

NEW ZEALAND ELECTRICAL INDUSTRY—APPEAL FROM DECISION OF
APPRENTICESHIP COMMITTEE

In the Court of Arbitration of New Zealand, Otago and Southland Industrial Districts—In the matter of the Apprentices Act 1948; and in the matter of the New Zealand Electrical Industry Apprenticeship Order, dated the 26th day of September 1961, and recorded in 61 Book of Awards 1360; and in the matter of an appeal by Mrs K. Jardine from a decision of the Otago Electrical Local Apprenticeship Committee refusing consent to the apprenticeship of M. A. Jardine with G. T. Gillies Ltd., Oamaru.

JUDGMENT OF THE COURT DELIVERED BY ARCHER, J.

This is an appeal under section 19 (2) of the Apprentices Act 1948 against the refusal of the Otago Electrical Local Apprenticeship Committee of its consent to a proposed contract of apprenticeship between Murray Alister Jardine and G. T. Gillies Ltd. of Oamaru.

The first application to the committee for its consent was made on 6 January 1964 when a copy of Jardine's school report for the previous year, during which he had been in Form IV G.1 at Waitaki Boys' High School, was supplied. The report did not appear to be a satisfactory one and on 24 January 1964 the committee refused consent on the ground that Jardine had not reached a satisfactory standard in English and mathematics in a fourth or higher form. It would appear that this decision was given without hearing any of the parties and it was presumably based entirely upon the school report.

On 6 February 1964 an appeal was lodged but this was withdrawn on 6 March 1964 when Jardine returned to school. He stayed at school only a few days, however, and on 20 March 1964 a second application was made to the committee. On 2 April 1964 the boy and his mother appeared before the committee and produced, in addition to the school report, letters from Mr J. H. Donaldson, rector of the Waitaki Boys' High School, Mr W. G. Gibb, first assistant master at the school, and Mr H. R. Wise, the electrical engineer of G. T. Gillies Ltd. The letter from Mr Donaldson conveyed his very strong support for the application and stated as his opinion that Jardine would prove a very suitable apprentice in the electrical wiring trade. Mr Gibb expressed the opinion that Jardine had not worked to capacity at school and could have done a good deal better, but stated that he had a special interest in electrical work and that given an opportunity in his special field he should do very well. Mr Wise, himself an electrical engineer of long standing and a bachelor of engineering, said that after full inquiry he felt that the boy had every chance of success in the electrical trade and considered him

suitable to apprentice. The chairman reported to the meeting that he had interviewed the writers of the letters and that they said in effect that Jardine was more capable than his school report would seem to indicate, that his interest in electrical matters had been detrimental to his school work, but that he had the ability to study where his interests lay. Mrs Jardine, the boy's mother, told the committee of her son's interest in electricity and of his work at home in that field. She said that it was only after an interview with Mr Gibb and on his advice that she had approached Mr Wise with a view to having her son apprenticed to the electrical trade.

The committee's minutes indicate that there was then an exhaustive discussion on the matter but the committee was of opinion that the boy had failed to establish even a borderline case. The minutes state "His class was the third in a stream of four. In that class his mathematics marks were only one-third of the class average. His good marks in general science were not helpful as the subject for this class was too general." The committee said that apparently his pursuit of his hobby interests had been to the detriment of his school work. The decision reached was to refuse consent on the ground that the committee was not satisfied that the proposed apprentice had reached a satisfactory standard in English and mathematics in a fourth or higher form.

The refusal of consent in both instances was directly based upon an alleged failure of the proposed apprentice to comply with clause 7 of the apprenticeship order for the electrical industry dated 26 September 1961. This clause reads as follows:

7. Prerequisite Education—It shall be necessary for a person desiring to become an apprentice to produce to the local committee satisfactory evidence that he has completed two years' post-primary education and has reached a satisfactory standard in English and Mathematics in a fourth or higher form, or has attained an equivalent standard of education.

This provision was no doubt inserted in the order in pursuance of paragraph (d) of section 6 of the Apprentices Act 1948 which states it to be a function of a New Zealand apprenticeship committee to give consideration to what prerequisite education, if any, should be laid down for apprentices wishing to enter an industry. In many apprenticeship orders no more specific educational standard is required than that the apprentice shall have completed two years' post-primary education, but in the Electrical Industry Apprenticeship Order there is the additional requirement that the apprentice must have reached a satisfactory standard in English and mathematics in a fourth or higher form, or have attained an equivalent standard of education. The substantial issues in the present case are what constitutes a satisfactory standard in English and mathematics and whether Jardine has attained that standard.

On this appeal the Court has had the advantage of hearing in person Mr Donaldson, the headmaster of Jardine's school, Mr Tyrell, one of his form masters, and Mr Wise, his prospective employer. Mr Donaldson stated that school reports were intended to be confidential to parents and were not intended in any way to indicate a boy's qualifications for future employment. He was strongly of opinion that if used for such a purpose school reports could be extremely misleading. He pointed out that there were 280 boys in fourth forms at Waitaki, there being eight fourth forms in which the boys were graded according to their supposed ability. Jardine's form had the third highest rating, while the forms rated fifth and sixth in order were those composed of boys considered likely to enter trades or similar occupations. Mr Donaldson said the standard of work expected of boys in the various fourth forms varied considerably and that Jardine, although very poorly placed in school examinations in his particular form, might have been well placed in examinations if he had been in one of the trade forms. He said that Jardine had considerable ability at English, was well spoken, and had a

good vocabulary, and that he considered his English better than the average in the fourth form. In mathematics he considered his examination result was not a true indication of his ability, which he considered satisfactory. He was aware of Jardine's work at home in electricity and radio and considered that this, together with his good marking in general science, showed an aptitude for work in the electrical field. Mr Donaldson concluded his evidence by stating specifically that Jardine had reached a satisfactory standard in mathematics and English in the fourth form at Waitaki Boys' High School.

Mr Tyrell, who had taught Jardine in English, said he had reached a satisfactory standard in English and that his low marks in the examination had been a surprise to him. He said the boy was particularly well-spoken and had a lot of commendable interests away from school. Mr Wise, a qualified engineer who had been in charge of G. T. Gillies' electrical department for 30 years, said that Jardine's work for the firm during the past two months had been entirely satisfactory, and the firm was anxious to retain him.

The Court is primarily concerned in this appeal with the welfare of the boy and his suitability to enter the electrical trade. When the only evidence before it was his unsatisfactory school report, the committee was entitled to refuse his application, though had it appreciated Mr Donaldson's views as to the limited weight which should be given to school reports, it might have been desirable for it to have given Jardine the opportunity of providing further evidence. At the second hearing before the committee additional evidence was provided in the form of letters, but letters are seldom convincing, and our only comment upon the committee's second refusal of consent is that it might have been preferable for it to invite Mr Donaldson to appear before it in person. This Court must deal with the matter on the evidence before it, which was more comprehensive and convincing than before the committee.

The views of Mr Donaldson concerning the limited value of school reports is entitled to great weight, while his views given *viva voce* and upon oath as to the standard of education achieved by Jardine must be accepted in preference to any contrary conclusions which might appear to have been justified from a perusal of his school report alone. The evidence before the Court in our view establishes that the proposed apprentice has in fact complied with the requirements of clause 7 of the apprenticeship order and has achieved the standard of education which is a prerequisite to apprenticeship to the trade. The appeal is accordingly entitled to succeed unless there is any other ground on which the committee was justified in refusing consent.

We gather from the evidence given by one of the members of the committee that after a lengthy cross-examination of Jardine the committee was of opinion that he would be unlikely to qualify in due course for registration as an electrical wireman. No reasons were given for this opinion, which we feel bound to assume to have been based at least primarily on the contents of his school report, or on the committee's own assessment of his standard of achievement in the fourth form at Waitaki. While the Court is fully appreciative of the committee's desire to maintain a high standard among those apprenticed to the electrical industry and of the care given to the consideration of this case, it cannot agree that because of their long experience in the electrical trade the members of the committee were better able to assess the educational qualifications of Jardine than the masters who had charge of his education during the previous two years. The only reason given by the committee for its refusal of consent to the proposed apprenticeship was that Jardine had failed to attain the prerequisite standard of education in English and mathematics. Upon the evidence given before us this objection cannot be sustained, and the appeal is therefore allowed.

Dated this 25th day of May 1964.

K. G. ARCHER, Judge.