1913.

NEW ZEALAND.

LABOUR BILLS COMMITTEE

(REPORT OF) ON THE INDUSTRIAL CONCILIATION AND ARBITRATION BILL.

(MR. BRADNEY, CHAIRMAN.)

Report brought up on the 3rd December, 1913, and, together with the Minutes of Evidence brought up on the 9th December, 1913, ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives.

THURSDAY, THE 3RD DAY OF JULY, 1913.

Ordered, "That Standing Order No. 219 be suspended, and that a Committee be appointed, consisting of thirteen members, to whom shall be referred Bills more particularly referring to labour; three to be a quorum: the Committee to consist of Mr. Anderson, Mr. Atmore, Mr. J. Bollard, Mr. Bradney, Mr. Clark, Mr. Davey, Mr. Glover, Mr. Hindmarsh, Hon. Mr. Millar, Mr. Okey, Mr. Veitch, Mr. Wilkinson, and the mover."—(Hon. Mr. MASSEY).

THURSDAY, THE 18TH DAY OF SEPTEMBER, 1913.

Ordered, "That the Industrial Conciliation and Arbitration Bill be referred to the Labour Bills Committee."—(Hon. Mr. MASSEY.)

REPORT.

THE Labour Bills Committee, to whom was referred the Industrial Conciliation and Arbitration Bill, have the honour to report that they have carefully considered the same, and recommend that Part VI and sections 154, 158, and 165 of Part VII only be proceeded with, and that the Minister bring down a new Bill containing these parts amended as shown on the attached draft Bill.

3rd December, 1913. J. H. BRADNEY, Chairman.

MINUTES OF EVIDENCE.

FRIDAY, 14TH NOVEMBER, 1913.

WALTER MADDISON examined. (No. 1.)

1. *The Chairman.*] What are you, Mr. Maddison?—I am a member of the Amalgamated Society of Carpenters and Joiners, and I am representing the Executive Board of the Carpenters and Joiners of the Dominion of New Zealand. I should like to say, taking Part VI of the Industrial Conciliation and Arbitration Bill entirely "on its own," I am put somewhat at a disadvantage in having to deal with that part only; but as you are dealing only with the question of strikes I would like to say by way of preliminary that whatever legislation there may be strikes will always be a weapon of the worker until such time as the conditions under which labour works are equitable and just. I have always been one who has stuck up for the Arbitration Act, but if we are to have arbitration by coercion——

2. *Hon. Mr. Massey.*] There is nothing about arbitration in this section?—Yes, I am coming to that.

3. *The Chairman.*] You must deal entirely with Part VI of the Bill. You must not deal with the Bill generally, but simply with Part VI?—There is one point that the worker objects to with regard to the strike clause, and that is that its principle is not broad enough. What is the definition of a strike? It is the withholding of services which we habitually perform for the public unless or until we get some greater benefit, concession, or increased emolument. Consequently if that is the fair definition of a strike the merchant, trader, or money-lender who refuses to perform his services to society without he gets increased emolument or other conditions is equally guilty of a strike. If you are prepared to broaden the strike clause to enable such a definition to apply to all classes of society, then I am sure the worker would welcome such a strike clause. There is another clause here—141—subclause (5) of which provides, "A proposal under this section to adopt the recommendations of a Labour Dispute Committee shall be deemed to be carried unless a majority of the persons entitled to vote on such proposal vote against such proposal." The worker objects to that on principle, because it is allowing those who do not vote to vote against the proposal. If a man will not exercise his vote is it democratic to allow his vote to count either one way or the other? Then, clause 147 provides, "Provided that the chairman of a Labour Dispute Committee shall have a vote in the determination of all questions from time to time before the Committee." This removes the question out of the hands of either party, and it is entirely a question as to which of the parties the chairman is on: the side that secures the nomination of the chairman secures the settlement in their favour. We think, in all fairness to all parties, that the chairman should not be empowered with a casting-vote and so be able to use his authority for the benefit of the party to which he happens to belong, whether labour or the employer.

4. *Mr. Davey.*] Who do you suggest should be chairman?—I am only suggesting that he should not have a vote. The fact of his having a vote gives him complete power of settling a question for the benefit of the side to which he happens to belong.

5. *Hon. Mr. Massey.*] I suggest the Conciliation Commissioner?—That would be perfectly fair under the conditions, and labour would take no exception to that being the case; but it would take strong exception to either party being able to secure a chairman who would afterwards use his influence for the side to which he happens to belong. There is another provision in that clause to which very strong exception is taken: "any may also, if he thinks fit, in any such case dispense with the publication of the recommendations of a Labour Dispute Committee or of the result of any ballot." This is looked upon as being too despotic. Why deny the union the result of the ballot after a ballot has been taken and the result of the Labour Committee has been arrived at? The worker considers that as one of the parties primarily interested in the matter he is entitled to know the results. That is all I have to say on that particular section of the Bill.

6. *Mr. Anderson.*] Do you believe that it is possible to carry out a secret ballot?—In regard to a strike?

7. Yes?—It is quite possible, but it opens up the question whether any union—and the same thing applies to employers—whether they should not have the right to conduct their own internal management apart altogether from any restrictions in the Act, so long as they are acting in a perfectly constitutional manner. If they are acting on constitutional lines both parties contend—employers and workers contend—that they have a perfect right, so long as they are acting on constitutional grounds, of conducting their own business exactly in the manner that the majority may decide.

8. That is not the point I want to get at. What I want to know is this: in the interests of the community at large it is considered wise that before a strike—and I presume a lockout—takes place that a secret ballot of all the members of the union shall take place under the superintendence of an outside authority? Do you think that is feasible or practicable?—It would make it difficult to take such a ballot under the control of an outside authority, but there is all the machinery in all the unions for the purpose of taking a secret ballot at any time and on any question within the union itself. All the union rules provide for that.

9. I want to know whether you think it is feasible or practicable under an outside authority, and whether the unions would agree to it or not?—They would not care to accept the interference of an outsider, I think.

10. Do you think they would vote under such a scheme?—That is opening up a very big question.

11. What is your own opinion?—I think the resentment against it would be so great that the majority would vote against it.

12. *Mr. Okey.*] They would rather go on strike?—They would resent outside interference. Take the case of a section of workers being called on to work under conditions that they consider unfair or dangerous; they might suddenly, on their job, get together and talk over their grievances, and inside of five minutes they might come out; and such a matter might not be referred to our executive. I do not know that there is anything that will control that.

13. Then you might as well leave legislation alone?—Let me put this case: Men are, say, on shipboard or in a mine, and they are put in a position where life is at stake. There is no opportunity of putting the matter before the executive. They are ordered to take up a certain position at a minute's notice, and they have either to take up that position at the risk of their lives or decline to do so: that constitutes a strike.

14. *Hon. Mr. Massey.*] Did you notice in clause 141 the provision that the Registrar of Industrial Unions shall in each case conduct a secret ballot? Do you think there would be any objection on the part of unions to the Registrar, who is practically one of those conducting the ballot?—If it was conducted outside the union offices.

15. But if it was conducted in the union offices?—That might meet the objection of a good many who favour the secret ballot. But the question of the secret ballot is not one upon which the members of the unions are at all unanimous; but those who favour the secret ballot, I think, would raise no objection to the supervising officer being within the building, but they certainly would not allow their ballot-papers to be regulated in any manner outside their own building. There would be suspicion attaching to that to such an extent that they would always have their doubts about the result. If it is under their own control and in their own building it might remove—I do not say it would—but it might remove the objections that there are to this proposed system.

16. Still, you think there is not a general objection to the secret ballot?—I know that there is a lot of objection—on the part of a large number—to the secret ballot. They say a man should have the courage of his opinions and be prepared to stick to them. There are others who favour the secret ballot, perhaps because they are of a weaker nature and are afraid of open voting, and for that reason favour the secret ballot.

17. Do you think they should have the opportunity of expressing their opinion by secret ballot?—I think the only way you could arrive at that question satisfactorily before it is put on the statute-book would be by taking a plebiscite of the unions—at any rate, in one district. If, say, the whole of the unions were asked to vote on the question as to whether they approved of the secret ballot or not, you could get at a fair estimate of how they would be likely to view the question. There are so many who take up both sides that I for one would not like to say on which side there is a majority.

18. *Mr. Anderson.*] Supposing a secret ballot were taken, and supposing the secret ballot were against a strike—supposing, we will say, that three-fourths of the men were in favour of there not being a strike, then, of course, there would not be a strike. Do you think the other quarter of the union—that is, the men who are in favour of a strike—would endeavour to intimidate the balance of the members?—I cannot conceive such a position as that possible where one man would attempt to intimidate three or four—that the fourth section would attempt to intimidate the three-fourths. As a rule all colonists are prepared to abide by the result of the majority, but each case must for all that be taken entirely upon its merits. It might happen that the minority might be right and the majority might be wrong, or it might happen that the lives or the conditions of the majority were not at stake, and the majority might perhaps fail to see the position as it is seen by the minority.

19. Do I understand that in your opinion they would not try to intimidate?—I do not think there would be a question of intimidation.

20. *Mr. Hindmarsh.*] Mr. Maddison wants to be asked this question: What leads unions to remain outside the Act and adopt the strike weapon instead?—Whilst its jurisdiction is equity and good conscience, for many years past, at any rate, the administration of the Act has been under common law entirely. As an illustration of this the Carpenters' Union came into Court two years ago asking for an award. The Union Steamship Company, which is a large employer, came into Court and asked that they be excepted from the award, and their application was granted. You cannot say that that was acting in equity. That is an example of what is going on. Thus the respect of the workers for the Arbitration Court has become lessened, and therefore in some instances they prefer the strike weapon.

ELIJAH JOHN CAREY examined. (No. 2.)

1. *The Chairman.*] What position do you hold, Mr. Carey?—I represent the Wellington Trades and Labour Council. The Council has decided, through myself and its other witnesses, to oppose this Section VI of the Bill. And I would just like to say that those unions in affiliation with the Council, which I am representing, are not covered by this section of the Bill. As is obvious, this section is applicable to unions not registered under the Act, and they probably are more affected than are those unions like the one I represent and those affiliated with the Council, who stand by the system of compulsory arbitration as the best method for the settlement of industrial disputes. I am very glad to hear that the Committee has decided to drop the remainder of the Bill. And for the Council, and, I believe, for the whole of organized labour

in New Zealand, I am going to urge the Labour Bills Committee to recommend that even this section of the Bill be dropped. The thing to do in my opinion—and I think I am voicing the opinion of the Council—is for Parliament, before further amending the Act, now to appoint a Commission to inquire into the working of the system of arbitration in this country, the Commission to sit during the recess to hear witnesses from all the cities, and then come along next session with a draft Bill that will, at all events, be framed so as to make for more industrial peace in the future than we are enjoying at present or have been in the past in this Dominion. This special section is still another experiment. Its precedent does not obtain in any country. In Canada, which has a section which is the nearest approach to it, there it only affects big utility industries, and after the disputing parties have sought to come to a settlement the dissatisfied union is still privileged to strike. Even if Section VI were passed it would not prevent, in a time of industrial crisis like the present, a union going out on strike if it decided so to do. There are now on strike unions registered under the Arbitration Act, and they have deliberately and knowingly put themselves under the penalties of the Act. We of the Trades and Labour Council maintain that the best way to bring about industrial peace is to encourage unions to come voluntarily under the system of compulsory arbitration and registration under the Act. You will not be able to effectively force them to do it, and if you pass this section just now it will not have any effect at all on the present industrial crisis. We are opposed to this because we believe that those unions which choose the strike method—foolish as we may think them—rather than the system of arbitration are within their rights. We think that what is right for one man to do individually is right for a number of men collectively to do. We regret that they cannot see along the line with us and agree to submit to arbitration, but the fact is that the Arbitration Act has been administered so unsympathetically that unions have been driven away from it. Many of the judgments of the Court are so out of touch with public opinion and with what is considered fair and reasonable by the unions that some unions have thought it better to go back to the old method. They consider they can do better by getting outside of the Act. The agreements that the two big unions now on strike have secured from the employers were got after they seceded from the Act. The waterside workers asked for certain rates and were refused, but as soon as they cancelled their registration they got pay and conditions which had been denied them for years by the Court. The same thing happened in the case of the Seamen's Union. The Seamen's Union for years and years went to the Arbitration Court and asked for preference and improved conditions. They were able to prove that their union represented 98 per cent. of the men employed on ships here; and year after year the Arbitration Court denied them preference, an eight-hour day, and many other concessions which they immediately got when they cancelled their registration under the Act. You can take many of the latest awards even now, and you cannot convince the ordinary worker that he can get anything like justice under the Arbitration Court as at present constituted. That is the reason why there is not anything other than dissatisfaction with the administration and unfairness of the judgments of the Court. It is this want of confidence in the Court that has driven these men to the stand they are taking and that has made for the present crisis. I am satisfied that if a Commission were appointed, and that Commission took evidence and asked the President of the Arbitration Court for the reasons for certain Court awards and for the basis on which it framed those awards, it would be a good thing. The evidence of others interested might also be taken, and thus a good result might be arrived at. I think, instead of the Labour Bills Committee recommending anything in the nature of panic legislation, the ultimate result of the setting up of such a Commission as I recommend would be the passing of a Bill which would make for industrial peace. After all, industrial legislation everywhere is only an experiment. I may mention that a special Commissioner recently came here from another country, and as a result of his inquiries he wrote that the 1908 amendment of the Act would be to make for industrial peace in New Zealand for the future. He proved a very bad prophet, as witness the present trouble. Even under this section, if it were made law, the thing could be made farcical by ten men in a dozen different parts of New Zealand immediately asking that Industrial Disputes Committees be set up. Under this section of the Bill a hundred Industrial Disputes Committees might be set up in a hundred different parts of New Zealand to inquire into a hundred industrial disputes, and such a result would be most unsatisfactory and bring the law into ridicule. We urge that there is no need to pass this legislation at all, and that if this legislation is passed it will have to be repealed in a year or two. As has been pointed out by the previous witness, it may happen that in the case of ten men being instructed by a pig-headed shift boss to do dangerous work, say, in a mine stope, they may for the protection of their own lives refuse to do the work and may strike. In cases like that it is inconceivable that men should be asked to give notice that they are going to strike when if they remained at work they would be endangering their lives. I admit it is an exceptional case, but it is the exceptional cases that very often prove the foolishness of certain provisions of an Act. We recommend that before this legislation is passed special invitations should be sent to those men representing the trades-unions—not arbitration unions—and those unions now on strike, and that they should be asked to give evidence before the Labour Bills Committee on this section. We think it is only fair that they should be given an opportunity of stating their views. We do not think it would be any good passing this provision with regard to strikes and lockouts for the reasons I have given. This legislation is experimental, and it is not wise to experiment until some able man has been appointed a Commission to hear the evidence, investigate the working of the system, and prepare a Bill for presentation to the Government of the day to bring before Parliament. In regard to the secret ballot, I would suggest the enactment of a provision amending the Trades-union Act and the Arbitration Act, insisting that no union shall be registered under either statute which does not provide in its rules for a ballot over all the

members of the union on any proposal to strike. Similar provisions already exist in the case of certain unions and dealing with other matters, to the effect that if ten or twelve members demand a secret ballot on any proposal coming before the union a secret ballot must be taken. If that were done—and it can be made to be done under the rules of the unions and by law—I think it would get over the secret-ballot difficulty. It would be better than arbitrary Government interference with trades-union management.

2. *Hon. Mr. Millar.*] Do I understand you to say that you believe that the majority of unionist officials will carry out the will of the majority of members?—Yes.

3. I agree with you that every union should have a rule that it should be compulsory to have a secret ballot before striking, and I think that would meet the whole difficulty?—Yes, I think so—a single clause to that effect, to be made compulsory in all unions' rules.

4. *Mr. Okey.*] Do I understand you to say that it is feasible to have a secret ballot before a strike?—It is feasible, and it is wise too, even though the decision of the ballot is to go on strike, because the men would have a stronger backing, and the executive would know the quiet, calm judgment of the members of the union.

5. Do you think that after a ballot those who are against it would cease to try to intimidate the others?—I think that, even though trades-unions were compelled to have a clause in their rules that a secret ballot should be taken before striking, the feelings of the men could be played on by a section of the union, and the rule could be ignored; but I think it would have a steadying effect. I desire to prevent strikes, but penalties will not prevent men from striking.

6. The point I want to get at is this: if a secret ballot were taken would that in your opinion stop strikes?—No, but it would go a long way to prevent precipitate action.

7. You think it does not matter what you do, you cannot compel a man to work if he does not want to?—I do. In a country like New Zealand, where the policy for so long has been to enact penal clauses for unions that go on strike, frequent strikes have occurred. What a worker has the right to do as an individual he should have the right to do collectively. The corollary should be that any man who wants to go to work should be given protection at work. That is the stand we take up.

8. You are in favour of arbitration?—Yes. I think if the Commission we suggest were set up such an Act could be framed that would make those people who are now opposed to arbitration rush in and register under the Act.

9. I understand you are not in favour of the present constitution of the Court. Do you think that a Judge of the Supreme Court and a representative of the employers and a representative of the employees is a proper Court to decide all questions?—It is a question of experiment. Personally I believe that a Judge of the Supreme Court, if you get the right man, is the best man for the position. The ideal president of the Arbitration Court would be a man who is a sociologist, who keeps in touch with the times, who mixes with men, a man of affairs, a man who can act fairly between workers and employers. Unfortunately it happens that our Judge is right out of touch with the mind of the public on these things.

10. Do you think that if the body—call it a Court, Commission, or Council—the final body to decide all disputes—do you think that if that body gave a decision adverse to the workers they would be satisfied with that decision?—No. They might suffer it, but they would not be satisfied.

11. Do you think that there is any means of settling these matters?—Yes. This is the proof that there is a means: there have been probably a dozen compulsory conferences called by Mr. Justice Higgins, President of the Federal Arbitration Court, at the inception or threatening of many big disputes. In every case, including such big cases as the seamen's and the shearers' troubles, the dispute has been settled by the decision of the Court, and there has never been a strike afterwards.

12. Would you suggest something similar to that?—Yes, I would suggest, even in these present disputes now, the better way would be to legislate compelling the parties to go into conference, with somebody as chairman to decide.

13. Take the present case: if the Government called a compulsory conference, and supposing it were possible that the men agreed to it, and if then the Government appointed some Judge of the Supreme Court to give his decision, and if that decision were against the workers, do you think the workers would go to work?—Yes, most likely.

14. Most likely, but not certain?—Yes, most likely. They are going to work now, and they have got no fixed conditions.

15. You think, then, it is possible to devise a scheme to settle disputes?—I say that in this period of industrial development and advancement it is a travesty on our boasted progress that there should be such a condition of affairs existing in New Zealand, and personally I blame the President of the Arbitration Court for most of it.

16. Do you think that it is possible to devise a Court or Council, or such a body as will give satisfaction to both parties?—No, but it is possible to devise a tribunal—Parliament itself should be the tribunal—which will give satisfaction to the majority of the people of the country.

17. *Mr. Anderson.*] Take the case of a union outside the industrial agreement: in your opinion should they have in their rules, before they register under the Trades-union Act, a provision for a secret ballot?—Yes.

18. If it is outside the Industrial Courts what means would you suggest there should be for settling a dispute, presumably agreed upon by a secret ballot?—There should be a tribunal appointed, which tribunal the public, at all events, would feel would give its decision in equity and good conscience, and with a sense of what is fair and reasonable between the parties.

19. How would you select that tribunal?—In the present case I would suggest a tribunal consisting of representatives of both parties, with some public man to have a deciding voice—

a public man having the confidence of the Government and Parliament and the public of the country.

20. Would you place the selection of that public man in the Cabinet?—Yes, I think it probably would be wise at this stage.

21. Do you think the employers would agree if a Labour Cabinet were in power?—It would be better if the parties themselves would agree, but failing an agreement between the parties as to who should preside and have a deciding vote then Parliament, or its Executive, must step in.

22. Do I understand that you would first leave it to the parties themselves?—Yes.

23. You suggest that the Court, or body, or Conciliation Council should be selected by both employers and employees, and themselves select their chairman?—I want to be careful. If my answer is only to be confined to this section and to the present position, then I will answer in that way; but if I am to suggest a tribunal which will give more satisfaction and better administration than exists at present, then I will have to give another answer. My answer is this: that for the best settlement of strikes and lockouts covering big unions in large industries not registered under the Arbitration Act, and in cases of disputes of likely magnitude, the remedy is for a compulsory conference of the parties, to be legislated for by the Government, with a provision for a chairman to be agreed upon if possible, and failing that the appointment of a chairman—with a deciding vote—by the Government.

24. *Mr. Davey.*] Supposing you take the case of an unregistered union outside the Arbitration Court, you suggest that each side should try and settle the dispute; that they should select two representatives, who should together select their own chairman. Supposing they fail, would you consent to the Conciliation Commissioner taking the chair?—Yes. We have carried a resolution in our Council urging that the Conciliation Commissioner should be given a deciding vote on Conciliation Councils, because I think it will put him on his mettle. After all, you have got to have arbitration either before or after a strike at some stage, and somebody has got to give a deciding voice; and it is just as well, in the opinion of the Trades Council, that the arbitrator should come along before the strike occurs.

25. Do you think it would be wise to take a secret ballot before something takes place?—I do.

26. I agree with you. Supposing a strike is decided upon in the heat of the moment and when men's feelings are very excited, do you think it advisable, supposing a certain number of members asked that another ballot should be taken, would it be advisable at any period?—I suggest that no trades-union should be registered that has not in its rules provision for a secret ballot, and that if at any time after a strike, even though the strike has been decided on by secret ballot, ten or twenty, or a minority of members, if they again demand a ballot on the strike, shall have power at law to make their officers give effect to the secret-ballot rule of the union, and failing the officers agreeing to take such further ballot then the Government should order a ballot to be taken.

27. You agree to a secret ballot before a strike takes place?—Yes.

28. After a strike has taken place would it not be an advantage to take a secret ballot on anything connected with the strike?—Yes, I think the officials would be wise to have a ballot taken if demanded during the strike.

29. *Mr. Veitch.*] You are not in favour of Part VI of the Bill?—No; even if it were passed I do not think it would be effective.

30. You think that legislation in regard to industrial matters will only be successful if it inspires the confidence of the people concerned?—Yes, if it is inducive rather than coercive.

31. What do you think would be the effect on trades-union men in New Zealand generally if this section of the Bill were put into law as it stands?—They would sum it up by saying they were having arbitration forced down their throats. We say that the system could be improved in the way I have pointed out, and then unionists would favour it rather than by the strike method.

32. In all cases of industrial unrest is it not a fact that the fight is between two parties—employers on the one hand and wage-earners on the other?—Yes.

33. Is it also a fact that those that suffer most by a strike are the general public, who are not parties to the dispute, and are not consulted in it?—Invariably so.

34. In the event of a deadlock being arrived at between the two contending parties—namely, the employers and the employees—and each side stubbornly refusing to give way, do you think it advisable that legislation should be introduced for the purpose of forcing a settlement in the interests of the public?—I think that the provision of the Commonwealth Arbitration Court is a very wise one, which says, in effect, that if in the opinion of the President of the Court trouble of magnitude is threatened, or is likely to spread over more than one State, or involve the big industries in the turmoil, the President of the Court shall have power to summon a conference, with big penalties if the parties refuse to attend, and that he shall have power to frame conditions for the settlement of the dispute. That has been effective there. It has given satisfaction all round, and no trouble has ever occurred, although it has been threatened, and more seriously than here.

35. Supposing the employers on the one hand and the employees on the other determined they would not give in. In the event of such a thing happening and Parliament not intervening, would not the result of necessity be that whichever side came out at the finish of the struggle on top would get an unfair advantage over the party that went down, and also over the general public? For example, we will say that a deadlock is arrived at and it is fought out by process of exhaustion, and the employers come out on top ultimately, does it not necessarily follow that the employers would gain a great advantage over the workers and over the general public?—Where parties of their own volition choose to ignore the system set up for the settlement of disputes

and fight it out between themselves one side either wins or loses, and naturally the side that wins has the satisfaction of getting the advantage, but very often it is only a temporary advantage, and the public themselves step in later, because they have been denied that right at the time the crisis was on, and rectify matters.

36. You think it is advisable in the interests of the community that Parliament should step in and insist upon a reasonable conference?—I think that in this country, at all events, the system ought to be such and its administration such as would encourage rather than drive away unions from coming under it.

37. In your opinion the Australian method you have just mentioned would "fill the bill"?—Yes, I believe if we had a Court really bent on inquiring into industrial disputes and the conditions of the workers, instead of, as it does, giving a union with a big case only a few minutes' time to put its case because the Court has to get away to another place—if we had a Court patiently inquiring all the time into the best methods of settling disputes, and a Court that would give encouragement to the workers to have confidence in its judgments, the workers of their own volition would run along to it.

38. *Hon. Mr. Millar.*] The provisions of the Arbitration Court of Australia are similar in some respects to the provisions in respect to the Conciliation Commissioners held for the purpose of settling with unions under the Arbitration Court?—Yes.

39. But there is no machinery of any sort that will settle a dispute for any union outside the Arbitration Court?—No.

40. And you are advocating that the necessary machinery ought to be set up by the Government for the purpose of dealing not with this strike alone but in all future cases for any union not registered under the Arbitration Act?—I think that the Judge or President of the Court should have the power to intervene at the inception of a dispute, or where a dispute of any magnitude in his opinion is likely to occur, and make an order for a compulsory conference between the parties.

41. That means providing the necessary machinery?—Yes.

42. At present there is no law to deal with those who do not take advantage of the Act?—That is so.

43. Bringing both branches under the Act?—Yes, I think that in a country like this the public should, through its constituted authority, say, "Those shall be the terms of settlement, and we are not going to have the country put to trouble like this."

In general answer to questions of members of the Committee I submit the following statement as to my views on the matter of improvement of the existing Act:—

It is not held by the Trades Councils that the Arbitration Act can be so perfected as to make it a "cure-all" for existing social injustice. The principle of "the settlement of industrial disputes on the lines of legally established agreements and awards" is only one of the many "methods" to that end suggested in the labour platform. All those planks are put forward by labour as reforms towards promoting and creating collective ownership and the more equal distribution of wealth, but it is not even held that the legislative enactments of all the planks will result in a complete "cure-all." It happens, because of the bread-and-butter aspect of the question, that the arbitration system excites more direct interest amongst unionists than any one of the other planks of the Labour party platform. It happens, too, that in recent years, because of discontent with the administration of the Arbitration Act as it now stands, that the question "Strikes *v.* the Arbitration Court" is the question of moment in trades-union circles. "Not with the system but with the administration of the Act by the Court" is the plaint of disaffected unions. The awards and judgments of the Court are not always in keeping with labour's idea as to what are fair and reasonable conditions of settlement in the several disputes adjudicated upon. Worse, it is confidently claimed by labour that the judgments are oftentimes not even in keeping with the public mind or the common-sense of fair play on questions of industrial justice.

Economists may argue that whatever the benefits secured by use of the system they are immediately counteracted by rise in prices because of monopoly control of land and industry. That is not the point. The remedy for that situation lies in the enactment of other more direct legislation—on the lines of the party platform we hold—not alone on the basic alteration of the Arbitration Act. The point is to ensure by an altered Arbitration Act that the system shall be more sympathetically applied—that the Act shall be administered in its true spirit, so as to really secure the benefits intended by it. Rises in prices and increased cost of living occur in countries where the system has not even been given a trial. Those rises are not due to the operation of the Act. The workers in New Zealand would be worse off and more hardly pressed by the increased cost of living were it not for the operation of the Act, bad as always has been its administration here. Properly administered the system would make for the retention of those benefits and the upkeep of the standard of comfort attained in defiance of monopoly effort to screw out by other methods the advantages provided in the awards under the system. As well argue that the whole trades-union effort is of no avail because of the power of private trusts and combines to force up prices to the point where people will still pay for the article rather than go without; or as well contend that a municipal tram should not be built to a suburb because of the absence of legislation to prevent the private appropriation of increment values and the consequent increase of house-rent following the tram to the suburb.

Mastery of the public will: Primarily the system sets out to avoid the waste and suffering of strikes by the early settlement of the dispute in accordance with public judgment on the matters in dispute. The trouble has all along been that often the Court's judgment has been inconsistent with the public judgment. The effective remedy is to make sure that in all settlements the judgment shall be in accord with the public will and mind on the matters over which the dispute results. Because after all, in all great questions, and especialy in countries enjoy-

ing adult suffrage, the majority will and mind of the public is the deciding factor. It is suggested that that remedy will be effected by the mere change of the personnel of the Court—by the substitution of a layman for a Judge as the President of the Court. Such a change offers no guarantee that the faults of past administration will not be repeated. All that can be said in its favour is that the probability is that a layman will be less shackled by Court etiquette and precedent, and be more in touch with the mind of the people and the spirit of the times. The guarantee should be in the Arbitration Act itself. In past years the grounds of criticism of the system have been sought to be removed by amendment of the mere machinery sections of the Act. It is admitted that these machinery amendments have in many instances resulted in the easier and quicker application of the Act in disputed cases; but latterly the grounds of complaint are deeper rooted. They are based on matters of big principle.

Proposals not promising: Judging from the Budget proposals the promised Bill does no more than deal with the same old machinery sections of the Act. As outlined the proposals of the Massey Government are not satisfying to labour, in that they will not make for any greater contentment with or confidence in the system; they will not in the end satisfy the public in whose interest the system has been invoked as much as in the purely trades-union interest. Every Australian State, with the one exception, is at present dealing with proposals for the legislative improvement of the system of compulsory arbitration for the settlement of industrial disputes. The legislation under that heading is still experimental, though the beginning was made over fifteen years ago. Mr. Massey's proposals are not likely to result in any great perfection in our Act.

What is wanted: So as to remove the most pressing cause of the discontentment here—"the bias of the President of the Court" (and labour makes no charge that it is a conscious bias)—the following suggestions are put forward: The Bill should be so framed as to clearly set out in the preamble of it what the measure is intended to accomplish. It should be stated to be an enactment for the prevention and settlement of all industrial disputes by State interference and compulsory arbitration. Industrial unions and industrial associations should be encouraged, and their formation in unorganized industries expressly facilitated. It should create a Court of Arbitration which should be a standing and continuing committee for the investigation of industrial matters and for advising the Legislature on the means for fully settling all problems of industrial unrest, and which should have power to act of its own motion at the initial stages of all disputes. So that the mind of the Legislature and the will of the people shall always be supreme the Act should lay down the several accepted economic principles, industrial maxims, and regulated procedure to which the actions of the Court of Arbitration shall conform and under which it shall work. The Court and its minor accessory tribunals could be given power to depart from those principles, maxims, and rules of procedure, but the Act should insist that where such departure was made in connection with any dispute or labour-conditions in an industry then the Court should give in minutest detail the reasons necessitating that departure. In all judgments or recommendations made for the settlement of a dispute, whether there has been any departure from the principles, &c., laid down in the Act or not, the Court or other tribunal should be compelled to give detailed reasons for every provision of the judgment or recommendations made, and this in order that the people and the elected representatives shall have opportunity of gauging whether or not the majority mind and will of the people on all the matters in dispute has been truly interpreted by the bodies set up really in effect to do so.

Guiding principles: Amongst the principles to which the Court's judgments and awards should in general be compelled to conform are the following: (1) The living-wage; (2) the eight-hours day; (3) the weekly half-holiday in six-day industries, and the weekly day of rest in seven-day industries; (4) preference to unionists; (5) equal pay for equal work; (6) trade apprenticeship and the fixed limitation of apprentices and juniors; (7) the common rule and the award grouping of trades and callings; (8) the abolition of the contract and labour-only system; (9) the compulsory insurance of workers by all employers bound by the Act. Disregard of these principles by the Court is the main source of present trades-union disaffection with the system. Under all existing arbitration laws the success of the system depends to a great extent upon the arbitrator. Australia affords an illustration. At present and since the inception of the Commonwealth Arbitration Act general satisfaction has been given by the Federal Court, consisting of one President, a Judge alone. A change of Presidents and an unlucky appointment might result in the discrediting of the whole system. For a democracy it should not be that one man shall be the industrial dictator. Rather it should be, as we ask, that the Parliament should lay down a set of guiding principles and rules, within which and in conformity with which the Court shall settle trade disputes. In New Zealand the Court has been given "exclusive jurisdiction" and wonderful powers. It has used those powers at times to frame its judgments in direct conflict with the will of the people as expressed by the Legislature in the Arbitration Act itself. If the system is to continue the powers of the Court must be clearly defined and its judgments made to comply with the intentions of the Act. In the preamble of the Act the encouragement and formation of trades-unions should be put forth as one of the aims of the measure. Industrial unions and associations of employers should be expressly encouraged, because the essence of the system is collective bargaining. The most comprehensive bargain can best be made—even though it is made to the order of the Court—when both participating sides in the dispute are completely organized. No one nowadays questions the community-good of trades-unionism. The fight at one time was for the legal status of trades-unionism. Now it is accepted that employers and employed in an industry shall organize, and when the dispute arises the third great party—the final arbitrator, the public—shall step in and through its chosen authority order on what terms the dispute shall be settled. The sense of the system is that there shall be complete organization in all the separate industries, so that when a dispute arises in one trade all the people in all the other trades and industries—the whole public—shall in a scientific way take a hand in the settlement of that dispute. Preference to unionists is essential in some trades to help on and keep up the trades-union organization of that trade.

When to act: The Arbitration Court—the appointed public authority—should not be a body to be used after the trouble arises. It should be the eye of the public, ever watchful and investigating in order to prevent trouble arising. Our Arbitration Court has been the stepping-stone to the Supreme Court Bench—the Mecca of every lawyer. Its writ has been made subsidiary at all times to Supreme Court work. The Bill should stop that situation by ensuring the permanency and separateness of the Court.

New Zealand has long ago given up the principle "the devil take the hindmost." Our labour laws and their ready acceptance show a public appreciation of what is due to the worker and producer. Conditions of labour in any trade are accounted fair or unfair by quick and ready judgment of the public just according to what those conditions are. All these principles detailed above are accepted as being fair and reasonable in their application to ordinary industries. A political candidate making his election contest one in direct opposition to the bulk of those principles and their application in trade-dispute settlements would court overwhelming defeat; and yet in award after award many, if not at times all of them, have been flouted and set aside by the Arbitration Court—a Court supposed to act at all times in equity and good conscience and in accord with the public mind.

The living-wage: Take the first principle, the living-wage. Time and time again the Court has been urged to make this principle the basis of its awards. It has repeatedly failed to do so. The whole public sense is antagonistic to sweating and insufficient wages. There are many awards and trade settlements in which a living-wage is not awarded. The failure of the Court to make the living-wage principle a basic factor of all awards has done more than anything else to sap the workers' confidence in the Court and the system. The spirit of the times is, and every award of the Court should so order, that the wage prescribed for the settlement of the dispute would be a wage which would meet the "normal needs of the average employee regarded as a human being living in a civilized community, and permit of the matrimonial state of every adult worker and ensure for him and his family food, shelter, clothing, frugal comfort, education for the children, and provision for evil days." How many awards of the New Zealand Arbitration Court provide such a wage standard?

Eight hours: The second principle is the eight-hours day. What labour principle is more generally accepted than that? It is New Zealand's boast. And yet when unions seek through the Court to have the principle applied in the settlement of the dispute they are turned down without as much as a reason for the Court's rejection of the principle.

With the question of holidays it is the same. The Court refuses to give heed to many of the pleas for the weekly half-holiday, and the workers in the seven-day industries, for instance, have given up hope of any redress from the Court in that direction. Were a strike to take place in an industry over the question the public to a unit would agree as to the reasonableness of the demand. The Court ignores it, and the union is debarred by the penalty clauses of the Act from pressing the point by striking after being turned down by the unpublic judgment of the Court.

With the other principles the same reasoning applies. It will be noted that the suggestions are in the direction of making it optional for the Court to apply them in the settlement judgment, but the settlement judgment in all fairness should show the reasons actuating the Court in its refusal to provide for a settlement on such accepted lines. One of the greatest factors that has made for confidence in the Federal arbitration decisions is the knowledge that the "reason for" will accompany the judgment. The dissatisfied union, before securing public support, would have to unreason the reason of the judgment; and no matter how keenly either side might feel aggrieved at the provisions prescribed, confidence in the Court would be lessened or strengthened according to the public's appreciation of the reasons appended.

On the above questions of principle there is now no need for further experiment. On the questions of how best to apply the machinery of the Act there is admittedly room for further trials.

A single Court: Whether it is better to provide just the one Court of Arbitration to be the sole tribunal, or whether it is wise to create minor preliminary tribunals, is still debated in unions. A single Arbitration Court possessing the average confidence of the workers of New Zealand would soon be unable to expeditiously cope with the requests for regulation of labour-conditions from organized trades-unions. The remedy would be to provide more Courts, and then when that occasion arose the several Courts might be given jurisdiction to act exclusively in certain sets of industries perfecting their grasp of technical details by permanent relation with that set of industries. Stability, sequence of action and judgment, and more general conformity with the principles and spirit of the Act would be secured by making the one body solely responsible for its administration. This has been recognized in the Federal and West Australian Acts, where the single Court is the only tribunal created under the Act. Stress of work necessitating the creation of two or more Courts, provided guiding principles were definitely laid down in the Act, would not mar those advantages. The Federal Arbitration Court consists of a President alone. In West Australia, as here, the Court has the assistance of two representatives, one chosen by the organized workers, the other by the organized employers. The addition of party representatives makes for the machinery improvement of the system. It enables further reasoning of the questions in dispute after the hearing of the advocates for the disputants. It encourages confidence in the system by creating a more direct connecting-link between the Court and the organized parties. But continuity and permanency of office must be provided in the appointment of party assessors. The proposal to appoint assessors to the Court merely to deal with the single dispute to be superseded by other assessors as disputes succeed each other will not find majority favour in the trades-unions. The proposal would make for the weakening of the responsibility of the Courts. It would be inimical to labour in that it would not promote steady consistent contest for and adhesion to labour's main principles. It would not make for

the same "independency" as characterizes the permanent appointee. Again, when it is a question of upholding big principles affecting all unions, surely all unions should have the unqualified right to select for all of them the assessor deemed most fitted to advocate and defend those principles. Trade assessors from the industry in dispute could be added to the Court when dealing with the disputes on the motion of either of the parties to the dispute, but the permanent Court must consist of permanent though periodically appointed members.

Three or four years ago the Councils stood practically unanimously for the retention of the old Conciliation Boards as minor Courts. Probably a majority of unions still hold that opinion. There is an inherent defect in minor tribunals in an arbitration system. They are under any circumstances always a first Court. A first Court always carries with it an Appeal Court.

In 1908 the idea in union circles was that the Boards of Conciliation should be constituted so as to give finality to their decisions and to make appeals from them only possible in cases of obvious industrial injustice, the onus to be on the appealing party to prove the case. If there are to be first Courts or minor tribunals, then the permanent Conciliation Boards as asked for by the Councils would be most satisfactory to labour. In Victoria, New South Wales, and Queensland the Wages Board system operates. In the latter two States the Acts now provide for Industrial Courts, which order and grant the formation of Wages Boards. The South Australian Bill proposes the same method. In West Australia the Conciliation Boards became a dead-letter. Labour there agreed with the employers that the one and final hearing and adjudication of the dispute was most satisfactory to all parties.

If, as is asked, the guiding and basic principles of dispute-settlements are laid down in the Act, the one and final hearing and adjudication would be best here too. In the States where they exist the Industrial Courts are only Appeal Courts, and mostly it is appeals by employers to whittle down awards that are stated. If a Court or Courts for grouped sets of industries as outlined above is created, to be permanently engaged in Arbitration Court work and industrial investigation, minor tribunals would be only a duplication and unnecessary.

The success of the system depends upon the creation of an arbitration tribunal which will carry complete responsibility. That responsibility would be detracted from by the setting-up of minor tribunals. Either the main Court or Courts would become a continuous Appeal Court or a dead-letter. What the Councils in effect asked for in 1908 was a set of Industrial District Arbitration Courts, with an appeal only to the one higher Arbitration Court; but that proposal carried with it the right of appeal, and appeals always spell delay and vexation. With the one Court, and more Courts when the press of work merits their creation, there would be no appeals, no delays. Neither would there be inconsistency or conflict of decisions, because the extra Court would be set up for sets of industries as the work grew not within the scope of the other Courts, and both Courts would operate over the whole Dominion as Courts of exclusive jurisdiction in those industries.

There would, of course, be need of Act-provisions for the bringing together in conference when desired of the disputing parties, but there is no need of forming up permanent tribunals or appointing permanent officers under the Act for that purpose. All that is needed is facilities for appointing a chairman for the time being. When there is really a dispute between the union and the employers it is on matters of big import, and then the questions can only be settled by the Court with authority to decide between the parties in the matters in dispute. Disputes are settled before they reach the Court at present by conference and compromise of the parties. Generally, the settlement is because of a main already set by the Court itself and a gauging of the possibilities of Court interference. With no power to decide one way or the other no conference chairman can be said to be a force in the promotion of settlement-conditions in a trade dispute.

The final Court: Finally, as the Trades Councils' manifesto said a few years ago, the Act is only an "expedient." In the end the final Arbitration Court for the promotion of the common good is the Parliament itself. The compulsory arbitration system is backed up by labour as being a more scientific, more sensible way of settling matters of trade disputes than the old strike methods; but the system must be administered by a Court of Arbitration with faith and belief in the system and with honest intention to administer the Act in keeping with the spirit and intentions of its framers. The labour warfare will continue while the present wage system continues. Industrial unrest grows and grows. Peaceful settlements of trades-union disputes will be advocated by labour men only so long as the unions know that they will get a "square deal" under the Arbitration Court. The very continuance of the system depends upon its recognition by organized labour. With an earnest desire for the continuance of the system, and to ensure a fuller recognition of its efficacy to lessen the hardships of the struggle between the opposing factors in the industrial world, these suggestions are diffidently offered.

DAVID MCLAREN examined. (No. 3.)

1. *The Chairman.*] What bodies do you represent, Mr. McLaren?—I represent the executive of the Labour Party and a number of unions. I do not intend to occupy much of your time, but I want to say this: that I think it would be a crucial blunder if the House went on to pass legislation at this stage embodying Part VI, at a time when you will not get the evidence from the unions that are directly concerned. The unions that are affected directly at the present time by this proposed legislation are, as you know, in a complete state of ferment. I am not going into the trouble now further than to say that a complete state of ferment exists, their leading men are tied up in various ways and are therefore not here, and are not likely to be here, to give evidence on a matter which very, very directly concerns their organizations. That is a very serious position. I took part, as Mr. Carey did, in the conference at the Trades Hall—

a conference representative of pretty well all the unions in the city—that considered this Bill, including Part VI. That conference came to the conclusion that Part VI was an undesirable form of legislation. I entirely agree personally with that view, and I hold very strongly the same ideas as Mr. Carey, that to deal now with the complicated industrial situation which is attempted in a measure by Part VI is not advisable. The better way would be to have a Commission that would go into the matter fully and exhaustively and bring down proposals which would be more effective in guidance. For instance, take clause 138, "Notice of intention to strike": Any one who has had experience of industrial affairs such as I have had knows that there are many occasions when strikes occur, not from an intention—they are not intended in the sense of being premeditated—they are blundered into.

2. *Mr. Anderson.*] The present one, for example?—I am not dealing with that matter at the present time. I am simply stating the facts. Mr. Millar, who has had much experience in these matters, will bear me out in this: that there are a great many—well, the majority of strikes are not premeditated, and they can scarcely tell that there is an intention until they are in them; but there is this feature of this proposed legislation that the unions are deeply concerned about, and that is this: that it sets out directions which would compel the unions to expose and make well known what their business was and the lines which those connected with them intended to take. Of course, the same provision is applied with regard to the employers—namely, that both shall give notice of their intentions; but a provision which in the abstract may seem equitable as applied to the workers' organization, consisting of perhaps a thousand men, if applied to the employers' organization, which may only consist of a dozen men, although in the abstract it may seem equitable, the provision does not operate the same in both cases. The employers carry on their operations in secret; and the unions know the workers know, that is the position—that if there is an intention at all to have a conflict the employers can very easily, even under this provision of the law, carry out their full plans, whilst the unions would have to expose their plans; and we say that is, in the present economic state of society, doing an injustice to the workers, because it is favouring the employers in respect to an economic battle which may take place. I am positively certain of this: that there is only one view that will be taken of Part VI of the Bill, and that is that it is an intention to forcibly bring the unions that have chosen to register under the Trades-unions Act under the Arbitration system. That is the view that is taken, I know, by the members of the unions that are not registered under the Arbitration Act. The seamen and wharf labourers and others whose unions are registered under the Trades-unions Act regard this Part VI as an attempt to coerce them and bring them by force under the system of the law which they do not consent to and which they do not think desirable. I would like to point this out to the Committee: that there are those who think that there should be some liberty allowed to workers' organizations in the handling of these problems which they have to deal with. They believe that that liberty should take the form that they should be free to carry on direct negotiations with the employers if they so choose without the intervention of any Court or Board of any kind. That is the reason for registering under the Trade-unions Act. The Trade-unions Act permits that freedom of action. I believe that the responsibilities of the freedom must go with it, but still there are a great many unionists throughout the country, and some big organizations, that believe that the freedom should be retained, and I personally believe that it should continue, with due provision that agreements that are made even by organizations that are under the Trade-unions Act should be properly enforceable in law; but that the freedom to negotiate and to make settlements by direct contact with their own employers—that should be retained to the very fullest extent. That is a matter that is very important.

3. *Mr. Davey.*] This clause does not prevent that?—It prevents it to this extent: that once they enter into an agreement that agreement is given the same force and effect as an agreement entered into by a union under the Conciliation and Arbitration Act.

4. That is, after its settlement?—Yes, but that brings them under the Court in the matter of interpretations, forms, penalties, and in other directions; and it has this result, simply to drive them into the position that they will have to carry on their negotiations in just the same way. With regard to the question of a ballot, I am strongly of opinion that there should be a provision in the law to protect the rights of individual members of a union. I believe that whilst majority rule is the best expedient we have yet got, majority tyranny ought never to be allowed.

5. *Mr. Hindmarsh.*] We all believe it; but how would you do that?—I would have legislation in the form that no union's rules should be registered unless provision was made in those rules for the taking of a ballot prior to entering on a strike. I would have that set out in the rules, and allow a small number who could claim that right under the rules; in fact, I do not know but what it would be wise even to go further than that and make provision that no strike could be entered upon until a ballot was taken.

6. *Mr. Anderson.*] How would you prevent it?—I want to say this candidly: that you cannot prevent, and there is no use attempting to prevent, all strikes from occurring—I mean by way of legislation. That would be attempting the impossible. I want to show how I think you can minimize them, and I think that is the most that can be effected by legislation. I desire to say, with regard to the taking of a ballot, there is a serious point of danger. If you legislate to provide that any other than the organization itself shall control the ballot, that is an interference with free association, which has been the fundamental principle of trades-unionism for a long period of time in every law affecting them. It is attempting to turn trades-union organizations into a quasi-State department, and the thing will never operate properly along that line. I believe that there should be a provision for the ballot, but I believe the taking of the ballot should be left in the hands of the organization itself. Now, I may say candidly that

I regard the proposal in Part VI for a Government officer to take the ballots of the organization—I regard it as a gross insult to the whole of the trades-union movement in this country. It is practically telling the trades-unions of this country—and they feel it—that their officers are so venal that they cannot be trusted to take a ballot for their organization.

7. *Mr. Davey.*] I do not think that is the intention?—I quite agree that is not the intention, but whilst that is not the intention that is the effect it has upon the minds of many of the workers and the trades-unionists of this country. It is an interference with the free organization which meets with a very great deal of resentment on the part of the unionists. I am perfectly sure of that. I do not propose to say any more. I am not going through Part VI clause by clause. I only want to make these few remarks, and say that it is positively certain that the passage of this legislation will not settle our present industrial trouble, and I am absolutely certain that it has such relations to the rest of the legislation of this nature that has been passed and is proposed—it has such intimate relations with it, and they are so complexly attached, one thing to another, that an attempt to push this through at the present time by itself will simply create further trouble instead of remedying it. I think it would be a wise course—an exceedingly wise course—to hold this whole Bill back, so that a Commission to inquire into and investigate the whole of the situation, and get the fullest evidence, can go into the matter in a comprehensive way, and then bring down something that would be of great value in guiding the Legislature. Pardon me adding one word on the ballot. There is a feature with regard to the ballot which I have lost sight of. One reason why unionism desires the control of its own ballots is this: that very often discussion precedes the taking of a ballot. In passing legislation you first discuss the proposals before you vote. That is a reason why the organizations themselves should have control of the taking of their ballot, because in many instances the ballot should not be taken without previous discussion.

8. *Mr. Anderson.*] You heard what Mr. Carey said about the Australian system as applied to such cases as these, in respect to unions outside the Arbitration Act: what do you think of it?—I agree with the views stated by Mr. Carey. I have a great admiration for the way the Commonwealth Act provides for the compulsory conferences.

9. You think it would do here all right?—Yes, I think so. I think it would have a good effect here. It would not prove absolutely satisfactory in every case, but we must not look for that sort of thing. If it gives sufficient satisfaction to keep the peace—that is what we want.

10. Over there, I understand, it is the Judge of the Supreme Court who calls these conferences?—Yes.

11. Do you think the unions outside the Arbitration Court in New Zealand would favour that policy here?—Of course, it would be for some time experimental here, and it would depend altogether on the character of the man here—the Judge—and his mental and other qualities—perhaps on his liver—it would depend largely on that how they would regard the appointment.

12. Is there any other means you could suggest in this country by which this conference could be called than by the Judge of the Arbitration Court?—No, I think that the President of the Arbitration Court is the best man to call such a conference.

13. *Hon. Mr. Millar.*] What about our Conciliation Commissioners, who have powers under the Arbitration Act, in the first place, to hold these conferences?—That may act very well in regard to purely local disputes or disputes that are not of a great character—disputes that will not involve the whole country—then I believe it might be left in the hands of the Conciliation Commissioners.

14. *Mr. Anderson.*] Have you any idea how you would enforce these awards, supposing an agreement was not come to? The Judge or chairman has to give his decision—how does the party not satisfied with that act—or, rather, how are the parties forced to comply with the decision?—There are penalties, just as there are for breaches of award under our Arbitration Act.

15. There would be no ultimate means of compelling them other than fining them and enforcing fines to prevent them going on strike.

16. *Hon. Mr. Millar.*] As to our own Conciliation Commissioners, it seems to me that we have machinery enough in that respect if the powers of the Commissioners were extended; and my candid opinion is that the present dispute would have been settled if the Conciliation Commissioner had gone down when the dispute first started. Do you think he should be given the same powers in the case of unions not registered under the Arbitration Act?—I believe myself that if the Conciliation Commissioner had greater powers and authority, and had intervened at the early stages of the present trouble, it would have been all over now.

17. You would not have any objection to unions appointing scrutineers at ballots?—I think that would be the proper course—that the trades-unions should have the power to nominate their own scrutineers.

18. Both sides would have the right to appoint scrutineers?—Yes, I agree with that.

19. Do you not think that the most important evidence that could be given to this Committee would be the evidence of the men directly affected by this part of the Bill?—I am absolutely certain of that.

20. Because the evidence we are getting now is all from members of unions under the Arbitration Court. That, of course, is good evidence in its way, but it is not the direct evidence of men affected by this clause?—Might I say this—I am speaking now as an ex-secretary of the Waterside Workers' Union—that I know by the means of direct negotiations they got advances which they could never secure under the Arbitration Act, and that is deeply embedded in the minds of these men, and therefore that is an incentive to them to be antagonistic to any suggestion to bring them under the Act; and it is fixed and rooted in their minds that they should not come under the Act.

21. *Mr. Hindmarsh.*] That is being put in the papers every day?—Yes.

22. *Hon. Mr. Millar.*] I suppose you have had experience of men coming out on strike without consulting any officials of the unions at all?—Yes.

23. Cases of grievances or fancied grievances, where they have "downed tools" without consulting the secretary of the union, and where other unions have been dragged in?—Yes, that has occurred within my experience quite a number of times on the Wellington wharf.

24. It occurred in the case of the railway men in 1890 and also when the storemen came out?—Yes; and that has a distinct relation to clause 138—"in the case of an intention to strike on the part of ten or more workers," and not by the organization at all. There the Bill makes a suggestion which would mean the disruption of the unions, and would lead to internecine warfare, and to little groups getting out "on their own" every now and then. That would be a most dangerous thing.

25. The union would have to bear the brunt of a trouble for which it was not constitutionally responsible?—Yes.

26. *Mr. Okey.*] It was suggested by Mr. Carey that the President of the Court should be a man who would keep himself closely in touch with the workers?—What Mr. Carey said was—and I agree with him—that the Judge should be a man with some knowledge of sociology and a man of affairs—that is probably how it might be defined—a man mixing with the people in various ways, and who was in touch with business, trade, commerce, and industrial affairs right round, and with the workers. He could not have that experience so as to judge equitably between the workers and the employers unless he knew all this and came into contact with the workers as well as with the other side.

27. That is the point I want made clear, because I take it that there are more than the workers concerned in these matters. Take the arrangement made with the shipping companies: under the last agreement we had to put up with increased freights. I think the people who pay should be considered?—I agree that there are more than the special employers and employees concerned: there is the great consuming public.

28. They have to be considered in the future in the appointment of a Judge?—Yes.

29. *Mr. Atmore.*] You mean that the President should be a student of sociology—that he should be chosen, amongst his other qualifications, for his thorough knowledge of social questions?—Yes, as far as you can get a comprehensive knowledge of sociology. May I point out that in Great Britain, where they have to deal with some very large disputes under their system of voluntary Conciliation Boards, in many instances they have not chosen a legal gentleman at all as arbitrator, but have chosen men who have had wide experience in industrial affairs, and who have a sort of mastership, one might say, in sociology and the principles of industrial evolution.

30. *Mr. Glover.*] Would it not be better to appoint Judges conversant with the industrial matters of this country instead of a person who has not that knowledge?—I think I have pretty well answered that question already.

31. *Mr. Hindmarsh.*] You have read the Canadian Act on which this is based?—Yes.

32. You are aware that there is a statistician appointed under that Act, who attends all these conferences between masters and men, and he supplies expert information upon matters as far as he is able to. That is a very good idea, is it not?—Yes. I may say this with regard to the general settlement of disputes so as to prevent strikes and lockouts, I have argued before and have given evidence on the subject. In my judgment the Court should be constituted of permanent representatives from each side—employers and workers—and, in addition, practical assessors in each case.

33. *Mr. Grenfell* (representing Employers' Association.] You are aware that if unions are registered under the Arbitration Act individual members, as well as the unions as a body, are liable to penalties under the law, whereas individual members of unions not registered are not liable?—Yes, I am aware of that, and also of this: that to make the individual members liable under the present conditions of society for strikes that occur is simply farcical—utterly farcical. The individual member is very often a poor unfortunate person who in many cases is simply squeezed into a position that he cannot get out of one way or the other, and you propose to add to his burden by putting a legal penalty on him. Why, the thing is stupid in the extreme.

Hon. J. BARR, M.L.C., examined. (No. 4.)

1. *The Chairman.*] What bodies do you represent, Mr. Barr?—I represent, in the first place, the Canterbury United Building Trades Committee, the Hotel Employees' Union of Christchurch; I am also empowered by the Stonemasons' Conference, held in Wellington some two weeks ago, to represent them. The main matters dealt with pertain to the Bill as a whole, and probably the attention was not given to this particular part of the Bill—Part VI—that might have been given had we foreseen the trouble that has lately occurred. Generally, I was instructed that we do not agree with the principle of this Part VI, unless under the following exceptions. The bodies I represent are unanimously of opinion that the principle contained in Part VI should apply to those industries at the very least that are mentioned under clause 9 of the 1908 Amendment Act. I refer to what are practically utility industries—that is, industries which the general public depend upon for their well-being and the disorganizing of which brings trouble, and, as we know, misery on all sections of the public, who at the moment have no power whatever to control or interfere in an industrial dispute. We consider that the industries mentioned in clause 9 of the principal Act ought to be added to, as we want people such as wharf labourers, who are handling material such as they do handle, the necessities of life—coal-miners are not included in that part, it only includes the distribution of coal—that they should be taken under the provisions that I refer to. We understand, of course, that the principle underlying Part VI is the principle of the Canadian Act, only this goes further, inasmuch as it refers to all industries, willy-nilly. I think we should take that principle and make it imperative that

any industries that I have alluded to or that are alluded to in clause 9 of the main Act—that they must not strike within a given period and without having referred the whole dispute to whatever tribunal it may be decided in the wisdom of the authorities to set up. That it also should be left open to those unions which desire and which have decided to be outside the Arbitration Act—that it should be left for them to come in. Also, that that provision be increased by the addition of the subject-matter to clause 154 of this Bill, which provides for voluntary agreements. That is, where any industry which is outside the Act, and decides to remain outside the Act, comes to an agreement with the parties—that in the first place such agreement in every case ought to be entered into between the employers and the employees, always with a nutral individual appointed by the parties or the Government as chairman. The object of that is that that responsible party would be responsible in a way for the third party in connection with our industrial affairs—that is, the consuming public; and that there should be a check—which would be good for the industry in many cases—there should be a check on both parties entering into the agreement where the terms of that agreement inflict certain hardships on the public as a whole. If I may be permitted I will illustrate that. The agreement entered into between the wharf labourers and the shipping companies in 1912 without question inflicted hardship on the general public. The employees at that time considered that it was to their advantage that they should accept this agreement, but they subsequently broke it. It did not work out as was expected, because we all know that the increased wages were above the reasonable ratio, because there ought always to be consideration taken of the rate of wages outside in the case of these industries where the employees are unskilled. What has happened in this case is this: that the action of the shipping companies in thus agreeing to too high a ratio of increase in what may be termed unskilled labour has resulted in the work being rushed; and the ultimate result to those engaged in the industry has been that instead of an annual increase they have had a very serious decrease.

2. *Mr. Anderson.*] Individually?—Yes, their wages for the year have been very much below what they got before. That statement has been made by many of the men to myself, and the truth of it can be seen on referring to the wages-sheets—that their annual income has been greatly lowered as a result of the increased wages that were given. I do not say that they should not have got the increase. They should get an increase, but it should be an increase proportionate to the average rate of wages ruling outside. We think that the Chairman of the Court should be a neutral party, and that when an agreement is come to there should be some provision such as that in clause 154 whereby the agreement can be given the force of law. In the case I have illustrated we know that at that conference they practically agreed to the principle of referring disputes to a tribunal. In the first place the dispute was to go to a local committee, but if all methods failed—there were three suggested—it was ultimately to go to what was considered a high tribunal, consisting of a committee of the Federation of Labour and the employers concerned. As we know, that tribunal was not a wise one, and has turned out ineffective.

3. I think you are now rather going outside the scope of Part VI of the Bill?—Very well. In connection with conferences there is one thing I would like to point out, and that is, if you are going to bring in unions outside the Act and deal, for instance, with a position like the present strike, you must have certain provisions to enable the agreements that are come to to have the force of law, or otherwise they will be utterly ineffective. That is a point I wish to make, so that I think you will have to bring in the provisions of clause 154. We consider that absolutely essential. There must be certain checks put on certain industries forcing them to submit their grievances to a tribunal before they strike—fixing a date during which the whole subject-matter must be submitted to a tribunal and thereby be made public. After that has been done, and if an agreement is come to, that agreement must have the force of law. That is our opinion in connection with that matter. To go through the various clauses is not a matter of much consequence, having stated the points which the bodies I represent are seised of; and it is for the Legislature to devise machinery to meet the position. I need not, therefore, take up any further time other than to reply to any questions that may be asked me.

4. *Mr. Wilkinson.*] You have referred to the consuming public. There are some people whom you could hardly call the "consuming public" who are interested in these matters. There is the exporting public—the farmers: should not they be taken into consideration in fixing the tribunal? Should they not have a voice in matters affecting them so much?—The thing that is in my mind is this: that there should be a man appointed by the Government to take the chair in all these disputes, and it should be recognized that he should represent all outside parties; at any rate, I presume the Government would have that factor in view in making the appointment—everything affecting industries outside the parties—because I can hardly see how you can bring into industrial disputes members of the farming community and others, who know their own business but who know very little of the technicalities that might be discussed there, pertaining to an industry that really only indirectly affects them. When you suggest that representation should be given to the farming community and to others I am afraid that those most directly interested would not listen to any such consideration. Furthermore, if you suggest that, then when farming bodies meet and fix prices, &c., affecting the consumers, others outside those bodies ought to be represented at those conferences.

5. *Mr. Okey.*] Farmers do not fix the prices: they have to go by the market?—Yes, but that is opening up a big question.

6. *Mr. Wilkinson.*] You agree that the general public should be considered in all these disputes?—I think if the proper man—a man with a lawful and legal standing—is appointed chairman he will, amongst other things, see that the rights of the third party are preserved.

7. *Hon. Mr. Millar.*] Do you think that our present Concilition Commissioners would be the best men to appoint to deal with disputes in the first place—to deal with unions which are

not registered?—Yes, I think that Commissioners appointed in the same way as our present Conciliation Commissioners would be the best men to act in the first place, before disputes become complicated.

8. Yes, but you see this trouble would never have become so complicated if the Commissioners had had the power to go down and deal with the matter in the first place before the trouble spread?—If you mean that whether the industry is within the Act or outside the Act that there should be power for a man in the position of the Conciliation Commissioner to intervene—that he should have the right to intervene?—I agree with you.

9. *Mr. Okey.*] You say that a private firm like a shipping company should not be allowed to make an arrangement themselves?—I have submitted that there should always be a chairman—a fully qualified chairman, such as a Conciliation Commissioner—I am leaving out the merits or demerits of the present Conciliation Commissioners—and he should preside by right; and it should be imperative that in a dispute it should be settled with a neutral party as chairman, appointed by the Government. The parties need not be under the Arbitration Act as a whole, but when an agreement is come to there must be a method of giving it legal force.

10. *Mr. Atmore.*] In the case of a dispute between, say, the waterside workers or the seamen and a shipping company, and the company giving increased pay, that is passed on to the general public. You suggest an official chairman so that the interests of the general public may be protected?—I think the very presence of such a chairman would keep the parties within due bounds.

11. Take a hypothetical case. Supposing two parties have a dispute—employers and employees—do you not think there should be some check on them concluding an agreement that would be unfair to the third party, which is not represented—that is, the general public?—That is what I am trying to arrive at. You want some one who quietly by his presence and quiet advice will protect the interests of the general public, and that I am of opinion would be in the interests of the parties themselves.

12. Two parties—employers and employees—should not be allowed to conclude an agreement for the sake of peace if they are simply going to pass on the burden unfairly to the general public?—I am of opinion that at the present time in New Zealand the question of wages is not the first question in connection with industrial reforms. The conditions of labour is the first question, and whether it should be a six- or five-days week—as some unions have suggested—and that wages is the very last thing to-day in New Zealand with the majority of industries. With some industries that I might name it is the first thing. In one industry I have in my mind they only get 6s. a day, and wages is the first thing there; but in the majority of cases, to my mind, the question of wages is the last thing. What is wanted is to make the conditions suitable and healthy as regards hours and every other thing, and to bend our minds to devising means whereby what the workers do receive will go further than at present, so that the purchasing-power of the money they receive will be increased.

13. *Mr. Grenfell* (representing Employers' Association).] I understand that you support the provisions suggested by Mr. Carey for a compulsory conference of the parties in dispute?—Yes.

14. It is also suggested that the chairman at that conference should have the right of a vote?—We do not care about giving that.

15. *Hon. Mr. Millar.*] You take away the conciliation element altogether when you give the chairman a vote?—Yes.

TUESDAY, 18TH NOVEMBER, 1913.

JOHN WILLIAM FRANK MCDOUGALL examined. (No. 5.)

1. *The Chairman.*] Whom do you represent?—I am secretary of the Wellington Typographical Union, and I am here to represent that union and the following typographical unions: Auckland, Gisborne, Taranaki, Nelson, Canterbury, and Otago. I also represent the New Zealand Federated Typographical Association of Workers, which includes all the typographical unions of New Zealand.

2. You will understand that we are simply considering Part VI of the Bill?—Yes, I understand that. By way of introduction I may state that my union has, from its inception in 1862, always been a firm believer in conciliation and arbitration, and in its first book of rules the following interesting provision is found: "Should a dispute occur in any establishment regarding the privileges of the trade or the rate of wages or hours, the union, on the matter being referred to them, shall have power to submit the matter in dispute to the decision of the Arbitration Committee, on the following conditions: (*a.*) That both parties bind themselves in writing to abide by the decision of the Arbitration Committee. (*b.*) That the Arbitration Committee consist of two representatives from each interest—those representing the union to be appointed or elected by a special general meeting; such committee to elect a chairman (other than from among themselves), who shall, should the votes on any question be equal, decide the same by his casting-vote. (*c.*) That ascertained colonial usages shall be taken as the basis of action by the committee, but where such usages are found to be so varied as not to constitute custom the decision shall be based on equity and analogy." Notwithstanding that the rules have at various times and by different generations been revised and remodelled, this principle has always been upheld, and is contained in the rules of the union up to the present time. When the original Industrial Conciliation and Arbitration Act became the law of the land my union was one of the first to take advantage of its provisions, its registered number being fifteen, and the members during the whole course of the history of the union—the members celebrated its jubilee last year—have never taken part in a strike as a method of asserting their rights or settling any

grievance. This fact should commend to the Committee the views expressed hereunder on the question bearing on the proposed strike amendments. I may now state that the Bill was considered by a committee of five appointed by the board of management of the union, and after careful and lengthy consideration of the various amendments proposed, the committee submitted a report and recommendations to the board. The report and recommendations were considered by the board, and after full discussion a motion was adopted authorizing three representatives to appear before this Committee on behalf of the union. Subsequently the union considered the board's recommendations and endorsed them. The whole of Part VI of the Bill we strongly object to as an undue interference with the liberty of the subject. It is one of the worst forms of coercion, inasmuch as it makes workers who do not wish to avail themselves of the provisions of the Act subject to the same penalties and restrictions as if they were registered under the Act and working under an award or agreement. The whole part is not British fair play. If a body of workers decide to remain outside the scope of the Act they should be allowed to make the best terms of employment they can, and if at any time they think that by striking they can improve their lot, the time that such strike should take place would be a very vital point towards the success of the issue. A strike having taken place it might be advisable for the Government or Minister to offer to act as mediator, but to force arbitration and make striking under such conditions an offence is undoubtedly interfering with the rights of British subjects. At the very start, Mr. Chairman, we would suggest to this Committee, if it decides to recommend to Parliament that legislation on the lines of Part VI be made law, that it be made a separate Act, and we suggest that for various reasons. Those who are registered under the Act submit that they are obeying the law, and if you force those who do not wish to come under its provisions, then you have two parties who are not in agreement as to the utility or wisdom of using the Arbitration Act, and we would suggest that the Committee recommend to Parliament to have a separate Act to deal with such matters as Part VI provides for. Another reason why that might be recommended is this: if you force unregistered unions under the Act—such large unions as coal-mine workers, shearers, waterside workers, and seamen—under the proposed legislation contained in this Bill every unionist will have one vote. Now, the result of that would be, I think, that they would control the workers' representative on the Court, and the question arises whether it is wise that the control of the workers' representative as to his appointment should be in the hands of those who are hostile to the Act. Therefore we would suggest that the Committee recommend that it be made a separate Act. At present the position is that when a union votes every fifty members count as one vote towards the representative.

3. *Mr. Rowley.*] I gathered from what you said that the main unions were not under the Act at all, and would have a vote?—I submit you are forcing those unions under the Act.

4. They would not have anything to do with the Arbitration Court?—You are forcing them under the Act.

5. *The Chairman.*] The idea is to bring this Part VI down in the form of a short Bill?—Then in that case it is not going to be an amendment to the Arbitration Act. We did not know that. If you are going to make it a separate Bill that is news to us.

6. *Mr. Rowley.*] In any case it would not affect the Arbitration Court?—This is the position: once you force them under the Industrial Conciliation and Arbitration Act they would necessarily want to have their rights and would become registered. We were looking to the effect of the legislation.

7. *Mr. Davey.*] Look at the top of Part VI. It states, "Strikes and lockouts by persons not bound by award or industrial agreement." The effect is nothing: the fact is before us?—Yes. Now, in subsection (4) of clause 141 it states, "A proposal under this section that a strike shall take place shall not be deemed to be carried unless a majority of the persons entitled on such proposal vote in favour thereof." That seems to me to give the minority power over the majority, because if you take a union of which 150 are entitled to vote under subsection (4), and 100 vote on the question submitted, 60 voting in favour and 40 against, then because of the 40 against the proposal is not carried. The result is that the 40 rule the 150. If 50 have not voted we take it that by their silence they agree with those who voted in favour of the proposal. That is minority rule, and that is against all precedent.

8. How would you have it?—Those who vote, and not those who are entitled to vote. The same can be said in regard to subsection (5)—my remarks apply in that case. I should like to know, Mr. Chairman, whether the Committee intend to recommend that this be made a separate Bill.

9. *The Chairman.*] Yes?—Well, that makes a big difference to us.

JAMES HARPER examined. (No. 6.)

1. *The Chairman.*] What are you?—I am president of the Wellington Typographical Union.

2. Do you wish to make a statement to the Committee?—I just wish to corroborate what Mr. McDougall has said. I agree with him that the fact that this is going to be made a separate Bill makes a great difference to the evidence we were prepared to offer. We are convinced that this Part VI, even if made law, would not accomplish the end desired—namely, to prevent strikes. The strike method is still used by unions registered under the Act, notwithstanding the penalties such action involves, and the same would apply even if this Part were made law. Given, in their opinion, the necessary cause, unions would not hesitate to strike. What I would be inclined to suggest to the Committee is that any legislation in the direction of providing that in the event of a strike taking place in any industry and the parties not coming to a settlement, then give time—say, three days, or a week at the outside—and then an official be appointed by

the Government, either the President of the Court or the Registrar or Conciliation Commissioner, with power to intervene and compel a conference between the parties, with power to frame conditions of settlement if the parties were not amenable to reason. I would suggest, as to how they could be compelled, that a clause be inserted providing a penalty something similar to what the shipowners, I think, recently offered to the waterside workers in the present dispute, which was turned down by them in the first instance and subsequently offered back to the employers and turned down by them in the second instance. I have nothing further to add.

3. *Mr. Davey.*] Did I understand you to say that you thought that any of the gentlemen named should act as chairman of this Industrial Disputes Committee after the strike had lasted three days?—Yes.

4. Then you said that if the conference could not come to a conclusion the chairman should frame conditions to end the strike?—Yes; that is, if they could not come to any agreement.

5. Do you think that would be acceptable to both parties—that one man should have power to insist upon it?—It is the only way out of the difficulty that I can see.

6. *Mr. J. Bollard.*] Do you not think the Court would settle it better—the Court would be better than one man?—But then they are not under the Court. The law provides that they may either register or not.

7. *Mr. Clark.*] Supposing this conference was held and there was a disagreement, and the chairman made conditions to meet the difficulty: supposing the union or labour people declined to accept the conditions, what would happen?—The same thing would happen as has happened down the wharf now—there would be a new union formed.

8. So that it would not stop strikes?—As far as I can see it is the most efficacious way of stopping strikes. I do not say it would stop strikes.

9. *The Chairman.*] I suppose you know that Mr. Halley did all he could to bring about a settlement of the present strike?—Yes.

10. *Mr. Veitch.*] You suggest that in the event of a strike there should be a compulsory conference, and that if as a result of that conference the disputants fail to agree the chairman of the conference would then decide what, in his opinion, was a fair basis of settlement. Do you think that a provision in the law that a secret ballot must be taken of all members of a union as to whether they will go back on those terms would get over the difficulty?—The same difficulty would apply. If the majority were against it the strike would go on all the same.

11. Do you think a secret ballot would give the members of the union an opportunity of expressing their real opinions on the subject?—Yes, it would make it more in touch with the views of the union and not the views of the delegates at the conference.

12. *The Chairman.*] Do you not think that the secret ballot that the union has got would be more likely to cause members to vote than under the present circumstances?—As far as I know the majority of the questions of any vital importance, as far as our union is concerned, at all events, are decided by ballot.

13. *Mr. Davey.*] Clause 141 states, "If a settlement of the dispute is not arrived at as the result either of a conference of the parties or of the recommendations of a Labour Dispute Committee within fourteen days after the delivery of the notice to the Minister pursuant to section 138 hereof the Registrar shall, in the prescribed manner, forthwith conduct or cause to be conducted a secret ballot of all the workers affected": would your union accept that clause that the Registrar should conduct a secret ballot?—Why not trust the union to conduct the secret ballot?

14. Do you prefer the union to do it?—Most decidedly.

FRIDAY, 28TH NOVEMBER, 1913.

WILLIAM PRYOR examined. (No. 7.)

1. *The Chairman.*] What are you?—I am secretary of the New Zealand Employers' Association.

2. The Committee is only dealing with Part VI of the Bill?—Yes. With regard to that part of the Bill there were certain points in it that my federation intended to ask that alterations should be made in, but it has been decided, in order to assist the Committee, not to make any objections to Part VI, the reason being that the federation feels it is absolutely essential that legislation dealing with the strikes somewhat on the lines as appear in the Bill should be adopted, and adopted without delay. In order to assist legislation of that kind being put through this session it has been decided that I should say, on behalf of the New Zealand Employers' Federation, that we will accept that part of the Bill as it stands, with clause 154. We direct the Committee's attention to clause 154 of the Bill, and we say it is absolutely essential that a clause of that kind should be included in Part VI—that is, the clause relating to provision as to voluntary agreements and the registration of agreements entered into with organizations that are not registered under the Arbitration Act. Part VI is quite incomplete without something of that sort. You have all the other provisions dealing with strikes, but you have no finish to any settlement that might be arrived at, and it is essential that there should be. We would like one or two alterations with regard to clause 154: we are not accepting it just as it is drafted. First of all, in line 21, we ask that the word "may" should be altered to "shall." It is permissible as that clause reads for any agreement like that to be filed, and we say that once an agreement is arrived at it must be made binding on both parties as far as possible, and there must be some tribunal to decide between the parties in the event of any difference during the currency of the agreement.

3. *Mr. Davey.*] What tribunal do you suggest?—The clause says that the tribunal shall be the Magistrate, with the right of appeal to the Arbitration Court.

4. It is not intended to cover the Arbitration Court?—It is dealing with those outside the Arbitration Court, but this does not entail the registration of the union.

5. The Clerk of Awards means the Arbitration Court only, according to you?—No, it means the provisions of the Arbitration Act; and our experience is that the Magistrate has the deciding of nearly ninety-nine cases out of a hundred for breaches of awards.

6. We are trying to deal with the men who will not come under the Arbitration Court awards?—You are dealing with a very small section of men who are trading upon other men whom they persuade not to come under the Arbitration Court.

7. The crux of the clause is, "Any person who commits a breach of such agreement shall be liable in the same manner and in the same cases as if he had committed a breach of an industrial agreement?—As far as industrial appeals go the only tribunal that should be recognized is the Arbitration Court.

8. The idea is not to touch the Arbitration Court if we can avoid it: if we can get the men in under the Arbitration Court law later on all the better?—If you go in for all the machinery provided in Part VI, and you get an agreement between the parties, I do not see any serious trouble. It is registering the agreement and not the union. Section 154 as it is is, in our opinion, a credit to whoever was responsible for it. Our big trouble in connection with the waterside workers' dispute is that there has been no one to decide between us. The union officials come along and say you have to do this or that, and fifty times during the currency of an agreement we had either to face a strike or give way. I am quite right in saying that if clause 154, with compulsory registration of the awards, is not adopted we do not want this other thing.

9. I want to have them come under the Arbitration Court as an individual, but I do not know whether we shall effect that end?—Why should we not say they should come under the Arbitration Court?

10. Because they will not?—The employers have no say in the matter at all then. It is compulsory upon employers to be dragged under the provisions of the Arbitration Act, and if the employers say "We will not be dragged into the Arbitration Court" are you going to say they shall not?

11. They did a few years ago?—No, they did not.

12. My idea is to bring them under some Court which will settle industrial troubles?—That goes as far as to say that by the operation of the law an industrial Court has been set up which, after all, is only an appeal Court, and because a certain section say "We do not believe in that sort of thing" you are going to set up another tribunal. Then, in another couple of years' time there is a noisy section who say, "We do not like the Arbitration Court—we do not like this tribunal which has been set up, so give us another tribunal." Where are you going to end? That will be the result of it. We agree to subclauses (1) and (2) of clause 154 with the alteration I have mentioned, but we say that subclauses (3), (4), and (5) are probably unnecessary. You could get over it by making one short clause and saying that these agreements shall be subject to the provisions of industrial agreements or the enforcement of industrial agreements. We have gone into the matter, and we are not quite sure with all the wording there that that will be the effect of it. We are afraid there is a loophole there, and we do not wish it to be so. We wish it to be said that these agreements shall be subject to all the provisions of the principal Act with regard to industrial agreements. It shows that is the intention of the clause.

13. *Mr. Rowley.*] You would want clause 4?—Yes, you would want to embody that.

14. Take out clauses 3 and 5 and substitute clause 4?—Yes. We have reduced our representations to those few I have made in the hope that we are assisting the Committee in its deliberations, but we do say definitely that unless section 154 is altered as I have suggested by substituting the word "shall" for "may" the whole of the other largely goes for nothing. The reason for asking that that word "may" be altered to "shall" is that it is essential that you should have a registered agreement, and registered in the way suggested there. If you do not have that you may get agreements made with the condition that they shall not be registered. That is exceedingly undesirable, and we say it should be altered.

15. *Mr. Davey.*] You seem to think that it is absolutely necessary when an agreement is arrived at under Part VI that it must be solidified by putting in clause 4?—It would be useless otherwise; and it is not guesswork—our experience of the last four or five years has taught us that. That is the reason for the fight we are engaged in now.

16. *The Chairman.*] Is it not the rule that all agreements are registered and filed in commercial life?—Yes. We are only asking what is the common law in connection with other agreements. If two parties make an agreement there is the law-court behind them.

17. You are liable to a fine if you do not register your agreements?—Yes.

18. *Mr. Clark.*] Do you want subclause (5)?—No, we think that subclauses (3) and (5) should go out, and just one simple clause put in saying that these agreements shall be subject to all the provisions of the principal Act. We want it made perfectly clear. We are afraid in the way it is done that there will be a chance of one party to the agreement getting out of it.

19. If subsection (5) were put in the Bill it would create trouble, I think?—Yes, that is the point.

20. The Court would have a right to order an agreement on its own account?—Yes. We think that that should not be so.

DANIEL MORIARTY examined. (No. 8.)

1. *The Chairman.*] Whom do you represent?—The Wellington Furniture Union.

2. We are only dealing with Part VI of the Industrial Conciliation and Arbitration Act, which provides for strikes and lockouts of persons not bound by awards or industrial agreements

—outside unions registered under the Act?—Yes. Well, my union has gone into this matter, and we are very much opposed to the whole of that part. To pass that Part of the Bill at this juncture is practically expressing approval of the present attitude of the strikers, inasmuch as the Government is saying that they will recognize people not bound by an award. The position seems to us to be that the Government must have some motive in passing this Part of the Bill, and it seems to us that if this Part of the Bill is put through it would be a very easy matter to repeal the rest of the Arbitration Act, because you would only need to drop out "This Part of this Act shall apply only to workers who are not for the time being bound by an award or industrial agreement." If that were left out, then this Part is a substitute for the whole of the Arbitration Act. We consider that if this Part VI were put into the Act itself to deal with all unions registered under the Act, then the Government would be giving a square deal to labour. I mean this: that if the right was given to a union to strike, and to make a strike lawful, provided the conditions of this Part VI were observed, then no strike would take place at all. The position at the present time is this: that under the Act itself neither the Prime Minister nor any of his Ministers are able to observe it. If we had taken the advice of the Minister of Customs we should have had a strike already in our trade. He advised us to strike, but being true arbitrationists we took no notice of his advice. The Prime Minister himself has also committed a breach of the Arbitration Act.

3. *Mr. Davey.*] Tell us how?—He did not exactly break it, but if he had been allowed to have his own way he would have.

4. You said he had committed a breach. What right have you to say that?—Well, he tried to interfere in connection with an award that is in operation at the present time. Section 110 provides a penalty for breach of award for any one interfering. He interfered.

5. Can you cite a case?—Yes. In the Auckland furniture case the workers were under an award providing for forty-seven hours at 1s. 3d. per hour. The awards for the furniture workers in the rest of the Dominion provided for forty-four hours per week at 1s. 4½d. per hour. The Auckland workers were likely to go out on strike; the Prime Minister was interviewed on the matter, and he offered to do all he could to try and get for us the conditions we were after. He went so far as to arrange to be present and preside at a conference for the purpose, and he did all he could to bring about the terms we wanted, and that was a breach of the Act.

6. *Mr. Clark.*] Did you object to him doing that?—No. I say that Part VI should be put in the main Act, as the above shows that the Act as at present constituted is not a fair thing. For instance, take the matter that the Minister of Customs is connected with, where he advised us to strike. We had trouble over pyridine in methylated spirits. At the present time the employers are allowed to use methylated spirits with pyridine in. The Minister of Customs did not seem to know what powers he had, and when we asked him to cancel the regulation with regard to pyridine he said he had not the power, but advised us to refuse to use the stuff. A strike is a combination to compel the employers to agree to certain terms; the employers may force us, and if we refused to use that now that is a strike. We would then be liable for a strike if Part VI is not put into the Act. If a Committee was allowed to be set up to inquire into the matter, and notification was given that the workers intended to strike, I guarantee no strike would ever take place. The only reason that a strike takes place under the Arbitration Act is where the employers refuse to meet us, as they did in Auckland. We asked them to a conference and they refused, because they think when a union is bound by an award it practically makes serfs and slaves of them if they do not carry out the award. A reason why we object to Part VI is this: that if the employers like to enter into private agreements with the workers that is their own funeral—they should take their own means of enforcing it; but the Government should not give them a helping hand to carry out the agreements.

7. Should not the Government assist the workers in carrying out an agreement?—If the employers enter into a private agreement it is not right for the Government to assist either side.

8. You said "the employers" just now?—I meant both. It surely applies to both if I object to private agreements. If the two parties are prepared to enter into a private agreement, that is their funeral how it is going to be carried out, and this legislation should not be brought down by the Government to assist either party in carrying out a private agreement. If this Part VI is put into the main Act to deal with all unions, then I am satisfied that a great number that are outside the Act at the present time would be only too pleased to come under the Act. As I stated, the workers are practically bound body and soul to agree to any conditions that the employers impose upon them, and that makes the unions stand outside the Act. Another point in regard to persons not bound by agreement: I am not summing up Judge Sim as being biased—I am an out-and-out arbitrationist, but I would like to point out that he has summed himself up. I have here the award in connection with the furniture dispute in Canterbury, and when you read that you will see exactly what the Arbitration Court is used for. I am going to show that, apart from the people who voluntarily register under the Arbitration Act, there is also a body of people who are forced by the Arbitration Court to be outside, because when they apply for an award Judge Sim refuses to give it to them. The Court puts a memorandum to the Canterbury Furniture Trade award as follows: "In the Wellington Furniture Trade award (Book of Awards, Vol. xii, p. 939) the Court, on the application of some of the employers, struck out picture-framers from the scope of the award, and in the definition of upholsterers' work limited the laying of carpets and linoleums to new carpets and linoleums. The employers in Christchurch have agreed, apparently, to the inclusion of these in the present award, and they accordingly have been included. It is desirable, however, to point out that in the opinion of the Court the effect of this Bill will be to deprive all the employers bound by the award of the bulk of this work. The work of framing pictures and relaying old carpets and linoleums will pass into the hands of persons in a small way of business who can do the work themselves without having to employ any labour." I may tell you that there was one employer only who applied to the Court

for exemption on behalf of the picture-framers, and no application was made in regard to the rest of the work struck out, and that employer did not go before the Conciliation Council. There was already a complete agreement between the employers and the men in the whole of the Wellington Industrial District, and it was handed to the Court to be made into an award. One body of men were excluded from the operation of the award altogether, and in a case like that, where the Court penalizes workers who are anxious to take advantage of the Act, then the workers should be free to strike or do whatever they like to get their own terms from the employers. This Part VI of the Act proposed here does not provide for those people at all, except to bind them body and soul under these conditions. As I have suggested, Part VI should be embodied in the main Act if a square deal is to be given to the workers. As regards the secret ballot, I am very much in favour of that. It matters not to us who takes it, and the officials of the union would be very pleased if the Labour Department took the ballot for them.

9. *Hon. Mr. Massey.*] What about the suggestion that scrutineers should be appointed with the officers of the Department to act?—Yes, I agree that scrutineers should be allowed to be present at the opening of the ballot-papers, and was going to ask for that if the secret ballot was to stand. If that is done there could be no objection. Subclause (4) of clause 141 reads, "A proposal under this section that a strike shall take place shall not be deemed to be carried unless a majority of the persons entitled to vote on such proposal vote in favour thereof." I think that is wrong.

10. You see an objection to subclause (4)?—Yes. I take it that if the Labour Department took a ballot, sending ballot-papers to all the workers right throughout, that a majority of those who had voted should decide the matter.

11. What about subclause (5)?—That is the same as subclause (4). I think it should be a majority vote on each occasion. Every man is given the right to vote, and if he does not exercise his vote why penalize those who do? I have pointed ont that there is an express disapproval on the part of our workers to putting Part VI through. The Government is coming forward and recognizing the "Red Feds" by putting this Bill through. I have been looking for a motive, and it struck me that the motive is to substitute it for the Arbitration Act.

12. *Mr. Davey.*] That is not the intention?—Then what is it done for, when the Government is coming forward and recognizing unregistered unions?

13. *Hon. Mr. Massey.*] These unregistered unions at the present moment can do what they like in the way of strikes. Well, this makes the law apply to them—that is to say, it compels them to go through certain forms before a strike can take place—notice must be given that the matter is referred to the Labour Dispute Committee, and there is a secret ballot?—Yes, but at the same time the employers are saying there shall not be unregistered unions, and you are coming forward and agreeing to them.

14. I am afraid there will always be unregistered unions?—But the marvellous part is that in Wellington they are being objected to and agreed to at the same time. There are one or two other matters that want fixing up. I had one or two amendments in connection with the rest of the Act, but we are not dealing with that. As the Labour Department is represented here I should like to say that between the Arbitration Court and the Labour Department the workers have serious trouble at all times. As far as the Labour Department is concerned, I asked the previous Minister of Labour for one small thing to be done, and if it is done it is going to save a lot of friction and trouble. The Labour Department's officers may be the best men in the world, but they are only laymen, as are our union officials, and we are just as capable of interpreting any section of the Act as they are. We have had some trouble with the Labour Department in the past, and the same old trouble is creeping in again, and that is that the Department will not take up cases unless they are forced to. They will not take up any cases unless they are sure of winning, and when we go to them with a case they say there has been no breach. I asked the last Minister of Labour if he would provide that before the Department refused to take a case that the union secretary, together with the officers of the Department, or the officers of the Department themselves, should submit the matter in dispute to the Crown Law Officers. The officers are there for the purpose, and if they consider there is no breach then any union secretary who thinks he knows more than the Crown Law Officers may take the case himself. I had to send during this last few weeks a case to the Department no fewer than four times before they would take action. They said there was no breach, but when the case was taken the employers were fined.

15. Would you mind giving us the names of the parties?—The Scoullar Company. There is one breach pending against them now, and the Department said there was no breach. It is always a handicap when we do go into Court, because the solicitor for the employer always throws up to us that the Department refused to take the case up. We have won practically every case in the past that we took to Court where the Department refused. If that concession was granted to us that before the Department refuses the union secretary be allowed to go along with the officers of the Department to the Crown Law Officers and state a case it would get over a lot of trouble. If the Crown Law Officer said there was no breach we would be prepared to take his decision, but we are not prepared to take the opinion of laymen when we know as much as they do.

16. *Mr. Clark.*] In connection with your statement about Part VI, do you think unregistered unions should not be legislated for in order to make them come to some agreement?—Absolutely No. If employers like to enter into agreements with them that is their funeral.

17. Would you be prepared to compel all unions to be registered under the Arbitration Act?—No, I leave that to the employers themselves. I do not think up to the present moment a lockout has ever been proved against any employer. It is impossible to prove that.

18. If a union is registered under the Act it could come out by dictation?—They do not come out by dictation.

19. Some of you people recognize that?—They have to pay the penalty.

20. Do you think they are wrong in coming out?—Certainly they are, but they may have reasons and think it their duty to come out because they are linked up with other trades.

21. *Mr. Veitch.*] The heading of Part VI that we are dealing with reads, "Strikes and Lockouts by Persons not bound by Award or Industrial Agreement." It does not say "strikes and lockouts by unions." Do you think it desirable to extend this to organized labour?—I have looked for the motive of the Government in recognizing such unions up to the present juncture when the employers are saying that there are to be no more unregistered unions, and the only motive I can see on the part of the Government is that they intend, as stated by one of their leaders, to repeal the Arbitration Act. If this Part VI is passed then that is a substitute for the Arbitration Act, and that Act will go as soon as they like, because this will then apply to all workers. There will be no Act and no union, and that is why the word "workers" and not "unions" is used now.

22. It applies to individual workers as well as unions. Subclause (1) of clause 138 reads, "In the case of an intention to strike on the part of ten or more workers." Do you think it would be better to arrange for a percentage of the union? In some cases ten might be the whole union, and in other cases it might not be?—I am opposed to the whole of Part VI going through. If Part VI is put into the main Act then it will suit, and then only. The polishers in the trade, for instance, may come out at any time. We still have the advice of the Minister of Customs to strike. The matter has never been fixed as regards pyridine. If the employers say "You have to use pyridine" we have got to do it. There has been an alternative only granted since we brought the matter under the notice of the Government, and if the employers wanted to force us for any reason out on strike all they need say is "You will have to use pyridine." The average percentage might be a higher number than that, but with ten or more workers the polishers could give notice that they intended to strike. The arbitration unionists are not anxious to strike—they must have some real grievance for it; and if Part VI is put in the main Act then I am sure no strike will ever take place. In other words, the making of a strike lawful if certain conditions are observed will save practically all unions from ever striking.

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