerous parts of machinery, dangerous appliances and dangerous parts of a factory, we are of the opinion that the powers concerning this extremely important aspect of industrial life—the protection of the worker—need widening and strengthening. It is imperative, too, that protective measures should be extended to classes of workers not as yet covered.

39. The Board views with great concern the fact that, except for chaffcutters, no actual provision is made for the guarding of machinery used in places other than factories. Attention was directed to reports submitted by the Department of Labour concerning fatal accidents caused by machinery on farms and, as the result of an examination of these reports, members have been very disturbed to find that lives have been and others may be lost in this way, yet there is no law requiring supervision of the installation or maintenance of such machinery to ensure suitable guards being provided.

40. Recently a little girl, three years of age, was caught in the motor driving the milking machines on her father's property. She suffered multiple fractures of both legs, the injuries being such that the child died a few days after the accident occurred. Early in 1946 there was a similar fatal accident when another farmer lost his daughter, aged two years and nine months. The child apparently sat on a revolving driving shaft which was not effectively guarded; her clothing became caught and she received such severe head injuries that she died almost immediately. Later another fatal accident occurred. On this occasion it was the wife of a farmer who was killed when portion of her clothing became entangled in the fly wheel of an engine at her husband's dairy farm. It was reported that the deputy coroner, in recording a finding of accidental death by coming in contact with an engine in a milking shed, said he must record his indignation that the Government had failed to take steps to safeguard lives by insisting that milking plants and farm engines be properly protected. During the past year two precious lives had been lost in the district because the Government had not seen fit to insist that this type of machine had proper protection.

41. It cannot, therefore, be too strongly emphasized that there is an urgent need for legislation which would require all stationary machinery used on farms and in primary industries generally to be guarded in accordance with provisions under the Factories and Shops Acts.

42. The power-driven saw, in its several forms—circular and others—is a particularly dangerous type of machine, yet many such saws are used in places where it is not compulsory for them to be provided with guards. In view of the many accidents which occur on these saws, especially circular saws, the Board has come to the conclusion that the provisions of Section 62, which relate to chaffcutters, should be extended to apply to all power-driven saws wheresoever used.

43. In order that the greatest possible amount of protection may be given to the worker in every class of industry the Governor in Council should possess the power to make regulations prescribing guards for all classes of machinery and safety provisions for all classes of persons irrespective of their place of employment.

44. Recognizing that great danger exists because of the lack of control over mechanical lifting appliances it is urged that some provision is essential whereby all such appliances must be inspected and certificates issued as to their condition.

45. To further safeguard workers it has been recommended that power should be provided to prohibit not only males and females under eighteen years of age from working at dangerous machines but also women of any age.

PROVISIONS RELATING TO YOUNG PERSONS.

46. Feeling that it is undesirable for children under fifteen years of age to be in employment it is considered that provision should be made so that no boy or girl under fifteen years of age can, under any circumstances, work in any factory, shop, office, warehouse, or store, or other place determined by Order in Council. Such a provision should become effective not later than the date fixed for the coming into operation of Section 3 of the *Education Act* 1943 (No. 4993). It is further considered that no person under sixteen years of age should be employed in any factory, shop, or warehouse, unless the employer has obtained a certificate of fitness of the young person to be employed in such factory, shop, or warehouse.

SHOP TRADING HOURS.

47. Numerous suggestions have been examined and evidence heard from witnesses on many aspects of those provisions of the law which relate to shops.

48. *Opening Hour for Shops.*—As the law at present stands it seems that a shopkeeper can open his shop immediately after midnight without any infringement of the law. A legal opening hour should, therefore, we maintain, be determined, and it is therefore recommended that eight o'clock in the morning should be the earliest opening hour for all shops other than shops for the sale of fresh uncooked meat and shops of the classes or kinds mentioned in the Fourth Schedule.

49. *Compulsory Closing on Sunday and Public Holidays.*—It is considered that a decided advantage would be achieved by including in the Acts provisions requiring shops, other than Fourth Schedule shops and shops which are specially provided for elsewhere in the Acts, to be closed throughout the whole of Sunday and Public Holidays.

50. *Butchers' Shops.*—The most satisfactory way of dealing with the closing hours for shops for the sale of fresh uncooked meat is, it is felt, to provide that the hours during which such shops may be open shall be the same as the hours determined by the Wages Board as the hours during which employees may be employed in such class of shops. Thus the Wages Board in adopting the provisions of the Federal Award would provide for uniform opening and closing hours throughout that trade.

51. *Canvassers.*—Representations were made to the Board that certain persons were engaged in selling goods by retail from house to house, in some instances hawking their goods in vehicles or on bicycles, and it was urged that action should be taken to prevent the practice occurring outside shop trading hours. We, therefore, feel that it should be clearly set out in the law that no such selling is permissible during hours when shops in which such classes of goods are sold are required to be closed.

52. *Hairdressers and Tobacconists.*—After having heard considerable evidence and weighed all the information placed before it concerning the hours during which tobacco and cigarettes should be sold, and as to when hairdressing should be permitted to be carried on, the Board has come to the conclusion that the closing hour for hairdressers' shops and tobacconists' shops should, throughout the State, be six p.m. on days other than that upon which the weekly half-holiday is observed. In addition, it is considered that the provision under Section 98 (b), which enables individual hairdressers and tobacconists in certain parts to choose either Wednesday or Saturday for the observance of the weekly half-holiday, should be amended so as to require such shopkeepers to observe the same weekly half-holiday as other classes of shopkeepers in the locality.

53. *General.*—Other recommendations have been made which it is felt will improve the provisions relating to shops. These include the widening of the definition of shop to include the rooms of tailors and photographers, undertakers' establishments, and libraries conducted for profit (photographers, undertakers' establishments, and the libraries referred to to be added to the list contained in the Fourth Schedule to the Act).

54. If possible some provision should be made for inflicting additional penalty on a shopkeeper who, on being detected trading after hours, fails to immediately close his premises and keep them closed for the remainder of the day.

55. The Board cannot see any satisfactory reason for retaining the provisions in Section 84 of the *Factories and Shops Act* 1928, according to which fruit shops within a certain portion of the City of Melbourne are exempted from regulations fixing the closing hours of fruit shops in other parts of the metropolitan district.

56. A recommendation has been made concerning action to be taken in regard to the subletting of chairs or parts of their shops by persons carrying on the business of a hairdresser or tobacconist.

CARTING AND DELIVERY.

57. Recommendations have been made regarding amendments to Part VI. of the *Factories and Shops Act* 1928 for, with the reductions in weekly hours which have taken place from time to time without alteration having been made in this Part of the Act, it has been considered necessary that alterations should be made in the hours during which carting may be done.

58. The Board's attention was drawn to what appear to be anomalies existing because of the application of the provisions both of the Transport Regulation Acts and the Factories and Shops Acts. It is, therefore, strongly recommended that a conference of Departments and organizations concerned should be held with a view to uniformity in the legislation being established. The following, it is thought, should be represented at such a conference:—

The Labour Department;
 The Police Department;
 The Transport Regulation Board;
 The Victorian Chamber of Manufactures;
 The Victorian Employers Federation;
 The Trades Hall Council; and
 The Transport Workers Union.

It will suffice to mention just two of the matters which certainly need consideration. The Transport Regulation Acts operate throughout the whole of the State whereas Section 130 of the *Factories and Shops Acts* 1928, restricting the hours during which goods may be carted, applies only to the metropolitan district and a limited number of localities outside the metropolitan district. The former Acts, although they do not restrict the hours during which carting may be done during week days, prohibit the use of a motor vehicle altogether for the carting of goods on Sunday. The section of the Factories and Shops Act just referred to provides, on the other hand, for the issue of permits in certain circumstances to enable carting to be done either outside the hours fixed for week days or on Sundays. The legislation could undoubtedly be improved after the views of those concerned have been obtained.

TIME BOOKS.

59. The Act makes it compulsory for time books to be kept by certain employers such as those whose employees are subject to the Determination of the Bread Trade Board or who work in a hotel, restaurant, or boarding house, or are employed as carters. In view of the fact that in some establishments where large numbers are employed other methods by which employees may record their times of starting and finishing work are found to be more advantageous, it is considered that the provision of a time book, mechanical clock or any other satisfactory method of recording as may be prescribed should be permitted. These time-recording systems should be extended to cover all trades to which the Determinations of Wages Boards apply and in all cases it should be obligatory on the part of every employee to make the required entries.

REGISTRATION INSPECTION AND CONTROL OF BOILERS.

60. Division 16 of Part III. of the *Factories and Shops Act* 1928 specifies the qualifications necessary for persons to take charge of steam engines and boilers. The Board, therefore, feels that provisions relating to the registration and inspection of boilers should be incorporated in the Factories and Shops Act or, at least, the Boilers Inspection Act should be administered in the Department of Labour. Concentration of these matters in the one Department would, we maintain, be a definite improvement.

61. Provision should be made to enable some degree of control to be exercised over boilers of 5 horse-power or less used in the dairying industry or for driving pumps, chaffcutters, and firewood saws, by inspection and/or prescribing specified standards to which they must be constructed. It is astonishing to find that there are no legislative safety provisions relating to the construction or inspection of these small types of boilers.

62. The firm opinion of this Board is that all boilers, even those used for domestic purposes in private homes, including the household device known as the pressure cooker, should be manufactured in accordance with prescribed standards.

ORGANIZATION OF THE DEPARTMENT OF LABOUR.

63. Because of the growth of both industry and commerce in this State the scope of the Department of Labour should be considerably increased so as to enable it to render the fullest assistance in general. Technical problems, with which the Department has to deal, are constantly arising in industry and it is essential that a competent and expert staff should be available for advice and consultation in respect of these matters.

64. Having been much impressed by the information placed before the Board concerning the functions which should be carried out by the Department of Labour and the matters which should come within its administration, recommendations have been made indicating the widened field of activities in which, it is felt, the Department should be engaged. The recommendations emphasize the need for experts to be included on the staff and support the establishment of a permanent advisory Board similar in character to this Board of Inquiry.

SPECIAL PROVISIONS FOR CERTAIN CLASSES OF WORKERS.

65. *Theatrical Talent*.—Information having been placed before it concerning the unfortunate experiences of persons employed in theatrical shows through their being suddenly dismissed whilst on tour, the Board agrees that, in order to afford some measure of protection to this class of employee provision should be made in the Act compelling an employer to obtain a permit from the Department before he employs any kind of theatrical or musical personnel for touring purposes and requiring him, before the permit is issued, to give his itinerary and to lodge a sum of money equal to the return fare of each employee and one week's wages for each employee.

66. *Farriery Trade*.—After considering the submissions presented on behalf of the farriery trade we feel that legislation should be introduced providing a system of registration and control in the trade. Those engaged in this trade contend that all who perform this work should be qualified and licensed. Members of the Board support this contention.

67. *Outside Workers*.—The Board has come to the conclusion that the provisions of Section 203 of the *Factories and Shops Act 1928* relating to registration, should be extended to apply to the giving out of any type of material for the purpose of being wholly or partly prepared or manufactured outside a factory as articles of any kind for trade or sale. The fact that every outside worker must possess a licence would tend to provide some measure of supervision.

PENALTIES.

68. Evidence from various sources emphasized the need for increased penalties and we are satisfied that steps should be taken in this direction. Heavier penalties would, doubtless, have a deterrent effect. Apart from the general recommendation on this matter specific recommendations respecting several sections have been made.

OTHER MATTERS.

69. Recommendations have been made in respect of other matters which would involve either alterations to sections at present in the Acts or the introduction of additional provisions all of which, we feel confident, will make for much improvement and in a number of instances make for clarification. Amongst those matters the following are included:—Statistics relating to accidents and statistics which appear in the Annual Report of the Department; Definitions; Amenities; Powers of Inspectors; Gaining of Admittance to Bread Factories; Mode of calculating wages of persons who work under more than one Determination and Restrictions on the lifting of heavy weights.

CONSOLIDATION OF ACTS.

70. The Board is of the opinion and recommends that immediately following the passing of any amending legislation subsequent to this report the *Factories and Shops Acts* should be consolidated.

RECOMMENDATIONS.

71. The following recommendations have been grouped according to their relation to the different Acts and have, as far as possible, been set out under the heading of the section which it is considered they most appropriately affect. Some, of course, we feel introduce new matter and therefore are not directly associated with any existing section.

FACTORIES AND SHOPS ACT 1928 (No. 3677).

SECTION 3.

The definition of "Child" should be altered to mean a boy or girl under 15 years of age. (See paragraph 46 of this Report).

The definition of "Factory" should be widened and clarified so as to include any premises or place in which one or more persons are or is employed directly or indirectly in a manufacturing process which means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing or adapting of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business.

The premises of outside workers, however, should not be included.

The expression "or (b) inmates of an institution conducted in good faith for religious or charitable purposes" should be deleted from the paragraph dealing with "Laundry".

The definition of "Shop" should be enlarged so as to include lending libraries, undertakers establishments, and the rooms of tailors and of photographers.

SECTION 12.

The section should be amended by inserting after the word "factory" the words "warehouse shop or place".

SECTION 13.

Sub-section (4) should be altered to read "Such report shall show as nearly as possible the whole number of persons engaged in working in factories in Victoria, classifying them according to their sex, age, and average weekly earnings whether in wages or by piecework or both or in wages and by piecework in each branch, their hours of labour, the percentage of work done outside thereof, together with such other particulars of the same general nature as the Minister may require".

SECTION 14.

This section should be so amended as to require the application for registration to be lodged with the Department before the applicant goes into occupation and the submission of plans for approval by the Department before the building of any new factory is commenced and before any alterations or additions are carried out.

SECTION 17.

Sub-section (1) should contain the provision that, in respect of any factory occupied for the first time, or by a new occupier, after the 31st January, the registration fee shall be paid not later than 14 days after a notice by the Chief Inspector, demanding such fee, has been served on the occupier.

SECTION 22.

Sub-section (4) should be deleted.

SECTION 23.

The section should be amended by—

(1) In sub-section (6)—

(a) inserting after the words "cotton or" the following words "two or more of them or any substitute or substitutes for them or any of them or",

(b) deleting the words "boots or shoes" and inserting the word "footwear" in lieu thereof.

- (2) In sub-section (7) altering paragraph (a) to read " that he had, at the time of the alleged offence, taken all reasonable precautions against committing an offence against this section " and repealing paragraph (c).

SECTION 24.

The provisions of the section should be extended so that every employer in any process trade business or occupation subject to a Wages Board shall provide and cause to be kept a time book or other record in the prescribed form in which each employee's time of commencing and ending work shall be entered from day to day by such employee.

SECTION 25.

In sub-section (2) the words " that may in the opinion of the Minister be injurious to health " should be deleted.

SECTION 26.

Suitable amendments should be made to provide that, in the case of an unsafe factory, immediate steps shall be taken to safeguard employees and that normal operations carried on in the dangerous portion or portions of the premises be suspended until danger has been removed.

Provision should also be made requiring similar action to be taken in any case where harmful gas is discharged into the air.

SECTION 28.

The section should be amended by—

- (a) altering the penalty in sub-section (2) to not less than Ten pounds for the first offence and not less than Twenty pounds nor more than One hundred pounds for every subsequent offence,
- (b) deleting sub-section (3).

SECTION 30.

For the present section the following should be substituted:—

Where in any factory shop or place any process is carried on by which dust, gas, vapour or other impurity is discharged into the air such means shall be provided by the occupier as will render harmless, as far as practicable, such dust, gas, vapour or other impurity.

Attention is drawn to the recommendation under Section 26 concerning harmful gas.

The Board is of the opinion that the carrying out of tests to detect the presence or otherwise of such impurities should be performed by the Department of Labour which should be suitably equipped to conduct such work.

SECTION 31.

The section should be so constructed as to enable the Department to direct, when considered necessary at any time, the occupiers of any factory shop or place—

- (1) to paint or varnish the premises or any portion thereof;
- (2) to lime wash the premises or any portion thereof; or
- (3) to wash with hot water and soap any portion of the premises.

SECTION 32.

For the words " and the paint or varnish shall be renewed at least once in every seven years " there should be substituted " and the paint or varnish shall be renewed whenever directed by the Chief Inspector ".

SECTION 35.

Instead of the present section one should be inserted to provide that no employee shall be employed for more than five hours without an interval for a meal, the period of time to be allowed for the meal break to be determined by the Wages Board concerned and where no such provision is made by a Wages Board the interval shall be not less than half an hour.

SECTION 36.

Sub-section (4) should be amended by—

- (1) Adding after the words "The Minister may from time to time in writing require the occupier of any factory, shop or place to provide" the following words "in such manner as he may direct".
- (2) Altering the expression "(b) a bathroom for the use of employees" to read "(b) a wash and/or shower room for the use of employees".
- (3) Inserting a provision making failure to carry out the Minister's direction an offence against the Act.
- (4) Adding a further paragraph, as follows:—
 "(d) facilities for the safekeeping of employees' clothes and personal effects."

SECTION 37.

The section should provide that no person under fifteen years of age shall be employed in any factory, shop, office, warehouse, or store, or other place determined by Order in Council.

SECTIONS 38 AND 42.

Sub-sections (1), (2), (3), and (5) of Section 38 and Section 42 should be repealed and Section 38 should contain the following:—

- (1) No person shall employ in a factory any male under 16 years of age or female under 18 years of age—
 (a) for more than 48 hours in any week; or
 (b) between the hours of nine o'clock in the evening and seven o'clock in the morning.

Provided that no female under sixteen years of age shall be employed in a factory between the hours of six o'clock in the evening and seven o'clock in the morning.

- (2) Sub-section (4) altered to read "Every person who offends against the provisions of this section shall for each and every contravention of this section be liable for the first offence to a penalty of not more than Five pounds and for every subsequent offence to a penalty of not less than Five pounds nor more than Twenty-five pounds."

SECTION 39.

In sub-section (5) the words "in order to meet the exigencies of trade the Minister on payment of a fee of Two shillings and six pence may" should be altered to read "In order to meet the exigencies of trade the Minister, after due inquiry and on payment of a fee of Three pounds, may".

SECTION 47.

The section should provide that no person under the age of sixteen years shall be employed in any factory, shop, or warehouse, unless the occupier has obtained a certificate of fitness of such person for employment.

Sub-section (3) could consequently be deleted.

SECTION 48.

Consequential alterations should be made in view of the recommendation concerning Section 47.

SECTION 53.

Sub-section (1) should be altered to provide that no person whosoever unless in receipt of a weekly wage of at least Twelve shillings and six pence shall be employed in any factory, shop, warehouse or place; and in sub-section (2) the words "Two shillings and six pence" should be altered to read "Twelve shillings and six pence".

SECTION 54.

Sub-section (1) should be so amended as to ensure that the occupier of a factory or employer is responsible that a certificated person is in charge of any engine or boiler to which the section applies.

Provision embodying the principle contained in Section 438 of the *Mines Act* 1928 should also be included to enable an Inspector of Factories, where in his opinion the duties of having under control and being in charge of the steam engine or steam engines and boiler or boilers used in or in connexion with any factory cannot be performed with safety by one person, to require, by notice in writing, the occupier to forthwith place any steam engine or boiler in charge of and to keep the same in charge of some separate person.

An Inspector required to make such a decision should be qualified to do so.

Penalties should be provided for failure, neglect, or refusal by an occupier to comply with any of the requirements contained in any such notice.

SECTION 56.

In lieu of sub-section (2) a sub-section should be inserted providing that the provisions of Division 16 of the Act do not apply to—

A boiler used exclusively for domestic purposes in a private house.

Boilers of not more than five horsepower or which have not more than 50 square feet of heating surface used for driving cream separators, milking machines, pumps, chaffcutters, firewood saws, or for heating purposes in dairies, or used for extracting honey or for heating purposes in buildings in which honey is extracted.

SECTION 58.

The section should be repealed.

SECTION 59.

The provisions of the section should apply to stationary power-driven machinery used in rural industries.

SECTION 62.

The words "Notwithstanding anything in the Factories and Shops Acts" should be inserted immediately preceding the words "every chaffcutting machine".

The provisions of this section should be extended to apply to all power-driven saws wheresoever used.

SECTION 64.

Provision should be made giving the Minister power, by order under his hand, to direct a factory occupier to cease or to modify any manufacture, plant, process, or labour which he is satisfied is dangerous or injurious to health or dangerous to life or limb, and failure to carry out such order shall be deemed to be an offence.

SECTION 65.

Instead of "Mill Gearing" the expression "Mechanical power transmission equipment" should be inserted and necessary consequential alterations made in definitions and other parts of the Act including the insertion of the following definitions:—

"Prime mover" includes steam, gas, oil, and air engines and turbines, electric motors, hydraulic turbines, water wheels and windmills.

"Mechanical power transmission equipment" includes flywheels on machines other than prime movers and all mechanical means of transmitting power from a prime mover up to but not including the point of operation of power-driven working machines.

"Point of operation" means that part of a working machine at which cutting, shaping, forming or any other necessary operation is accomplished, including such other parts as may offer a hazard to the operator in inserting or manipulating stock or material.

“ Flywheel ” in relation to prime movers includes flywheels, balance wheels and pulleys which are mounted on and revolve with the crank shaft of an engine or other shafting of a prime mover.

SECTION 66.

The section should be amended to enable the Governor in Council, by order, to prohibit the employment in any factory of any male under 18 years of age and female of any age at or in connexion with any particular class of machinery specified in such order as dangerous or undesirable for any such persons to work.

SECTION 67.

The section should contain the following provisions:—

Where there occurs in a factory any accident which either—

(a) causes loss of life to a person; or

(b) causes bodily injury to a person employed in the factory—

and which is of such a nature as to prevent the person injured by it from returning to his work in the factory within 24 hours after the occurrence of the accident or which, within fourteen days prevents the attendance of such person at his work for more than 24 hours, written notice of the accident shall forthwith after the expiration of 24 hours from the commencement of the injured person's absence from work be sent to the Inspector for the district giving such information as may be prescribed; and if any such notice is not sent the occupier of the factory shall for the first offence be liable to a penalty of not more than Five pounds and for any subsequent offence to a penalty of not more than Ten pounds.

SECTION 82.

The section should be brought up to date by—

(a) deleting the words “ the Shire of Heidelberg (except the Greensborough Riding) ” and inserting the words “ the City of Heidelberg (except the Greensborough Ward) ”;

(b) including all extensions which have been made by the Governor in Council under sub-section (2).

SECTION 84.

Regulations relating to the closing hours for fruit shops within portion of the City of Melbourne should apply to the whole of the municipality, therefore the following words in the proviso to sub-section (1) of section 84 should be deleted:—

“ to fruit shops in the area enclosed by Flinders-street, Spencer-street, Latrobe-street, Victoria-street, and Spring-street in the City of Melbourne ”.

SECTION 85.

The section should be repealed.

SECTIONS 86 AND 97.

The provisions in the Act relating to hours for butchers' shops should provide that the hours during which such shops may be open shall be the same as those during which employees are permitted, by the Determination of the Wages Board, to be employed, and Sections 86 and 97 should be amended accordingly.

SECTION 87.

The section should be so amended as to require hairdressers' shops and tobacconists' shops within the Metropolitan District to be closed from 6 p.m. on Monday, Tuesday, Wednesday, Thursday, and Friday in every week.

SECTION 88.

Instead of the present section provision should be made in the Act for the introduction of a system of registration and control of the Farriery Trade.

Pending such system of registration coming into being the section should be amended by—

- (1) providing for opening at 7.30 a.m. instead of 6.30 a.m.;
- (2) prohibiting farriers' work on a Sunday;
- (3) defining a farriers' workshop as "any place (other than a racecourse) where horses are shod".

SECTION 98.

Alteration should be made in the section so as to—

- (a) require hairdressers' shops and tobacconists' shops in the Cities of Ballarat, Bendigo and Warrnambool, in the Geelong District, in the boroughs of Castlemaine, Eaglehawk and Sebastopol and in the Township of Kyneton to be closed from 6 p.m. on Monday, Tuesday, Wednesday, Thursday and Friday in every week;

and
- (b) require hairdressers' shops and tobacconists' shops in all other parts of Victoria outside the Metropolitan District to be closed—
 - (i) from 1 p.m. on the same day as that upon which other shops (except shops for sale of fresh uncooked meat and shops of the classes or kinds mentioned in the Fourth Schedule) are required to close at that hour within the same locality;

and
 - (ii) from 6 p.m. on the other days of the week.

SECTION 102.

The penalties should be altered to provide not more than Ten pounds for the first offence, not less than Ten pounds nor more than Twenty-five pounds for the second offence and not less than Twenty-five pounds nor more than Fifty pounds for the third or any subsequent offence.

SECTION 105.

The section should contain a proviso to the following effect:—

- "If, after due inquiry, the Minister is satisfied that the circumstances warrant it, he may grant permission for a named person or persons to be employed for a stated period and such employment shall not constitute an offence."

SECTION 107.

The section should be amended to enable regulations to be made prescribing suitable forms or types of seating accommodation.

SECTION 109.

The words "is required to reside" should be deleted and the word "resides" substituted therefor.

SECTION 110.

The section should be so altered as to provide that no letting may take place without first obtaining the approval of the Industrial Appeals Court, the Court to determine the conditions which should be not less than those at present provided in the section.

SECTION 117.

The section should be repealed.

SECTION 119.

The section should be repealed.

SECTION 120.

The section should be repealed.

SECTIONS 121, 122, 123 and 124.

These sections should be repealed and a section inserted providing that—

- (1) in places which are usually kept open all the seven days of the week each person employed shall be entitled in each week to a whole holiday and in addition a half holiday from the hour of one o'clock in the afternoon;
 - (2) In other places each person employed shall be entitled, in each week, to a half holiday from the hour of one o'clock in the afternoon of Monday, Tuesday, Wednesday, Thursday, Friday or Saturday;
- the foregoing provisions to apply to persons employed—

(a) in any—

Apartment house.
 Lodging house.
 Boardinghouse or Guest house.
 Coffee palace.
 Confectionery and Pastry shop.
 Bread shop.
 Eating house.
 Fish or Oyster shop.
 Flower shop.
 Fruit and Vegetable shop.
 Bookseller's and Newsagent's shop.
 Cooked Meat (other than tinned meat) shop.
 Hotel (whether or not a victualler's licence is held for such premises).
 Premises for which an Australian wine licence or a billiard table licence is in force.
 Premises which are occupied as a club.
 Photographer's shop.
 Undertaker's establishment.
 Lending Library.

(b) in the trade or business of a caterer.

SECTION 130.

The section should be amended by—

In sub-section (1) (a)—

Altering "half-past one o'clock" in sub-paragraph (ii) to "one o'clock".

Deleting sub-paragraph (iii).

Altering "half-past seven o'clock" in sub-paragraph (iv) to "half-past six o'clock".

Inserting the word "solely" immediately following the word "persons" wherever occurring in paragraph (b) of sub-section (1).

Altering sub-section (2) to allow carting to continue until nine p.m. only on the working day immediately preceding—

Good Friday; and

Christmas Day when such working day is a day other than Saturday.

Deleting the following words in sub-section (3) "provided that such person is paid at the rate of Two shillings for each hour for such carting".

Inserting the following:—

No person under 18 years of age shall be permitted to deliver any goods exceeding 20 pounds in weight by means of a push bicycle,

and

No person shall be permitted to deliver any goods by means of a push bicycle unless such bicycle is fitted with an approved carrier or container for holding such goods.

SECTION 131.

The section should be amended to provide for motor vehicles as well as horse-drawn vehicles.

SECTION 133.

The section should be amended so as to provide not only for a time book or card but also for any other satisfactory record (such as a mechanical clock) as may be prescribed.

SECTION 134.

The words " Twenty-six hours " should be altered to " Twenty hours ".

SECTION 135.

The section should be repealed.

SECTION 136.

The section should be amended by providing—

- (a) that the Governor in Council may by Order published in the *Government Gazette* declare that it is expedient to appoint a Wages Board for any trade or any group of trades instead of declaring that it is expedient to appoint any Wages Board to determine the lowest prices or rates which may be paid to any person or persons or classes of persons employed in any trade or group of trades;
- (b) that after the view of the Industrial Appeals Court has been obtained concerning any request for an increase to be made in the number of members the Minister may appoint additional members provided the total number of members on either side does not exceed five;
- (c) for the abolition of any Wages Board deprived of all its powers and of any Wages Board which has already been deprived of its powers.

SECTION 146.

The section should be repealed.

SECTION 147.

The following words at the commencement of the section should be repealed:—

" In addition to or in lieu of the powers and duties conferred upon Wages Board by this Act."

The section should contain provisions enabling each Wages Board to provide for a Board of Reference—such Board of Reference to be presided over by the Chairman of the Wages Board and to consist of not more than two representatives of employers and two representatives of employees, one at least of the representatives on each side to be a member of the Wages Board.

All other matters regarding the appointment of the members of the Board of Reference should be determined by the Wages Board. The Board of Reference should have power to settle disputes arising from questions of fact but not to give legal interpretations concerning the provisions of the Determination of the Wages Board. There should, however, be a right of appeal to the Industrial Appeals Court from any decision of the Board of Reference.

A proviso should be added to the section to the effect that nothing in the Act shall enable a Wages Board to fix lower piecework prices for persons under 21 years of age than those fixed for adults.

SECTION 148.

This section should be repealed.

SECTION 149.

The section should be amended by—

- (a) inserting after the words " cotton or " the words " two or more of them or any substitute or substitutes for them or any of them or ";

(b) deleting the words " boots or shoes " and inserting the word " footwear " in lieu thereof.

SECTIONS 150, 151, 152, AND 153.

These sections should be repealed.

SECTION 154.

The section should be repealed.

SECTION 155.

To set out the intention of the recommendation made by the Board in its first Report—

" that the Chairman should be empowered to make decisions on matters upon which a majority of the members present at a meeting of the Board cannot agree ".

Sub-section (2) of Section 155 should be altered to provide that all matters which come before any meeting of any Wages Board shall be decided by a majority of votes of the members present provided that the Chairman may determine any matter upon which a Board by a majority vote is unable to reach a decision, and his determination shall be deemed to be the decision of the Board, irrespective of whether or not a motion on such matter is before the Board.

SECTION 160.

The section should be repealed.

SECTION 163.

The section should be repealed.

SECTION 164.

The section should be repealed.

SECTION 166.

The section should be repealed.

SECTION 168.

The section should be repealed.

SECTION 169.

Sub-section (1) of the section should be deleted, but sub-section (2) retained.

SECTION 170.

The section should be repealed.

SECTION 171.

In sub-section (2) the words " The Determination of any Wages Board shall be signed by the Chairman thereof and published in the *Government Gazette* " should be replaced by the following: " The Determination of any Wages Board shall be signed by the Chairman thereof and forwarded to the Minister who shall cause such Determination to be published in the *Government Gazette* ".

SECTION 172.

The section should be altered to provide that no Determination of a Wages Board shall prevent the sons or daughters of any employer being employed by him in any capacity subject to the limitations of employment in this Act or contained in any applicable Determination, but such sons or daughters shall be counted in calculating the number of apprentices or improvers, but the employer shall not be bound to pay his sons or daughters the rates fixed by any Determination.

SECTION 173.

The section should be amended so that its provisions will operate only where persons are not in competition with industry.

SECTION 174.

The section should contain the following principles:—

(a) In the case of persons employed in shops—

Persons who work under more than one Determination should be regarded as employed wholly under the Determination fixing the highest rates.

(b) In the case of persons employed elsewhere:—

Persons who work under more than one Determination should, if working—

- (i) four hours or less, on any day, under any Determination, be paid pro rata according to the time worked under each Determination;
- (ii) more than four hours, on any day, under the Determination fixing the highest rates, be regarded as being employed under such Determination for the whole of the day;
- (iii) more than twenty hours, in any week, under the Determination fixing the highest rates, be regarded as employed under such Determination for the whole of the week.

SECTION 175.

After the words " Garden Employees Board " the words " and employed at a Private House " should be inserted.

SECTION 176.

The words " at or near the entrance of " should be deleted and the word " in " inserted in lieu thereof.

SECTION 181.

The section should be repealed.

SECTION 191.

Sub-sections (1), (2), and (3) should be deleted and the following provision included in the section:—

The Minister may order that the indenture of any apprentice be cancelled or transferred to another employer if, in his opinion, there are special circumstances which render such cancellation or transfer desirable.

SECTION 192.

The section should be amended to provide that in every case where any indenture of apprenticeship is entered into the wages to be paid to the apprentice shall be those prescribed from time to time by the Determination of the Wages Board for the trade concerned—with a saving provision in respect of existing indentures.

SECTION 203.

The first portion of sub-section (1), commencing with the words " No person who is or is deemed to be " and ending with the words " under this section ", should be altered to provide the following:—

No person who is or is deemed to be the occupier of a factory to whom Section 23 of the Act applies shall issue or give out or authorize or permit to be issued or given out any material whatsoever for the purpose of being wholly or partly prepared or manufactured outside a factory—

- (a) as a fabric of linen, wool, silk or cotton, or two or more of them or any substitute or substitutes for them or any of them;
- (b) as an article consisting of any fabric or material mentioned in (a);
- (c) as an article of clothing or wearing apparel or footwear;

for trade or sale except to a person who holds a licence as an outside worker under this section.

Sub-section (2) should be altered to provide for a penalty of not more than Twenty pounds instead of not more than Five pounds.

Furthermore the Act should contain provisions requiring all outside workers to be licensed but no fee to be charged.

SECTION 207.

The section should provide that no employer shall permit or require a woman or young person to lift or carry by hand a greater weight than—

- Males under sixteen years of age, 30 lb.
- Males under eighteen years of age, 40 lb.
- Females under sixteen years of age, 20 lb.
- Females under eighteen years of age, 25 lb.
- Females eighteen years of age or over, 35 lb.

SECTION 210.

In this section the maximum penalty of Ten pounds should be increased to Twenty pounds.

SECTION 213.

Sub-sections (2) and (3) should be repealed.

SECTION 215.

In sub-section (1) the penalty should be not less than Five pounds and not more than Twenty pounds.

SECTION 233.

The penalty provisions in sub-section (1) should be altered to provide for the first offence a penalty of not more than Twenty-five pounds, for the second offence a penalty of not less than Five nor more than Fifty pounds, and for a third or any subsequent offence a penalty of not less than Fifty nor more than One hundred pounds.

Sub-section (2) could be deleted because of the provisions contained in Section 3 of Act No. 4461.

SECTION 237.

Provision should be made in the section to enable a Court of Petty Sessions to order payment of arrears in respect of any moneys due in accordance with a Determination instead of as to pay, overtime or tea money only.

SECTION 239.

The section should be amended by—

In sub-section (1) substituting the words “ for the first offence to a penalty of not more than Five pounds and for every subsequent offence to a penalty of not less than Two pounds nor more than Twenty-five pounds ” for the words “ to a penalty of not more than One pound for each offence ”.

In sub-section (2) substituting the words “ for the first offence to a penalty of not more than Ten pounds and for every subsequent offence to a penalty of not less than Five pounds nor more than Fifty pounds ” for the words “ to a penalty of not more than Three pounds or if the offence was committed during the night of not more than Five pounds ”.

SECTION 241.

The penalty in sub-section (1) should be not more than Twenty-five pounds, and in sub-section (2) the words “ Five pounds or where the offence is committed at night of not more than ” should be deleted.

The section should also provide similar penalties for obstructing a person who under the provisions of a Determination has the right of entry.

SECTION 245.

The penalties under this section should be for the first offence not more than Ten pounds, for the second offence not less than Ten pounds nor more than Twenty-five pounds, and for a third or any subsequent offence not less than Twenty-five pounds nor more than Fifty pounds.

SECTION 247.

The penalties provided under this section should also be increased by providing a penalty of not more than Five pounds for the first offence and not less than Five pounds nor more than Twenty-five pounds for every subsequent offence.

SECTION 248.

The power to make regulations prescribing the means, method and amount of fire-escape, fire prevention, ventilation, air-space, cleanliness, sanitary provisions, and arrangements for securing the health, safety and convenience of employees should be extended to cover not only factories and shops but also warehouses and any other place in which persons are working or employed in any business whatsoever.

Provision should be included to enable the Governor in Council to make Regulations—

- (a) prescribing the forms of accident notifications to be furnished by occupiers under Section 67;
- (b) requiring guards as prescribed to be provided for any particular class of machine whether used in a factory or not;
- (c) prescribing safety provisions in relation to all classes of workers wheresoever employed.

SECOND SCHEDULE.

The minimum fee for the registration of a factory or a shop should be 5s. instead of 2s. 6d., and occupiers of two or more factories should be required to pay a separate fee on each factory in the same way as the occupiers of two or more shops are compelled to pay a separate fee on each shop.

Therefore, the expression “any person or body of persons occupying two or more separate factories shall pay a fee calculated on the aggregate number of all the employees in all of the separate factories”, which appears in the Second Schedule, should be repealed.

FOURTH SCHEDULE.

The following should be added to the list appearing in the Fourth Schedule:—

Photographers' shops.
Lending Libraries.
Undertakers' Establishments.

FACTORIES AND SHOPS (SUNDAYS) ACT 1932 (No. 4102).

SECTION 2.

The following amendments should be made to the section:—

In sub-section (1) for the words “boots and shoes” substitute the word “footwear”.

In sub-section (4) for the words “In order to meet the exigencies of the trade the Secretary for Labour, after due inquiry and on payment of a fee of Two shillings and sixpence” substitute the words “In order to meet the exigencies of trade the Minister after due inquiry and on payment of a fee of Three pounds”.

In sub-section (5) for the words “a penalty for the first offence of not more than Five pounds and for any subsequent offence of not more than Twenty pounds” substitute the words “a penalty for the first offence of not more than Ten pounds and for any subsequent offence of not more than Forty pounds”.

FACTORIES AND SHOPS ACT 1934 (No. 4275).

SECTION 8.

The word “footwear” should be substituted for the words “boots or shoes” wherever they occur in the section; and

In sub-section (6) the words “In order to meet the exigencies of trade the Minister on payment being made of a fee of Two shillings and six pence” should be altered to read “In order to meet the exigencies of trade the Minister after due inquiry and on payment of a fee of Three pounds”.

SECTION 21.

The section should be amended to enable a Wages Board to provide for the automatic adjustment of wages rates and piecework prices in accordance with the variation of the cost of living as indicated either by the retail price index numbers published by the Commonwealth Statistician or by the Commonwealth Arbitration Court's retail price index numbers.

SECTION 30.

In sub-section (b) of sub-section (1) the words "Every occupier of a factory shop or place" should be substituted for the words "Every employer".

SECTION 32.

Sub-section (3) should be repealed.

FACTORIES AND SHOPS ACT 1936 (No. 4461).

SECTION 3.

Sub-section (3) of Section 3 should be altered to provide that the Appeal referred to may be made to the Industrial Appeals Court instead of to a Court of Petty Sessions.

SECTION 6.

In sub-section (3) (a) for the words "such Wages Board shall be appointed or (as the case requires) the powers of such Wages Board shall be extended accordingly" the following words should be substituted:—"The Minister may, if he thinks fit, take steps under Section 136 or under Section 139 for the appointment of such Wages Board or for the extension of the powers of such Wages Board (as the case requires)".

SECTION 7.

The section should be amended to provide that any employee who fails to enter his times of commencing and finishing work shall be liable to a penalty so that employees as well as employers shall be responsible for the making and keeping of such records.

FACTORIES AND SHOPS ACT 1941 (No. 4874).

SECTION 22.

Rather than providing power whereby the Industrial Appeals Court may grant an extension of time within which an appeal may be made against a Determination of a Wages Board, the view reached was that when an interested party not having had the opportunity of being heard and the time for lodging an appeal having expired felt adversely affected by a Determination made, arrangement should be made for the Board to again meet and hear such party.

SECTION 28.

Amendments should be made to the section so that—

- (a) its provisions will operate not only in proceedings against a person for a contravention of any of the provisions of a Determination of a Wages Board but also in proceedings against a person for a contravention of any provision of the Acts;
- (b) where it appears to the Industrial Appeals Court that proceedings have been wrongly transferred by the magistrate to the Court under this section, the Industrial Appeals Court should have the power to remit the case to the magistrate with the direction that it be heard and determined by him.

RECOMMENDATIONS CONCERNING WHICH NO REFERENCE IS MADE TO ANY PARTICULAR SECTION.

WAGES BOARDS AND INDUSTRIAL APPEALS COURT.

Provision should be made so that—

- (a) when an application for the appointment of a new Board or for alteration in the powers of a Board is received notification of such application shall be advertised in the Public Press and (as recommended by the Board in its first Report) the functions of the Industrial Appeals Court should include the consideration of any matter which may be referred to it by the Minister of Labour for interpretation or investigation;
- (b) a Wages Board shall, upon application being made, hear the representations or evidence which any interested persons or organizations may desire to submit to the Board;
- (c) a Wages Board may make a Determination to apply to an individual employer or establishment.

CHAIRMEN OF WAGES BOARDS.

Instead of there being a panel of only two Chairmen, provision should be made to enable the Governor in Council to appoint additional Chairmen if necessary.

The Minister should have power not only to allot the Chairmen to the Boards but to reallocate them if in his opinion it is necessary.

The rate of remuneration for Chairmen should be such as to adequately compensate for the responsibility of the duties performed.

INTERPRETATION TRIBUNAL.

Provision should be made to enable—

- (a) An employer, employee, interested organization, or the Department of Labour to apply to a Wages Board for an interpretation of any provision in its Determination with the right of appeal to the Industrial Appeals Court against any interpretation given by the Wages Board.
- (b) Applications for interpretation of the Acts by employers, employees, interested organizations, or the Department of Labour to be made to the Industrial Appeals Court.

NOTIFICATION OF THREATENED, ETC., STRIKE.

The Act should contain a provision requiring Employers' and Employees' Organizations to notify the Chairman of the Wages Board concerned of any threatened, probable, impending, or actual dispute in their industry whereupon the Chairman shall immediately call the Board together.

OPENING HOURS FOR SHOPS.

For all shops, other than butchers' shops and shops of the classes or kinds mentioned in the Fourth Schedule, an opening hour should be fixed. It is recommended that the opening hour should be not earlier than 8 o'clock each morning except Sunday.

SUNDAY TRADING.

Provision should be made requiring all shops other than shops of the classes or kinds mentioned in the Fourth Schedule to be closed for the whole of each Sunday.

CLOSING OF SHOPS ON PUBLIC HOLIDAYS.

Shops, other than shops of the classes or kinds mentioned in the Fourth Schedule, should be required to be kept closed throughout the whole of such public holidays as may be prescribed from time to time in the Determination of the appropriate Wages Board.

SHOPKEEPER WHO FAILS TO CLOSE HIS SHOP IMMEDIATELY HE IS DETECTED.

Provision should be made to deal with a shopkeeper who, after a breach as to closing hours has been detected, does not immediately close his shop and keep it closed for the remainder of the day.

HOUSE TO HOUSE CANVASSERS.

House to house canvassers and persons selling from travelling vehicles should not be permitted to engage in the selling of goods outside the trading hours for shops selling such goods.

DIFFICULTY OF GAINING ADMITTANCE TO BREAD FACTORIES.

A provision to the following effect should be inserted in the Act:—

“ the occupier of any premises where the business of making or baking bread is carried on shall make such provision as may be required by the Chief Inspector of Factories to enable an Inspector to effect an entry to such premises or to exercise his powers under the Act ”.

FISH AND POULTRY ESTABLISHMENTS.

Fish and poultry establishments in which one or more persons are engaged should be required to register as factories and provision should be made fixing responsibility in cases where work is carried on in such places as markets where several employers operate.

REGISTRATION OF FACTORIES WHICH DO NOT COMPLY WITH MUNICIPAL COUNCIL BY-LAWS.

Provision should be made that the factory shall not be registered in any case where either the premises become a factory for the first time or a change of trade takes place and the municipal council certifies that the existence of such a factory is in contravention of the council's By-laws.

POWER TO DEAL WITH OWNER OF BUILDING IN CERTAIN CASES.

A provision to the following effect should be inserted in the Act:—

For the purpose of any structural alteration or building additions required by this Act to be made to a factory or shop, the Minister may, by notice in the form prescribed, notify the owner of the premises concerned or the person receiving the rent for the same, whether on his own account or on account of any other person, that he will regard him for such special purposes as the occupier of the factory or shop and thereafter the said owner or person shall, for the said purposes, be deemed to be the occupier of the factory or shop.

LIFTING APPLIANCES.

The Act should contain provisions giving Inspectors power to inspect all lifting appliances and to issue certificates as to their condition.

EMPLOYMENT OF THEATRICAL TALENT.

Provision should be made in the Act requiring an employer—

- (a) to obtain a permit before employing any type of theatrical or musical personnel for touring purposes;
- (b) before he is issued with such permit to—
 - (i) give his itinerary,
 - (ii) lodge a sum equalling the return fare of each employee,
 - (iii) lodge a further sum equalling one week's wages for each employee,

subject to the Minister having the power to grant exemptions reviewable every twelve months.

POWERS OF INSPECTORS.

The provisions of Sections 18, 19, and 20, and of 125, 126, and 127 should be extended to apply to all places (other than factories and shops) where persons are employed under the Determination of any Wages Board.

ASSAULT UPON AN INSPECTOR.

Provision should be made for a prosecution to be taken against any one for assault upon an Inspector and penalties higher than those for obstruction should be prescribed.

PENALTIES.

Heavier penalties should be provided for all breaches of the provisions of the Acts not only for those specifically referred to in the foregoing recommendations.

PERMANENT ADVISORY BOARD.

In view of its experience since being appointed in 1940, this Board is strongly of the opinion that statutory provision should be made for the permanent appointment of a Board, similar in character, with power to act in an advisory capacity in connexion with all matters administered by the Department of Labour.

If necessary it should be possible for the powers of such a permanent Board to be extended by Order in Council.

The Board should consist of—

- (i) a Chairman, who should be either the Minister of Labour or the Secretary for Labour;
- (ii) six members, three being representatives of employers and three being representatives of employees who should be nominated by named organizations—the members to be the nominees of the respective organizations and not selected from a panel.

CONTROL AND INSPECTION OF BOILERS AND ENGINES.

The control and inspection of boilers and engines should be administered in the Department of Labour.

Furthermore, the Act should contain provisions requiring *all* boilers to be manufactured in accordance with prescribed standards, and even the following should not be excluded from such requirements:—

- (a) Boilers used exclusively for domestic purposes in private houses, including such devices as “pressure cookers”.
- (b) Boilers of not more than five horse-power or which have not more than 50 square feet of heating surface used for driving cream separators, milking machines, pumps, chaffcutters, firewood saws, or for heating purposes in dairies, or used for extracting honey, or for heating purposes in buildings in which honey is extracted.

ORGANIZATION OF THE DEPARTMENT OF LABOUR.

In order to be more indicative of the functions it should carry out, the name of the Department should be changed from “Department of Labour” to “Department of Labour and Industry” and its activities should include the dealing with—

- (1) Employment and unemployment, including employment offices, and provision for unemployment in general and special cases.
- (2) Wages and conditions of employment.
- (3) Employment of minors.
- (4) Apprenticeship, vocational guidance and training.
- (5) Employment of women.
- (6) Industrial health, safety, welfare, and general conditions in places of employment.
- (7) Workers' compensation.
- (8) Industrial relations.
- (9) Administration of industrial legislation.
- (10) Research, statistics, and information.

- (11) Encouragement of the establishment, development, and expansion of industries throughout the State.
- (12) Control and regulation of noxious trades.

NEED FOR EXPERTS ON THE STAFF OF THE DEPARTMENT OF LABOUR.

Properly qualified experts should be attached to the staff of the Labour Department to deal with—

- Problems arising in relation to architectural building;
- Matters of engineering;
- Legal questions;
- Industrial Welfare and Hygiene.

RE-AFFIRMATION OF RECOMMENDATIONS INCLUDED IN PREVIOUS REPORTS.

Section 9 of the Factories and Shops Act 1928 (No. 3677).—In the Board's first report which was presented in 1941, reference was made to the fact that the conclusion had been reached that workers in the occupations mentioned in Section 9, irrespective of where the work was performed, should have the protection of Wages Boards, and it was, therefore, recommended that the section should be amended, to enable the provisions of Wages Boards to be applied to persons or certain classes of persons engaged in the pursuits named, either by the creation of new Wages Boards or the extension of the powers of Boards already appointed.

The Board now is even more firmly convinced of the necessity of its earlier recommendation being fully implemented and strongly urges that action be taken in this direction, if it is not regarded as timely to repeal the section altogether.

Universal Saturday Half Holiday.—The suggestion that shopkeepers throughout the whole of Victoria should be required to observe the weekly half holiday on Saturday was specially dealt with, together with the proposal favouring the abolition of the late shopping night, in Interim Report (No. 2). At that time (February 1946) it was estimated that the number of shops which were permitted by exemptions to observe the weekly half holiday on a day other than Saturday was in the vicinity of 600.

Even since then shopkeepers in a number of localities have by majority petitions sought the revocation of the Regulations under which they had been so observing their half holiday.

As the result of these Regulations having been revoked there are now only about 300 shops in Victoria to which the exemptions apply.

We, therefore, re-affirm our recommendation that the Saturday half holiday should be applied throughout the whole of the State to all shops, other than shops of the classes or kinds mentioned in the Fourth Schedule to the *Factories and Shops Act 1928*.

ADDITIONAL MATTERS.

Upon certain matters submitted to it the Board reached conclusions which, although not involving amendments to the Act, it is felt should be embodied in this Report. The conclusions are set out hereunder.

WAGES BOARD FOR THE MOTOR TRADE.

The proposal that as many sections of the motor trade as possible should be brought under the control of one Wages Board is favoured but it is considered that the greasing and attending to running requirements of motor vehicles should not be included in the powers of such a Board as would be dealing with the sale of motor vehicles, motor accessories, petrol and oil.

AMENDED DETERMINATIONS.

When publishing amended Determinations of Wages Boards the amendments should, as far as practicable, be shown in heavy type.

DEPARTMENTAL QUARTERLY SUMMARY.

Although it is considered impracticable at present to revive the publication of the Quarterly Summary of Wages and Conditions issued by the Labour Department until 1939 the Board feels that the urgent need for Determinations to be published as early as possible should be stressed.

PERMISSION TO STUDENTS UNDER SECTION 233.

The Board was not prepared to support the proposal for the repeal of the proviso to Section 233 whereby the Minister may permit a student of the University of Melbourne or a student taking a full day course of technological study to enter and work in any factory shop or place for the purpose of acquiring practical knowledge and skill in the trade carried on in such factory shop or place notwithstanding he is not paid the rates provided by any Determination in force in the trade concerned.

However, it is felt that, in each case where the Minister gives permission to a student, particulars should be obtained concerning the work done and the payment received. Furthermore, the attention of the University and the Technical Schools Association should be directed to the fact that, if a permit is not obtained, the rates prescribed in the Determinations of Wages Boards must be paid.

LICENCES ISSUED TO AGED INFIRM OR SLOW WORKERS.

In connexion with the issue of licences under Section 209 it is the opinion of the Board that the Employer and the Trade Union concerned should be consulted before a licence is granted.

PROHIBITION OF THE EMPLOYMENT OF YOUNG PERSONS AND WOMEN AT DANGEROUS MACHINERY.

An Order should be made prohibiting the employment in a factory of persons under 18 years of age or in connexion with the following dangerous machinery and, on the widening of the powers of Section 66 in accordance with the recommendation concerning that section the Order should apply to females of any age:—

Blake sewing machines, Channelling machines (power operated), Clicking presses, Heel and/or edge trimming machines, Heel breasting machines, Heel building machines (power operated), Heel compressing machines (or machines similarly constructed), Heel seat rounding machines, Leather rolling machines, Lift cutting machines, Nailing machines (power operated), Pegging machines (power operated), Pounding machines, Power Presses for cutting, Pulling over machines, Ranging machines, Pump sewing machines, Rolling machines, Screwing machines (power operated), Slitting machines, Sole cutting machines, Sole levelling machines, Sole moulding machines, Sole rounding machines, Sole stamping machines (power operated), Stapling machines (power operated), Tacking machines (power operated), Welt lasting machines, Welt scarfing machines, Welt sewing machines.

SUGGESTIONS REQUIRING FURTHER CONSIDERATION.

The following suggestions were carefully examined but the Board was unable to make any unanimous recommendations in respect of these matters. We are, therefore, of the opinion that they should be referred to any Board which may be appointed as recommended in this Report:—

- (a) That the scaffolding provisions of the Local Government Act be transferred to the Factories and Shops Act which should also contain provisions regarding the supervision of cranes, winches and hoists.
- (b) That persons nominated by an Association of Employers or by an Employees' Organization relating to the Trade concerned and named in the Determination of the Wages Board be permitted to exercise the powers of Inspectors of Factories.
- (c) That the proviso at the end of Section 147 of the *Factories and Shops Act 1928*, which has relation to preference of employment, be repealed.

- (d) That the Chairman of a Wages Board, when he decides a matter upon which the Board is unable, by a majority vote, to reach a decision, be required to give his reasons.
- (e) That the amendment made by Act No. 4461 to Section 23 of Act No. 4275 be repealed. (The amendment makes it compulsory for the provisions of Federal Awards to be included in the Determinations of Wages Boards.)
- (f) That provision be made for the creation of a Factory Welfare Board similar to that appointed under the Factories and Shops Act of New South Wales.
- (g) That provision be made to ensure the enforcement of the payment of Determination rates in the case of musicians playing at social clubs of which they are members.

It is suggested that the following matter, concerning which investigations had been commenced but had not been completed in time for inclusion in this report, should also be referred to any Board which may be appointed as recommended herein:—

That provision be included in the Act making it compulsory for drivers of electric cranes and internal combustion engines of 30 H.P. or more to hold engine driver's certificates.

CONCLUSION.

The Board desires to express sincere thanks to all who have assisted it during the long period which has been occupied in examining the great number of suggestions received for amendment of the Acts and arriving at the decisions embodied in this and previous reports.

Particularly are we appreciative of the facilities and assistance afforded the Board by those who were approached for information when the other States were visited to investigate the various Wages Fixing Systems operating within the Commonwealth. Ministerial Heads of Departments, Departmental Officers, Members of Industrial Courts and their officers, also Representatives of Employers and of Employees all did their utmost to enable the Board to secure as much information as possible concerning the system obtaining in each State.

We also acknowledge the valuable services rendered by Officers and staff of the Department of Labour. The late Mr. F. A. Marzorini presented a number of helpful suggestions to the Board and Mr. R. H. Beers, the present Permanent Head of the Department, submitted many valuable suggestions and most readily supplied any information the Board desired.

The members of the Board with pleasure place on record their appreciation of the excellent services rendered throughout the Board's existence by Mr. H. N. Jones who has carried out the Secretarial duties with great ability. His extensive knowledge of all matters associated with Factories and Shops legislation together with his long experience as an Officer of the Department of Labour has enabled him to be of very great assistance to us in our deliberations.

P. J. CLAREY, Chairman.
 K. H. BOYKETT, Member.
 GEO. HAYES, Member.
 R. O. SNAPE, Member.
 J. V. STOUT, Member.
 ERNEST W. TREND, Member.

H. N. JONES, Secretary.
 Melbourne, 14th November, 1949.