NEW ZEALAND CARPENTRY AND JOINERY INDUSTRY
APPLICATION FOR AMENDMENT OF APPRENTICESHIP ORDER

In the Court of Arbitration - In the matter of the Apprentices Act 1948; and in the matters of an application for amendment of the New Zealand Carpentry and Joinery Industry Apprenticeship Order, dated the 2nd day of November 1966, and recorded in 66 Book of Awards 2280.

JUDGMENT OF THE COURT DELIVERED BY BLAIR, J.

This is an application by the New Zealand Master Builders Federation Incorporated to amend clause 10(a) of the New Zealand Carpentry and Joinery Industry Apprenticeship Order. It reads as follows:

> "The proportion of the total number of apprentices to the total number of journeymen employed by any employer shall not be more than one to every two or fraction of two journeymen employed."

The application is to add the following proviso to this subclause:

> "Provided that with the approval of the local committee the proportion of the total number of apprentices to the total number of journeymen employed by an employer may be increased to one apprentice for one journeyman employed where the local committee is satisfied that the employer has the ability and the facilities necessary to train the apprentice."

This application was considered by the New Zealand Carpentry and Joinery Industry Apprenticeship Committee on 17 November 1969 but as employers' and workers' representatives were equally divided no recommendation was forthcoming.

At the hearing Mr Symmes for the employers referred to the background history of the application and submitted that for the sake of the present and future state of the industry an improved intake of apprentices was necessary. In particular he mentioned the forecasts of the Building Industry Advisory Council which has estimated that the labour force in the building industry should be increased by 13,700 between 1968 and 1973 and a further 11,000 between 1973 and 1979. He disputed the suggestion that some employers were disregarding their obligations towards their apprentices and emphasised that there was no real difficulty for competent and selected employers to increase their intake to the limited extent proposed. He pointed out that the Federation was not seeking a radical change but merely asking for provision to be made to relax in particular cases the rigid requirements of the present proportion clause.

Mr Molineux for the Carpenters' Union in opposing the application said that if all of the employers exercised their rights to engage apprentices this would fully absorb all intending apprentices. His main point was that he doubted whether tampering with the proportion clause was in the best interests of trade training and it was primarily on this ground that he based his opposition. Mr Molineux also suggested that the application if granted would vest in local committees the power to vary the proportion clause and said that this was not a power which should be exercised at the local committee level. In his reply Mr Symmes acknowledged the force of this last submission and stated that he was willing to accept an amendment to the application, so that the words "New Zealand Committee" be substituted for "local committee".

At this stage it is perhaps desirable to make some reference to the provisions of the Apprentices Act 1948. Section 13(4) empowers the Court in an apprenticeship order or otherwise to determine the number of apprentices, or the proportion of apprentices to journeymen, that may be employed by any employer (paragraph (l)). Subsection (1) of section 14 includes this as a power that may be delegated to a New Zealand Committee, but it is not among the powers that may be delegated under subsection (2)

to a local committee. This would seem to indicate that the intention of the Act is that a provision giving discretion to vary the prescribing proportion should be under the control of the New Zealand Committeed rather than a local committee.

It may be that if the discretion to increase the proportion in selected cases is vested in the New Zealand Committee the Carpenters Union may wish to reconsider the matter. It does appear that nothing drastic is being asked for; the proposed amendment merely gives the right to ask for some relaxation of the proportion rule in special cases. The New Zealand Committee would have control of the matter and would see to it that the operation of the amendment was not abused. The Court thinks it important that an amendment like the present one should, if possible, be made with the co-operation of the union. Under the circumstances this co-operation may now be forthcoming. The Carpenters Union quite rightly took the point that the discretionary power should not be in the hands of the local committee. This might lead to differences in practice. However having succeeded on this point it may be that the union will be willing to co-operate with the employers in allowing the amendment to go through. As stated the amendment is not an attack on the present proportions but merely a means of relaxing the rule in a particular case duly approved by the New Zealand Committee.

In the circumstances we declined to make the amendment sought by the application. leaving it for a further application to be made if agreement can be reached.

Dated this 18th day of December 1969.

A.P. BLAIR
JUDGE