

20. Who were members of the particular union?—Members of the union or association. As the Bill reads, it would apply only to those who are members of the union or association. Any award applies to all workers who are working under the award, whether members of the union or association or not.

21. Do I understand you to mean that you would have the suspension apply to all the workers in that industry in that district in which the strike had taken place?—Yes. Shortly put, our claim is that when the suspension takes place, so far as the award is concerned, it should be absolute. We cannot see that it is practicable to have a partial suspension—that it should affect certain parties to the award and not others.

22. Whether members of the union or not, so long as they are working under the award?—Yes, we want it to apply to all who are working under the award. Part II, dealing with enforcements: Section 13: We ask that the words “not exceeding” be inserted where required, as mentioned before. The section provides for penalties for breach of award or industrial agreement, and we ask that it should be worded somewhat on the lines of the present Act—section 101, subsection (c)—where it provides specifically that the Court may either dismiss an application or impose such fine for a breach of award as it deems just, and in either case with or without costs. Section 14, subsection (1): The Federation is opposed to Magistrates as such taking enforcement cases, which it thinks should be taken by the Arbitration Court only, or, if Conciliation Councils are set up and a permanent Chairman appointed, they should be taken by them. I would like to say that the Federation recognises the difficulty presented to the Minister in connection with this matter. It recognises that, while it says the Arbitration Court is the best tribunal to deal with these enforcements, the unavoidable delay that takes place is a fair cause of grievance, especially so far as the unions are concerned, and the Federation would very much like to assist the Minister in making a provision which would be acceptable to both sides. At the same time the Federation feels that the putting of enforcement cases into the hands of Magistrates—gentlemen estimable enough, no doubt, but not accustomed to the studying of industrial questions—would not prove satisfactory, for unless those who deal with these matters understand industrial questions there will be a great deal more dissatisfaction than is caused by the delay under present conditions. I make these remarks, Mr. Chairman, because I want to impress the Committee with the fact that we are desirous of assisting as far as it is possible in the making of a law that will be satisfactory to both sides. Subsection (3) of section 14: We ask that all the words after “Inspector of Awards” be struck out. The effect of this will be to cause all enforcement cases to be taken by the Inspector of Awards only, and will prevent them being taken at the suit of any party to the award or industrial agreement. We think that, if an employer or union reports what is considered to be a breach to the Department, the full inquiry the Department makes from both sides will be a protection that the interests of both sides will be fully conserved; and that if after such inquiry the Department considers there is no case to go before the Court that should end the matter. I know of my own knowledge that the Department has frequently been compelled to bring cases for enforcement before the Arbitration Court which it felt were both unfair and unjust. It has brought them to get rid of the importunity of active union secretaries sometimes, and in other instances for the protection of the employers and the Department itself, because it knew that if the cases were taken by the union it would not be presented in such a fair manner as by the Department’s officers. If cases are to be taken by Magistrates we should like provision to be made for laymen to appear on behalf of the employers. Our secretaries do not as a matter of course take enforcement cases, but it is advisable for them to do so occasionally, and it has happened quite frequently that because of their knowledge of the Act—and more particularly because of their intimate knowledge of the award clauses and the intention of the framers—they are absolutely the best persons to take these cases. Just recently we had a case in connection with the flax-millers’ dispute, which involved an amount of £2,000 a year to the flax-millers of the industrial district. The Department believed the employers were right in the course of action they took, but I understand the Crown Solicitor in Wellington and the Crown Prosecutor in Palmerston thought there had been a breach of award. I personally conducted the case on behalf of the employers, whose contention was upheld by the Court. If that case had been taken in the ordinary way by a solicitor who had not the knowledge of the working of the award that I had, the employers are of the opinion that he would not have been in so good a position to conduct it as I was. I do not mention that in any egotistical spirit, but just to give point to the necessity for provisions to be made permitting laymen to appear in enforcement cases on behalf of employers. Section 15 provides for the giving of two days’ clear notice of intention to defend. We ask, if that is kept in the Bill, that it shall be made imperative that sufficient notice shall be given to those persons who are cited, and we suggest fourteen days. In many cases we confer with the Department, and, generally speaking, signify what course will be taken. We want it laid down that sufficient notice shall be given, because if it is only one or two days there will probably be no time for this to be done, and the defendant’s position might be very much prejudiced unless that provision were made. Section 16: In any such action the Magistrate may give judgment for the total amount claimed, or for any less sum as he thinks fit. We ask that the words “the total amount claimed,” in line 10, be deleted, and the words “an amount” inserted. The Federation considers that the section as printed imposes upon the Magistrate the duty of imposing a fine.

23. No; it says, “may give judgment”?—At any rate, it infers there is an amount claimed, where as a matter of practice there is no amount claimed; there is only a citation for breach of award, and the amount is left to the judgment of the Court.

24. You mean that there is no definite amount put into the claim, but there is an uncertain amount claimed?—There is no amount claimed. There is a citation for breach, and an amount by the Department is never claimed. If there is no amount claimed for any breach the Magistrate will give judgment simply according to the merits of the case.