The industrial commission could not deny a license to an applicant proposing to offer a testing and counseling service in the absence of a finding that others were offering such services or that the area did not need such services. Harding v. Industrial Comm. 12 W (2d) 274, 107 NW (2d) 273.

The legislature intended that competent and well-regulated agencies which would add to the quality and quantity of employment services so as to supply a need sought by employers or employes should be granted an employment agency license. The fact that services available in the community might to some degree overlap with those proposed by the petitioner would not negate the inference that the quality and quantity of the services to be performed will be beneficial to employers and employes. Silverberg v. Industrial Comm. 24 W (2d) 144, 128 NW (2d) 674.

105.14 History: 1913 c. 663; Stats. 1913 s. 2394—94; 1919 c. 178; 1923 c. 291 s. 3; Stats. 1923 s. 105.14; 1969 c. 276 s. 584 (1) (a).

105.15 History: 1913 c. 663; Stats. 1913 s. 2394—95; 1923 c. 291 s. 3; Stats. 1923 s. 105.15; 1943 c. 375 s. 43; 1969 c. 276 s. 584 (1) (c).

105.16 History: 1919 c. 160; Stats. 1919 s. 2394—96; 1923 c. 291 s. 3; Stats. 1923 s. 105.16; 1945 c. 33; 1969 c. 276 s. 584 (1) (a).

CHAPTER 106.

Master and Apprentice.

106.01 History: 1911 c. 347; Stats. 1911 s. 2377 to 2387; 1915 c. 133; Stats. 1915 s. 2377; 1919 c. 221; 1923 c. 291 s. 3; 1923 c. 314; 1923 c. 449 s. 40; Stats. 1923 s. 106.01; 1937 c. 274; 1943 c. 159; 1943 c. 375 s. 44; 1955 c. 10; 1959 c. 276; 1967 c. 276; 1969 c. 276 s. 584 (1) (a), (b), (c), (2) (b); 1969 c. 306, 392.

The imposition of a money penalty for violation of the indenture of apprenticeship is valid and is enforceable against the parent of the apprentice as well as the apprentice. 11 Atty. Gen. 854.

As to residence of apprentice for vocational school purposes see note to 38.19, citing 31 Atty. Gen. 155.

The industrial commission may not issue a special order requiring that all apprentices in a given trade be indentured exclusively to a joint committee organized in that trade and by such order exclude indentures between apprentices and individual employers. The industrial commission may not delegate authority to approve or disapprove an indenture or to suspend or cancel indenture to a joint committee organized in the trade. 34 Atty. Gen. 257.

106.02 History: 1943 c. 154; Stats. 1943 s. 106.02; 1969 c. 276 s. 584 (1) (a).

106.03 History: 1959 c. 364; Stats. 1959 s. 106.03; 1969 c. 336 s. 176.

CHAPTER 107.

Mining and Smelting.

107.01 History: 1860 c. 260 s. 1 to 3, 6; 1872 c. 117 s. 1, 2; R. S. 1878 s. 1647; Stats. 1898 s. 1647; 1923 c. 291 s. 3; Stats. 1923 s. 107.01.

A written agreement or conveyance of the right to dig for ore in a certain range is construed as a license and not as granting an interest in the land, so that, though it would be irrevocable if diligently prosecuted, it would give the licensee no interest whatever in ore not severed or dug by him, nor could he maintain replevin therefor. Gillett v. Treganza, 6 W 343.

The statutes governing the rights of miners apply only when there is no contract. A lease of an exclusive right to mine upon a certain range upon the lessor's land conveys a right to follow it to the limits of said land, but does not convey the exclusive right to work a vein on another portion of said tract, between which and the former no connection exists within the said tract. Sobey v. Thomas, 39 W 317.

A conveyance of lands for mining by government subdivisions, "and known as the H. range," does not grant the right to follow such range into other lands of the grantor, not described, into which such range is afterwards found to extend. Ross v. Heathcock, 52 W 557, 9 NW 609.

A license to mine upon lands given by one tenant in common will not bind the other tenants. A license to mine upon lands is irrevocable after a valuable discovery or prospect has been struck by the licensee, though actual entry has not been made under the license. Tipping v. Robbins, 64 W 546, 25 NW 713. See also Tipping v. Robbins, 71 W 507, 37 NW 427.

The facts did not show a new discovery such as conferred rights outside of the original lease. Raisbeck v. Anthony, 73 W 572, 41 NW 72.

The right to mine under a revocable license is not an interest in real estate to which the lien of a judgment will attach. Blindert v. Kreiser, 81 W 174, 51 NW 324.

The words "crevice or range" are used in the same significance and mean a mineral bearing vein. St. Anthony M. Co. v. Shaffra, 138 W 507, 120 NW 238.

107.02 History: 1905 c. 236 s. 1; Supl. 1906 s. 1647a; 1923 c. 291 s. 3; Stats. 1923 s. 107.02.

107.03 History: 1860 c. 260 s. 4; 1872 c. 117 s. 3; R. S. 1878 s. 1648; Stats. 1898 s. 1648; 1923 c. 291 s. 3; Stats. 1923 s. 107.03.

107.04 History: 1860 c. 260 s. 5; 1872 c. 117 s. 4; R. S. 1878 s. 1649; Stats. 1898 s. 1649; 1923 c. 291 s. 3; Stats. 1923 s. 107.04; 1967 c. 276.

107.05 History: 1860 c. 359 s. 1; R. S. 1878 s. 1650; Stats. 1898 s. 1650; 1923 c. 291 s. 3; Stats. 1923 s. 107.05; 1959 c. 238, 664; 1965 c. 252; 1965 c. 614 s. 57 (2g); 1969 c. 276 s. 588 (6).

107.06 History: 1860 c. 359 s. 2; R. S. 1878 s. 1651; Stats. 1898 s. 1651; 1923 c. 291 s. 3; Stats. 1923 s. 107.06; 1959 c. 238; 1959 c. 640 s. 18; 1961 c. 33.

107.11 History: 1851 c. 221 s. 1, 2; R. S. 1958 c. 55 s. 1, 2; R. S. 1878 s. 1656; Stats. 1898 s. 1656; 1923 c. 291 s. 3; Stats. 1923 s. 107.11.

107.12 History: 1851 c. 221 s. 3, 4; R. S. 1878 c. 55 s. 3; Ann. Stats. 1889 s. 1657; Stats. 1898 s. 1657; 1923 c. 291 s. 3; Stats. 1923 s. 107.12.

CHAPTER 108.

Unemployment Reserves and Compensation.

108.01 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.01; 1939 c. 186, 372; 1943 c. 181.

The unemployment compensation act is in effect a tax statute requiring deductions from pay rolls for the creation of an unemployment compensation fund. Ernst v. Industrial Comm. 246 W 205, 16 NW (2d) 867.

Wisconsin unemployment reserves and compensation act. Brandeis and Raushenbush, 7 WLR 136.

108.02 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 1, 5; Stats. 1933 s. 108.02; 1935 c. 192, 272, 446; 1937 c. 95 s. 4; 1937 c. 162, 343; 1939 c. 186, 245, 372; 1941 c. 288; 1943 c. 181; 1945 c. 354, 376; 1947 c. 527; 1949 c. 142; 1951 c. 532 s. 1 to 5; 1951 c. 545; 1953 c. 7, 433; 1953 c. 441 s. 17; 1953 c. 483; 1955 c. 301, 527, 652; 1957 c. 235 s. 2, 3, 25; 1957 c. 644, 663; 1959 c. 12, 61, 177; 1961 c. 12, 336; 1963 c. 145, 459; 1965 c. 10 ss. 1, 2, 22, 23, 27; 1965 c. 512, 530; 1969 c. 276 ss. 403, 404, 584 (1) (a), 588 (1); 1969 c. 358.

Editor's Note: An exception in sec. 108.02, Stats. 1933, 1935, 1937 and 1939, with respect to "employment as a farm laborer," was construed in Cedarburg Fox Farms, Inc. v. Industrial Comm. 241 W 604, 6 NW (2d) 687. By amendatory legislation of 1939 (ch. 372, Laws 1939), effective January 1, 1940, the term "employment in agricultural labor" was substituted for the original term and defined.

Cemetery corporations, even if nonprofit in character, are not exempted from the operation of the unemployment compensation act, cemetery corporations not being charitable corporations or corporations organized and operated exclusively for charitable purposes within the contemplation of the exemption provision, particularly in view of its legislative history. Industrial Comm. v. Woodlawn Cemetery Asso. 232 W 527, 287 NW 750.

Under 108.02 (18) and 108.09 (1) it was intended that an unemployed worker, otherwise eligible for benefits, shall be deemed eligible unless the employer in rejecting his claim asserts some valid reason because of which the employe must be considered disqualified. Boynton Cab Co. v. Giese, 237 W 237, 296 NW 630.

In an unemployment compensation proceeding involving a salesman selling stock food for a manufacturer under a contract whereby he had specific territory to work in when and as he pleased, used his own automobile and paid his own expenses, and was paid a commission on his sales, the industrial commission properly determined that the claimant was not "customarily engaged in an independently established trade or business" and that he was an "employe" of the manufacturer under the act, hence, entitled to unemployment compensation, although he may have been an "independent contractor" under common-law concepts. Moorman Mfg. Co. v. Industrial Comm. 241 W 200, 5 NW (2d) 743.

Where a dance-hall operator arranged with the leader of some one of several orchestras to furnish the music and a specified number of musicians for a dance at some specified date, and agreed on a lump sum payment to be made to the leader, and had no contract with the individual musicians, and did not fix their compensation, which ordinarily was the union wage, nor have anything to say as to selecting or discharging them nor have any control over them, they were "employes" of their leader rather than of the dance-hall operator, under the unemployment compensation act, so that the operator was not liable to contribute to the unemployment fund on their account. Maloney v. Industrial Comm. 242 W 165, 7 NW (2d) 580.

A nonprofit unincorporated association may be an "employer" within the unemployment compensation act, and where a labor union, which is a nonprofit voluntary association, pays its members out of the union treasury for services performed by them for the union, the union is an "employer" within 108.02 (4) (a) and such members are its "employes" within 108.02 (3) (a), and the remuneration so received is "wages" within 108.02 (6), so that the union is liable under the act for pay-roll contributions based on such remuneration, if the union otherwise comes within the act. International Union v. Industrial Comm. 248 W 364, 21 NW (2d) 711.

Under 108.02 (13), employes engaged in a strike or bona fide labor dispute are not performing wage-earning services for the employer. Fredricks v. Industrial Comm. 4 W (2d) 519, 91 NW (2d) 93.

A general agent of an insurance company who is employed on contract but who is subject to substantial control is an employe and hence a secretary of the agent is also an employe of the company. National G. L. Ins. Co. v. Industrial Comm. 26 W (2d) 198, 131 NW (2d) 896.

Under 108.02 (5) (f) a person hired as a teacher and qualified to teach is excluded even if not actually engaged in teaching. Gelencser v. Industrial Comm. 31 W (2d) 62, 141 NW (2d) 898.

By virtue of 108.02 (2), Stats. 1967, the terms "agricultural labor", "fur-bearing animals", "wildlife", and "farm", set forth in 108.02 (23), must be interpreted in accordance with common and approved usage. Sprague-Dawley, Inc. v. Moore, 37 W (2d) 689, 155 NW (2d) 579.

An employe of a state university is deemed to be a "teacher", excluded from unemployment compensation by 108.02 (5), Stats. 1965, if the nature of his employment is such as to fall within the statutory definition of "teachers", i.e., "persons engaged in teaching as their principal occupation". Board of Regents v. Dept. of I., L. & H. R. 40 W (2d) 529, 162 NW (2d) 650.

Where a member of a county board has been illegally employed as a quarry foreman by the county highway committee, he is not eligible for unemployment compensation. 26 Atty. Gen. 55.

Firms engaged in the construction of dams, locks, etc., in the Mississippi valley within