

## Arbitration: the sheepowners and the shearers

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### Introduction

In late 1981 I attended the NZ Historical Association's annual conference at Victoria University, and heard a paper given by Jim Holt on the arbitration system in the early years of the 20th century. At the time I was beginning to work my way into the subject of labour history and the crucial role of arbitration, by looking at rural trade unions in particular. I found Jim Holt's paper particularly interesting and remember discussing with him briefly afterwards the extent to which awards were a means of disciplining and controlling workers such as shearers and threshing-mill hands. It is especially pleasing to see that work and his other already published articles coming together in book form at long last. I subsequently sent him a paper of my own which he commented on in a letter, saying: "I haven't spent much time on rural workers partly because the most critical episode for the history of arbitration was well covered by Brendon Thompson (in his thesis on the Canterbury Agricultural and Pastoral Labourers' application for an award in 1907-8)." He also suggested that he was pushing forward his research on the arbitration system: "The 1930s I haven't thought about much yet but I am getting there gradually. Am about to work on the 1920s." I found his open and responsive approach welcome indeed.

Unfortunately I never met Jim Holt again, but my interest in the role of the arbitration system remained and his 2 earlier articles in the *NZ Journal of History* were keystones in my understanding of the formation of the system.

It is particularly important to understand the arbitration system in New Zealand because of its fundamental role in shaping the relationship between the state and class via organisations both of employer and worker groups. Various theoretical analyses have been made of this relationship, but the resulting difficulties suggest that there are considerable complexities in trying to relate class, interests and forms of organisation representing economic groupings, to the state and its legislative and policy outcomes.<sup>1</sup> Recent work by authors such as Offe tends to

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1 See the Marxist analyses of Bedggood and Walsh. Bedggood suggests that the Arbitration system can be seen as state policy which is linked to the undifferentiated reproductive needs of capital. D Bedggood, *Rich and poor in New Zealand*, Auckland: Allen and Unwin, 1980. I have criticised this view in J E Martin, "Rural and industrial labour and the state", in C Wilkes and I Shirley, (eds), *In the public interest*, Auckland: Benton Ross, 1984. Walsh places the Arbitration system in the context of a state which mediated the class struggle and, through concessions attempted to minimise conflict. P J Walsh, "Towards a class analysis of the origins of the Conciliation and Arbitration system", unpublished paper, Industrial Relations Centre, Victoria University, 1981. P J Walsh and R L Hanson, "The state and disorganisation of the working class: the case of New Zealand," American Political Science Association Paper, New York, 1981. P J Walsh, "A critique of the Conciliation and Arbitration system", in F J L Young (ed), *Three views of the New Zealand system of industrial relations*, Wellington: Industrial Relations Centre, Victoria University, 1982. (Also see D Pearson and D Thorns, *Eclipse of Equality*, Sydney: Allen and Unwin, 1983, pp. 138-9, in which it is argued that the ICA Act offered simultaneous protection for labour and a furthering of the interests of capital by the incorporation of the labour movement and diminishing of industrial unrest.) Walsh argues that the effect of arbitration was to incorporate, control and weaken unions as a result of the legalism, rules,

loosen these connections beyond that often postulated by more traditional Marxist writers and places greater emphasis on the organisational forms themselves (Offe, 1986). I want to examine one particular facet of this complicated picture — the distinction between different groups of rural employers and workers and the extent to which they either engaged with or were opposed to the arbitration system. In an earlier paper I looked at some of these issues (Martin, 1984) It was argued there that “throughout New Zealand’s history the State has taken a different stance in relation to rural and urban industrial relations”, primarily registered in the exclusion of various categories of rural workers from the arbitration system. The article was an attempt to indicate that state policy in this area differed by sector rather than being a simple unified expression of class interest. For my purposes at that time a straightforward distinction between rural and industrial sectors sufficed to establish the point that the relationship between state and class was more complex than suggested. Just as Holt does, I tended to focus upon the centrality of the Canterbury Agricultural and Pastoral Labourers’ Union’s failure to obtain an award in 1907-8, and the New Zealand Farmers’ Union’s powerful resistance to the arbitration system. But while Sim’s controversial decision of 1908 was the single most critical episode, as Holt indicates, this event has perhaps attracted too much attention. The focus on the Farmers’ Union has distorted our view of the arbitration system so that it appears associated only with industrial employers and unions, with occasional attacks from the rural sector outside it.<sup>2</sup>

Gill explores the differences between the agricultural and pastoral sectors and argues that the high degree of selective state involvement through arbitration is a key aspect of an explanation of these differences (Gill, 1985). Instead of accepting that the state’s refusal to intervene in farming was simply a recognition that unionism was inappropriate, he argues that the lack of organisation was in part the consequence of this refusal because of his shift of focus towards unions as a product of the arbitration system itself. This means that the lack of state intervention in the rural sector was an *active and selective policy* rather than simply an organisational failure by workers, and points us more strongly towards the interaction of state policy and organisational forms, both of workers and employers. What needs to be explored more fully is the day-to-day involvement of the rural sector in the system, and for this we must examine the pastoral rather than the agricultural sector. The shearers offer an interesting exception to the pattern of the state’s refusal to intervene in rural labour relations. Also, the Sheepowners’ Federation — a key employers’ organisation in the rural sector — has been neglected. These two groups were constantly engaged with the arbitration system.

Key questions will be:

- (1) why were the shearers so readily able to obtain awards unlike other groups in the rural sector?

fragmentation into districts, and the proliferation of unions based upon occupational differentiation rather than industry. He explains the creation of the system in terms of a “tripartite hegemonic structure” involving the state and its agrarian and finance capital allies, and argues that their interests lay in subordinating labour by the ICA Act. (Walsh and Hanson, 1981, pp. 15-17). This occurred against the background of the state’s defeat of the emerging urban industrial manufacturing class. These small urban employers apparently did not want the state to intervene, but their declining power meant that they could not mount an effective opposition. Walsh’s analysis then suggests that the arbitration system was in the interests of (and presumably supported by?) farmers, runholders, and the finance sector, and was not in the interests of urban manufacturing employers. This is a peculiar conclusion in the context of Holt’s book which emphasises the crucial opposition of farmers (and sheepowners, somewhat later) to arbitration. One could question the above analysis on the grounds that it was the urban, craft sectors connected with manufacturing for the domestic market which first became registered unions and not those associated with the export-oriented sector of the economy, and that agrarian and large employers as represented in Parliament resisted the IC & A Act more strongly than small, urban employers. See N I Moore, *The employers’ response to the IC & A Bill 1894*, M A Research Essay, History, University of Auckland, 1973.

- 2 A lot of work has been done on the Farmers’ Union for this period but nothing on the Sheepowners. See T Brooking, *Agrarian businessmen organise: a comparative study of the origins and early phase of development of the National Farmers’ Union of England and Wales and the New Zealand Farmers’ Union, c. 1900-1929*, PhD University of Otago, 1978. T Brooking, *New Zealand farmers’ organisations and rural politics in the late nineteenth and early twentieth centuries*, *Historical News*, nos. 41 and 42, 1980 and 1981. R Duncan, *The New Zealand Farmers Union as a political pressure group, 1900-1912*, MA, Victoria University, 1965. R Bremer, *The New Zealand Farmers’ Union as an interest group: some aspects of farm politics, 1918-1928*, MA, Victoria University, 1966. L Cleveland, *An early New Zealand farmers’ pressure group*, in *The anatomy of influence: pressure groups and politics in New Zealand*, Wellington: Hicks Smith and Sons, 1972.

- (2) why were the Sheepowners prepared to use the arbitration system unlike the Farmers' Union?
- (3) what place did these two organisations have in shaping the emergence of the arbitration system?

#### Did the original IC & A Act in fact exclude rural workers?

We must initially examine the legislation itself to understand its relationship to the rural sector. Holt's argument on crucial turning points in the development of arbitration hinges largely on the role of the rural sector. He argues that the Industrial Conciliation and Arbitration Act, 1894 (henceforth, IC & A Act) was passed largely because it was not believed that the Act would apply to the rural economy. There was no concerted opposition to it.<sup>3</sup>

The opposition of the employers would have been much more potent if farmers had been given the impression in the 1890s that the Arbitration Act might affect farming directly — it was generally assumed that industrial arbitration would be applied only to the urban sections of the economy. Without support from the farming community, the urban employers lacked enough political influence with the Liberals to defeat Reeves and his labour supporters.

Was this in fact true? Why should rural employers apparently believe that the measure would not apply to them?

Having looked through the debates within both the House of Representatives and the Legislative Council from the first appearance of an "Industrial Conciliation" Bill in 1891 until its enactment in 1894, I have found nothing to support a view that the rural economy was excluded (*NZPD*, vols 70-85, 1891-94). As far as I can judge there was no explicit discussion of what the definition of "industry" should be, or whether the Act was to be confined to the more skilled urban and manufacturing trades only. The Act defined "industry" as "any business, trade, manufacture, undertaking, calling, or employment of an industrial character". (clause 2) There was no explicit definition of who exactly a "worker" was (unlike later legislation). While considerable attention was paid to the case of the railway workers, the issue there was the distinction between the state as legislator and as employer and not one of industry.

There is considerable suggestive evidence that application to the rural economy was implicitly accepted. As Reeves observed, the Act emerged in the context of the industrial strife of 1890-1894 (Reeves, 1902). He referred to strikes of shearers and station hands specifically, and spent much time discussing the Queensland shearers' strike of 1891 and those in Queensland and New South Wales in 1893. During the passage of the Bill, frequent references were made to the Australian shearers' strikes: by Sir James Hall (Ellesmere) in the House of Representatives in arguing against the compulsory aspects of the Bill; by Rigg in the Legislative Council to illustrate the beneficial effects of arbitration and the unrestrained powers of the Australasian Pastoralists' Union in dealing with striking shearers; by Jenkinson in the Legislative Council in arguing the need for government intervention; and by Reeves himself, in arguing the need for compulsory arbitration by contrast with the Australian experience of a voluntary system (*NZPD*, vols 81-84). Both Bruce (Rangitikei) and Hogg (Masterton) accepted that the Bill concerned the rural economy (*NZPD*, vol 77, 1982, pp. 40, 45). It has been widely believed, from Reeves himself onwards that the IC & A Bill did not attract much attention. But Moore's research suggests that the Bill ranked second only to the Shop and Shop Assistants' Bill which occupied Parliament from 1891 to 1895, and that large scale land owners were most opposed to it (Moore, 1973). In the House of Representatives, those such as Sir James Hall, Buchanan (Wairarapa) and Rolleston (Halswell), and in the Council, J B Acland and Pharazyn, voted virtually totally consistently against the Bill in all divisions called.<sup>4</sup> In attacking it as

3 Holt, 1987, p. 25. Note that some historians have believed that farm workers were indeed excluded. K Sinclair, *A history of New Zealand*, Harmondsworth: Penguin, revised edition, 1980, p. 184. E Olssen, *The New Zealand labour movement, 1880-1920*, in E Fry (ed), *Common cause*, Wellington: Allen and Unwin, 1986, p. 6, accepts that "the court was available only to industrial workers" and that this was narrowly interpreted until 1901.

4 Moore, 1973, Appendices A, B, K, L. As Gardner comments, the House of Representatives' most distinctive feature compared with other countries was the high representation by farmers (between 25-35% of Members). While the low point of 25% was reached in the 1890s with the Liberals in power, this was a transitional period from squatter to farmer politics. W J Gardner, *The Farmer Politician in New Zealand History*, Palmerston North, Massey University, 1970.

an unwarranted interference in "industry" (*sic*) Bruce gave the example of a farmer with 5 000 acres of wheat and 100 employees faced by falling export wheat prices, and Hogg replied that a Board of Arbitration would take the farmer's position into account in such circumstances when regulating wages. No challenge was offered to the relevance of the example. Furthermore, reference was made to the Benmore strike in Otago during the shearing season of 1893-4 over wet sheep.<sup>5</sup> Jenkinson of the Legislative Council clearly connected the Bill to the Benmore strike, without any comment that such forms of work would not be covered. The Benmore trouble resulted in the manager of the station seeking government intervention on his behalf the following season to ensure shearing started with non-unionists. Seddon himself strongly endorsed the Police Commissioner's refusal to provide protection. The Police Commissioner expressed confidence in the capacity of the recently-passed ICA Act to resolve any dispute — "The Government considers the Compulsory Arbitration and Conciliation Act to be all-powerful; hence relying upon this, it is considered there is no necessity for special police protection" (*AJHR*, 1894, H 26, p. 3).

Another indication that the rural economy was not excluded lies in the active involvement of the Shearers' Union itself first in supporting the legislation, and then taking advantage of it. The very broad definition of industry in the Act of 1894 certainly did not prevent this rural union from registering. The Shearers' Union was one of the largest in the country, and was closely linked to the Liberals both organisationally and over issues such as the unemployed, public co-operative works and relief, tariffs, and land settlement, and legislation such as the Electoral Act, the Workmen's Wages Act, and the IC & A Act itself. In 1893 at their April conference in Geraldine, the IC & A Bill was discussed and the possibility of strike action mooted if the Bill was not passed.<sup>6</sup> J W Kelly, Member of the House of Representatives for Invercargill and President of the Shearers' Union gave a speech saying that he "took it for granted that the conciliation Bill before the House would be passed (hear, hear). This would prevent strikes, and this everyone must admit was a good thing". The Bill was again discussed at the September conference held at Ashburton, and a resolution passed strongly protesting against the actions of the Legislative Council in emasculating the Bill (*NZPD*, vol 82, 1893; *Lyttelton Times*, September 29, 1893). It was argued in the House of Representatives by Taylor (Christchurch City) all were demanding such legislation — "even the shearers were asking for a measure of that sort".

In the wake of the Union's defeat in the Benmore struggle, the Shearers' Union attempted to negotiate a universal South Island shearing agreement with the Sheepowners' Association. This failed, so the Union turned towards the recently-passed ICA Act to pursue its interests. In January 1895 the core Waimate branch was considering registration and by mid-year the Oamaru, Timaru and Southland branches were doing likewise. Correspondence was entered into with the Department of Labour. It seems that all branches had to apply first before the Federated Union as a whole could register, and there was some doubt that casual labourers could be dealt with (*Timaru Herald*, Jan 29; May 11, 18; June 5, 12, 26, 1895). As soon as the Act was operative at the end of that year some six branches of the union were registered, with a total of 1 085 members.<sup>7</sup> Registration was maintained until 1899, although in this year no membership figures were given and it was presumed that the organisation was actually defunct. It remains unclear why the union did not apply, or whether it was indeed able to apply for an Award.

In sum, the evidence that the legislation from the beginning allowed rural unions to become involved is strong. Of course, this does not answer the initial puzzling question posed by Holt's analysis — why did rural employers allow the measure to go through at all?

- (1) One response might be that Holt's own answer still applies — they simply did not realise that it would apply to them. However, there is much evidence to suggest that this could not be true, unless the resistance by estate owners and farmers, and what passed in both the lower and upper Houses was totally ignored.
- (2) Alternatively, while acknowledging the scope of the Act in principle, rural employers

5 *NZPD*, vol 84, 1894, pp. 6, 9. See J E Martin, *Tatau tatau: One big union altogether*, Wellington: NZ Workers' Union, 1987, pp. 19-22.

6 Amalgamated Shearers' and Labourers' Union, Conference Report, Geraldine, April 1893, pp. 5, 15, WTu.

7 Martin, 1987, p. 27. *AJHR*, H-6. *Legislative Council, Journals*, Appendix 1, 1896; Appendix 2, 1898; Appendix 1, 1899. Unfortunately, it seems that no documentation survives in the Department of Labour files on the grounds for the Shearers' Union registration. It is possible that such files were destroyed in the National Archive Hope Gibbons fire of the 1950s.

might have felt little concern because of a confidence that it was possible to organise rural workers. (This was articulated somewhat later — see below).

Whatever the answer, by 1900 at least, the issue was highlighted politically and from this point on there could be little confusion about the considerable rural interest in the arbitration system. In that year Judge Edwards had interpreted the Act to exclude various groups from its jurisdiction, such as tramway workers and grocers' assistants. His interpretation hinged on the meaning of "industry", which he defined very narrowly with reference to a dictionary as "productive labour, specifically labour employed in manufacturing"<sup>8</sup> This raised a storm of protest from the trade union movement and forced the government to amend the Act to include such groups.

As Holt points out: "this raised the question immediately of whether farm workers came under the jurisdiction of the Act" (Holt, 1986, pp. 48-9) and one should also add, all those other rural workers such as shearers, threshing-mill hands, musterers and drovers, etc. Holt then refers to Seddon's "bald and totally unsubstantiated assurance" that the rural sector would not become involved. Seddon said in the House (*NZPD*, vol 113, 1900, p. 249):

I shall probably be told that any individual, without being in a union at all, will be brought under this Act — farm labourers, farm servants, et cetera. I have no doubt that that argument will be trotted out, and I shall be told that there will be danger to the pastoralist industry by the passing of this Act. There is no ground for that fear.

This in fact failed to satisfy various members of the House, contrary to the impression given by Holt. Allen (Bruce), Flatman (Geraldine), Thomson (Clutha) and Massey (Franklin) were all horrified by the possibility, while Hornsby (Wairarapa) felt that both town and country should be brought under the system — "what is sauce for the town goose should . . . be sauce for the country gander" (See *NZPD*, vol 113, 1900, pp. 256-71). Allen gave voice to a theme which was later to become the key point of leverage for rural employers. He contrasted New Zealand's protected industry producing for a domestic market with farming which was dependent on overseas prices, and argued that, if costs to farming such as wages were raised by the actions of the Arbitration Court, then "we ought also to seek some means by which we can provide that the market for which the farmers produce shall not be regulated altogether by the limits of a foreign market" (*NZPD*, vol 113, 1900, p. 257). However, this was intended more as a facetious extension of the proposed governmental regulation (as was again remarked by Massy later in the same debate, when he suggested that farmers might expect to get a guaranteed price for dairy produce, mutton and cereals).

Holt places considerable emphasis on J A Millar's (Dunedin City) argument that it was "extremely unlikely that an agricultural labourers' union would ever be formed" because farm labour "consisted largely of family or seasonal workers" (Holt, 1986, p. 49). Holt considers that this allayed the fears of country members. However, historically this assumption was unwarranted, as Millar himself should have known.<sup>9</sup> The first agricultural labourers' unions were formed in late 1889 in North Canterbury with the assistance of the Canterbury Trades and Labour Council (Martin, 1987, pp. 34-8). In 1890 the Shearers' Union attempted to organise North Otago farm workers and threshing-mill hands from Oamaru. While none of the unions existed for long they provided a concrete example that Millar, and Canterbury and Otago farmers must have been aware of.

Why should we occupy ourselves with this seemingly technical issue? Because it plays such an important role in Holt's argument. The fact that the original Act's wording did not prevent registration of groups of rural workers; that rural unions were registered in the 1890s; and that the amending Act of 1900 clearly allowed both the registration of rural unions and securing of awards — these points make it increasingly difficult to believe that rural employers really thought that they would be immune from the Act. And indeed, within a year or so rural workers were applying for awards.

We need to turn the question around in order to answer it. Instead of the development of the system simply being a failure by rural employing interests to spot that they were threatened — which is explanation by accidental omission — we must look at its development in terms of the presence or absence of organisational bases for rural employer and worker interests. We need

8 Department of Labour, *Book of Awards*, vol 1, 1894-1900, p. 277. See also, *AJHR*, 1900, H-11, p. iii, which reinforced this interpretation, but also pointed out that many considered this too narrow, because it excluded all transport and distribution workers.

9 Millar personally spoke at meetings organised by the Oamaru Shearers' Union in 1890 during the Maritime Strike, at a time when this union was organising farm workers.

to look at the context of organisational engagement with the arbitration system. For example, why was there such strong resistance by the NZ Farmers' Union to it, and yet other groups such as the Sheepowners' Federation (and the Threshing-mill Owners) worked quite happily within the system? What conditions prevented the effective and systematic application of the arbitration system to the entire rural sector.

The differences in work between these two occupations help us understand why shearers obtained awards while farm workers did not. The difference was between a quasi-industrial factory form of labour process and one in which factory methods were inappropriate or inapplicable, as Sim himself observed when declining to make an award (*Book of Awards*, vol 9, 1908, p. 523). Farm work was diverse and flexible, involved a variety of skills and jobs, did not have fixed hours and was subject to the employer's individual and immediate supervision and control. There was considerable overlap between work and home life, and any conflict which arose was strongly individualised and specific.

The reasons why the Farmers' Union opposed the Canterbury farm workers' application for an award in 1907-8, so strongly tell us much about these differences. The Canterbury union had drawn up a complex schedule of demands, regulating wages, hours, holidays and working conditions for diverse groups such as ploughmen, casual and day labourers, general farm hands, harvesters, married couples, drainers, shepherds, musterers and packers, threshers, and farm boys. Further distinctions were made between head ploughmen and general ploughmen, and head and ordinary shepherds. These demands represented a bold if not foolhardy attempt to impose wholesale regulated conditions on the rural sector — both arable and pastoral. In the event it backfired as the employers were easily able to point to the over-complicated and inapplicable nature of these demands. James Thorn as chief strategist for the union admitted as much and conceded that an error had been made in pressing for so much all at once. The Farmers' and Sheepowners' arguments against an award being made were as follows (*Farmers' Union Advocate*, June 6, 1908, pp. 16, 22, 24):

- (1) The conditions were too diverse to regulate and award uniform wages — "As far as a uniform wage was concerned, this was not possible in the country as it was in the town. There was no uniformity in the conditions. It was an impossibility to classify farm labour."
- (2) The farmer's business and living were one and the same — "the effect of an award would be to bring the law into the farmers' homes, to live with them 24 hours each day — quite different to the town employer who closed his factory door and left his award and his troubles behind him."
- (3) It was impossible to specify the hours of work or fixed holidays — "farm work could not be governed by fixed rules as to hours — and it would be impossible to give all hands on a farm a half-holiday on Saturdays — It was an impossibility to regulate the hours on a farm with outdoor work, when the farmer was at the mercy of the weather — If any arrangement as to hours and holidays such as proposed were adopted the whole work of the farm would be disorganised."

The workers often lived with the farmer or nearby, and formed part of the same local community in which farmers were a powerful core group. Farm workers were often isolated from their fellow workers and were dependent on the discretion of their employer throughout the year. These factors posed tremendous problems for their organisation into trade unions. However, these problems were not insuperable. As Gill argues, the failure to organise was itself in part produced by the state's refusal to recognise any such organisations (Gill, 1981).

In strong contrast the first shearers' award of 1902 was achieved easily and without the employers arguing that the work was impossible to regulate. Indeed, the award was in large part modelled upon the very work practices which preceded state intervention. Throughout the 19th century the industry had operated on the basis of detailed written contractual "shearing agreements" between runholder and shearers which regulated the employment relationship, wages and hours, and conditions of work. These agreements were legally enforceable as contracts, and gave considerable power to the employer to control their workforces. Payment could be withheld if shearers left before the shed was cut out, or if a strike took place. The employer or "shed boss" had the sole right to decide whether sheep were too wet to shear or not. Bad shearing, drunkenness and swearing were prohibited on pain of substantial fines or dismissal. Many of these provisions were carried across into and systematised in the early awards.

Both the 19th century shearing agreements and 20th century awards arose out of the

conditions of shearing and the need to regulate this work.<sup>10</sup> In the 19th and early 20th centuries shearing occurred in large sheds in which between 50-100 people would be employed. Large sheepfarmers were under considerable pressure to get the shed finished or "cut-out" on time, because mustered sheep could not be held in the yards and nearby holding paddocks for long. There was also the risk of wet weather bringing proceedings to a halt, while dry and dusty weather late in the shearing season made sheep difficult to shear and the fleeces dirty. The employer needed to get the wool waggoned into town to obtain the wool-cheque which was the climax of their productive year. Shearing was highly skilled, competitive work and paid piece-rate by the hundred sheep shorn. These factors, the promise of more shearing at other sheds, together with the pressures of time felt by the sheepfarmer caused the short shearing season of a few weeks to a month to be a period of sustained pressure and considerable anxiety. Co-ordination of tasks was critical and there developed an advanced division of labour around the work of shearing itself, which was designed to facilitate the most efficient processing of sheep through the shed. Other "shedhands" were employed to deal with yarding, penning, and supplying sheep to shearers, to roll up the fleeces, grade them, skirt them, to press the fleeces into bales, and to deal with the sewn-up bales. As Gill observes, "employer-employee conflict is specific, transparent, impersonal and immediate. The limited range of tasks reduces the issues to those of the shearing rate, the piece rate and the conditions of stock, shed and accommodation. On each of these there is a clear cut division of interests between owner and shearers." (Gill, 1981, p. 155) Gill argues that both employer and worker interests lay in regulation and standardisation of work and employment conditions, and that the nature of the work tended to remove issues from the individual, specific level to the general level of the structural nature of the industry. This encouraged the collective organisation both of employer and worker.

The shearers often did not live locally but formed an itinerant occupational group. They were bound together by ties of "mateship" and had their own language to describe their work, the hierarchy of skill, and the rough conditions they had to endure. They were one of the key occupational groups which contributed to the hard working, hard living and drinking male culture comprehensively described by Phillips (1987) in his book *A man's country?* Mateship was associated with a strong collective orientation, especially by those for whom shearing and other seasonal rural work was a long-term prospect, and was realised in the organisation of shearers into trade unions from an early date. The first attempts were made in 1870 and a substantial union existed in the key large-run area of North Otago from 1873 until 1876, when pastoralists combined to break it up and depress the shearing rate. There was a resurgence of organisation in the period 1886-8 as a result of the assistance given by the then recently-formed Australian Shearers' Union, followed by sustained activity in the 1890s. At this time the union became well-organised throughout much of the country, was closely linked to the Liberals and their programme of labour legislation, and as has already been observed, became registered under the IC & A Act in 1895.

In short, the Sheepowners knew that they were dealing with a powerful, well-organised group of workers with the capacity to disrupt severely their most crucial part of their year. In this light it is not surprising that, when the possibility of state regulation rose, they responded by making sure that their own interests were represented effectively in the bargain which was struck. We now turn to look at the emergence of the Sheepowners' Federation to understand the way that sheepfarmers' interests were represented within the arbitration system. Holt recognises their role only in changing the system in the late 1920s; we need to look at how the organisation came into being, what shape it took, and its relationship with the Shearers' Union.

10 There were runholders who chose not to use agreements particularly the so-called "Wool Kings" of the Amuri, North Canterbury. These powerful pastoralists totally dominated this part of the country and were able to impose their will on shearers without recourse to overt regulation of the employment relationship. See W J Gardner, *The Amuri*, (2nd edition) Culverden: Amuri County Council, 1983.

### The emergence of the Sheepowners Federation

The first Sheepowners' Union of Employers was formed in Canterbury in May 1902, in response to the demands made by the Canterbury Shearers' Union for an award.<sup>11</sup> The first President of the Union was G B Starkey (the owner of Blackhills, Amberley with about 10 000 sheep) (*AJHR*, 1901, H-23) and Secretary F H Labatt (who was to become Secretary of the Federation in 1910). The pastoralists were obliged by law to organise themselves into a "union" so that the conciliation and arbitration process might take place. During September and October 1902 the two parties had attended two conferences; both were keen to have the "dispute" settled and an agreement reached, because the shearing season was rapidly approaching. The second conference resulted in an agreement which was accepted by the Arbitration Court and became the first award in the rural sector in November 1902. This was a path-breaking document which substantially improved the working conditions even if the rate was not immediately improved very much. More significant in this context was the fact that the agreement was forged outside the Court itself and then adopted as an award. As the Christchurch Press commented in its editorial on this event — "the shearers' dispute is probably the most important that has been settled without any judicial intervention" (*Press*, October 7, 1902). This was a precedent for a pattern of reaching agreement by conference prior to the shearing season, which has continued until the present.<sup>12</sup> Shortly afterwards in June 1903, an Otago and Southland Sheepowners' Union was formed in response to moves by the Shearers' Union to obtain an award for that district also.

In the early years of the 20th century the pattern of conferences and settling of awards became well-established. In 1906 there were new awards for both Canterbury and Otago after considerable conflict and negotiation. By early 1908 the Canterbury Sheepowners were beginning to make moves towards greater unity by approaching their Otago counterparts.<sup>13</sup> Milton (President of the Canterbury Sheepowners) said:

I am anxious to establish . . . closer touch between provincial associations, so that we may present a united front to aggressions which may be expected to recur every two years . . . It is quite conceivable that one Provincial Association could prejudice the interests of every Sheep-Farmer in the Dominion . . . Provincial cooperation would ensure singleness of purpose, consistency in argument, and would enable us to offer inducements to men of ability to take Arbitration Court work as a specialty.

This approach occurred at a time when the Canterbury Shearers' Union itself was taking a more aggressive stance and shearer unionism had spread outwards from Canterbury and Otago to the Wellington and Marlborough provinces.

In 1908 a Wellington Shearers' Union had been set up by E W Abbott who had been involved in establishing the Canterbury Union in 1901. In February 1908, the Canterbury union and the recently-formed Marlborough Shearers' Union met in Timaru and decided they should federate with the Wellington shearers and form a New Zealand Shearers' Union. (However, the Wellington union decided not to affiliate at that time.) By March 1908, the

11 *Canterbury Times*, April 30; May 14, 21; September 17, October 8; *Press*, September 24; October 4, 6, 7, 1902. Sources for this section: NZ Sheepowners' and Farmers Federation Minute Book, 1910-1932, WTu. Otago and Southland Sheepowners' Industrial Union of Employers, Minute Books, vol 1 1903-1911 and vol 2 1911-1941, Otago and Southland Sheepowners' Industrial Union of Employers, Circular Letter, February 8, 1910, DuHo. Farmers' Advocate and Farmers' Union Advocate, 1903-1909. Martin, 1987, pp. 2-10. The only previously recorded pastoralists' formal organisation which played a strong role with respect to the Shearers' Union arose in response to shearer organisation in 1887. (Prior to 1887, there had been informal local and regional combinations of pastoralists at times such as 1873-1876 when newly-emergent shearers' unions were attempting to raise the rate in Canterbury and Otago.) The NZ Woolgrowers' Association met in July 1887 at Christchurch to consider the Union's demands. Flockowners from most parts of the country attended. Further north the Amuri Sheepfarmers' Association met at the Waiiau Hotel. While the woolgrowers took a reasonably conciliatory line, the Amuri organisation was determined to break the Union. In 1894 negotiations over a shearing agreement failed because the Sheepowners lacked a head and had no authority to act on behalf of their members. (*NZPD*, vol 84, 1894, p. 144).

12 Gill, 1981, p. 149. Until the late 1970s arbitration was used on three occasions only! Awards have almost invariably been negotiated directly between the Shearers' Union (later the New Zealand Workers' Union) and the Sheepowners. Hence it is crucial to understand both organisations.

13 Letter, E B Milton to A D Bell, Otago Sheepowners, in Otago and Southland Sheepowners, Minutes 1903-1911.



Canterbury and Otago sheepowners had met at the Christchurch Ram Fair to promote greater unity, and in June the issue was discussed at the Otago AGM. Meanwhile the Wellington shearers had managed to get an unprecedented £1 per hundred sheep in its first award due to the lack of resistance by North Island sheepfarmers. This spurred the Canterbury and Otago unions into efforts to improve their own rates further. In August the sheepowners held a conference in Christchurch, which "was attended by representatives from the various centres" including Otago. It was agreed to form a Federation and a constitution was drawn up. A second conference held in November approved the constitution.

By this time, the sheepowners were involved in a widening number of issues. Other unions of rural workers were registering under the IC & A Act and many were attempting to obtain awards — for example, the Canterbury Agricultural and Pastoral Labourers' Union; Southland and Otago Musterers and Shepherds; Hawke's Bay Drovers and Shepherds; Wairarapa Drovers and Shepherds; and the Canterbury Drovers and Stockmen. The Canterbury sheepowners were heavily involved in the Canterbury farm workers dispute of 1907-8, indeed they spent half (more than £500) the amount that the Farmers' Union did on proceedings. H D Acland, who was increasingly to become a key figure, acted for the sheepowners and played a considerable role.<sup>14</sup> Also, the organisation lobbied effectively to have an improved Shearers' Accommodation Bill thrown out in 1908.<sup>15</sup>

In 1909, the Canterbury, Otago, Wellington, Marlborough and Poverty Bay Shearers' Unions came together in a Federation at a conference in August and adopted a new constitution and set of rules (*Farmers Union Advocate*, 1908; Martin, 1987, pp. 39-42). The newly-established New Zealand Shearers' Union began organising with a vengeance with the appointment of more organisers in the field, attempts to enrol shedhands and cooks, and the establishment of an executive council and annual conference. The union made great strides in enrolling many new members particularly in the Wellington district, and became very active as a national organisation based in Christchurch which used the arbitration system to its best advantage.

In the same year the Canterbury and Otago sheepowners joined forces to fight the Canterbury Shearers' Union's demands in the Arbitration Court, recognising that any favourable award would inevitably spill over into Otago and other regions. William Scott, the Otago secretary (who also acted for the Otago Employers' Association) conducted the case which resulted in the limitation of the Canterbury shearers to 18 shillings per hundred in spite of the £1 earlier awarded to the Wellington shearers.<sup>16</sup>

The Chairman of the Canterbury Sheepowners, H D Acland, argued that it was opportune for the sheepowners also to unite:

especially as the various Shearers' Unions in the Dominion had for some time past, been actively engaged in forming a Federation of Shearers and other Pastoral Workers, and the manifesto recently issued by that body, indicated most clearly, that they intended to try to obtain rates of pay, and conditions of labour which could only be considered by employers as exorbitant and unreasonable.

By March 1910 a New Zealand Federation of Sheepowners had formed. Its objects clearly indicated the central role which the Federation intended playing. They were as follows:

- (1) to provide an effective Dominion organisation;
- (2) to establish organisations throughout New Zealand;

14 Acland was the lawyer son of J B Acland who owned Mount Peel the first high country Canterbury sheep station established in the 1850s with 100 000 acres and 36-38 000 sheep. H D Acland himself gave lengthy evidence in the 1907-8 hearings. He died in 1942. His father was one of the runholders in the Legislative Council who doggedly opposed the IC & A Bill in the early 1890s.

15 At this time there was a lot of pressure to have the situation improved. The old Act of 1898 had proved largely ineffective and was not properly enforced. As a result of the concern the Department of Labour in 1908 employed three inspectors who toured the country and made exhaustive inspections of 1 133 sheds, of which some 33.9% were found to be unsatisfactory. *AJHR*, 1908, H-11. In spite of representations by the Shearers' Union, however, the Act remained unchanged and was merely consolidated with the similar legislation for agricultural workers. *Weekly herald*, March 26, 1910.

16 Scott became the Employers' Representative on the Arbitration Court in 1909 and was considered exceptionally able. (Holt, 1986, p. 66).

- (3) to forge a general policy and united action;
- (4) to protect members' interests in dealing with workers and labour organisations, and with respect to legislation affecting members; and
- (5) to secure settlement by conference or arbitration.

Rule 25 of the Federation prohibited any member body from making an independent agreement or settlement concerning any dispute or award.<sup>17</sup> All policy and decisions were to emanate from the central Federation itself. At the inaugural meeting various ways of combating the power of the Shearers' Union were mooted — promotion of contract shearing; payment of shedhands by the hour; use of portable shearing plants; and the maintenance of differential South and North Island rates. A council was appointed, comprising three representatives from each member body, from whom a president and vice-president were to be appointed. H D Acland of Canterbury was appointed the first president. He remained in this post and was the key actor for the sheepowners until after the depression of the 1930s. F H Labbat also of Canterbury was appointed as secretary at £100 p.a., and continued in this role until 1920 when W H Nicholson took over.<sup>18</sup>

The composition of the council in its first year indicates the role of large runholders in the Federation. Heathcote B Williams (33 247 sheep) represented the East Coast; the manager, Henry Overton of R D D McLean's Maraekakaho station (34 800 sheep) and W S Stead of Kereru, Hastings (23 813 sheep) represented Hawke's Bay; J G Wilson of Ngaio, Bulls (7 561 sheep, and a key figure in the Farmers' Union) and J O Bidwill of Pihautea, Featherston (7 185 sheep) represented Wellington; Robert J Bell of Bertegel and Benhopai, Blenheim (14 878 sheep), H D Vavasour, Ugbrooke, Blenheim (12 011 sheep) and C de V Teschemaker-Shute of Avondale, Renwicktown (15 383 sheep) represented Marlborough; D D Macfarlane of Lyndon, Waiau (14 752 sheep) and H D Acland, Mount Peel, Peel Forest (41 195 sheep) represented Canterbury; and A D Bell of Waihemo, Palmerston (12 404 sheep) and R Acton-Adams of Acton, Heriot (26 011 sheep) represented Otago/Southland (*AJHR*, 1910, H-23). At its first meeting, Acland as chair clearly stated the organisation's goals: "The Shearers' Federation was largely political, and well organised. It would be a mistake to make concessions in conditions of labour in favour of the worker; the employer must fight every time." (*Meeting*, March 31, 1910, Christchurch)

Such intransigence led to a prolonged struggle that year (1910) consequent upon the Shearers' Union's demands of £1 per hundred for shearers everywhere (in other words a Dominion-wide award) and a 48 hour week. The Sheepowners initiated award proceedings themselves in an attempt to lower all rates to 17s 6d (from £1 in Wellington and 18 shillings in Canterbury and Otago districts).<sup>19</sup> Negotiations began with a conference in Canterbury at the end of June with the Conciliation Commissioner presiding. William Pryor, secretary of the New Zealand Employers' Federation was employed to conduct the dispute for the Federation. Both parties mustered considerable evidence for this crucial Arbitration Court hearing.<sup>20</sup>

Very full particulars and lengthy forms have been supplied to every shed in Canterbury by the Shearers' Union to enable them to bring the best evidence on behalf of their Union before the Court ... Our Union (Sheepowners) should have equally complete information, *in accordance with our form supplied herewith*. During the last arbitration proceedings, the

- 17 In 1911 the Otago Sheepowners were prepared to break the Federation's stand for a lower rate, because, as Scott said, they "feared freedom of contract and were therefore prepared to pay a little more in order not to have to take this risk (of having the award lapse)". Council Meeting, March 20, 1911. Milton, President of the Canterbury organisation, observed that it was the smaller sheepfarmers (cockatoos) who least observed the award and created the greatest problems, even though the Federation was largely acting on their behalf.
- 18 Nicholson was working overseer at Leslie Hills, Culverden in 1908, and he gave evidence for the Sheepowners during the Canterbury farm workers' award hearings. He had begun work rabbiting on St Helens and then contract fencing on Leslie Hills before becoming overseer. At the hearings, when asked by the Union whether he was a socialist, he replied "I used to be, but I have saved a little bit of money since then". When asked about the regulation of working practices, he said that "he did not consider it was English to force a man to be liberal to his men". (*Farmers' union advocate*, February 22, 1908, p. 20).
- 19 See D Macnaughtan, *The New Zealand Shearers' Union and the crisis in the shearing industry, 1910-1916*, Auckland University, *History society annual*, 1971.
- 20 Canterbury Sheepowners, Notice to Members, January 14, 1910, attached to Otago and Southland Sheepowners, Circular, February 8, 1910.

shearing returns which were available for our union were . . . of great assistance to our cause. I have no hesitation in asking members to carry out the above request, as the system of *collective bargaining is imposed upon employers by law*, however much individual employers may dislike it . . .

An interesting feature of this struggle was the sheepowners' realisation that they too could use the arbitration system to further their own interests.<sup>21</sup> Somewhat earlier this was dawning, as in 1909 the Otago organisation directed its members to clause 23 of the award which prevented shearers from engaging but not turning up when shearing started. In 1910 the annual report suggested that "strong representation should be made to the Government, pointing out the fact that in many instances, the workers have refused to be bound by the Arbitration Court awards". The Federation this year attempted to break the Shearers' Union by calling unnecessary mock hearings in Masterton and Palmerston North, and engaging in exhaustive proceedings which ran down the union's funds. By September the union was forced to forgo any further evidence for lack of money. On its side, prior to negotiations the union stated that it would advise shearers not to make engagements for less than £1. When challenged in the Arbitration Court, the union pointed out that any lower figure set was only a minimum. The union considered that it was not contravening the IC & A Act by advising shearers to withhold their labour because, prior to commencing work, they were not "workers" according to the Act.

The award, when it was finally issued, gave 19s 6d machines and £1 blades and carried across the general conditions of the Canterbury award. In response to the union's threat to strike, a new oppressive clause was inserted into the award, which prevented the union from persuading shearers not to observe the award. Nonetheless, the shearers won out when the season arrived — virtually everywhere £1 was gained by direct action in the sheds and the clause was never enforced. The union's experience of the Arbitration Court in 1910, and the Court's seeming collaboration with the sheepowners, helped to turn the union away from the arbitration system and towards the Federation of Labour. At the same time the Federation began to recognise the usefulness of the arbitration system.

Initially, the Federation was not particularly united in its policy over the arbitration system. A meeting of the Sheepowners' Council in August indicated lack of agreement on this issue, and on a suitable strategy for combating the union. There had been considerable debate over whether to ask the Court to make an award because the union was prepared to avoid observing it. However, a majority view was "that if every shearer became a law unto himself, pandemonium would reign." (Otago and Southland Annual Report, 1911) The sheepowners resolved to strengthen their organisation. The Otago branch in the June 1910 annual report said — "Your Executive commends the Federation to all members and requests their support and cooperation both financially and otherwise. If the Sheepowners of the Dominion are to hold their own against the aggressiveness of the workers and the trend of legislation, they will need to stand together in a way they have not done hitherto."

At the first annual general meeting of the Federation in 1911, Acland clearly stated the necessity for the Sheepowners to engage actively with the arbitration system. During that year the Farmers' Union had pressured the Federation to cancel its registration under the IC & A Act — "they were of the opinion that it was detrimental to the sheepowners as a body to be registered" (Council Meeting, Minutes, March 1911). The Wellington Province Defence Committee of the Farmers' Union was a member body of the Federation but did not want to be registered. Instead J G Wilson said that "their members individually would come in the award". But other more powerful regions such as Canterbury and Otago/Southland saw the benefits of staying within the arbitration system and their view prevailed. As Acland observed

21 The disciplinary aspects of the award system were becoming evident. From the early days of shearing awards, both employers and workers had been fined for not abiding by the conditions of the award. For example, in 1905 an employer was fined £2 and 3s costs for paying 18s and 19s per hundred without rations instead of 15s 6d and found as in the award. In 1907 five shearers were each fined £2 and costs for refusing to abide by a ballot on wet sheep and leaving the shed. In 1909 a shearer was fined £2 for leaving a shed before it was cut out. In 1910 a sheepfarmer was prosecuted for failing to keep a wages book; another (unsuccessfully) for locking out shearers; and another was fined £1 and 3s 3d costs for failing to pay award rates. In the same year, a shearer was fined 10s and £1 10s costs for absenting himself without leave and five were fined £5 and costs for a breach of section 5 of the IC & A Act regarding strikes. In 1911 there were several further cases of shearers being fined for leaving sheds. Department of Labour, *Books of Awards*, vol 6, 1905, p. 125; vol 8, 1907, p. 438; vol 10, 1909, pp. 84-5, 237; vol 11, 1910, pp. 86-95, 121, 128, 275-7; vol 12, 1911, pp. 284, 500, 503.

— “whilst many sheepowners would like to see the Arbitration Court abolished, there were others who were rather afraid of freedom of contract”. He also pointed out that the lack of registration in no way prevented workers from obtaining awards because they could simply cite employers by obtaining the sheep returns and marking off a list of names whom the Clerk of Awards would have to cite, with expenses borne by the Government. “On the other hand (Acland) claimed that one of the chief advantages of being a registered body was that it gave a firmer hold over the members and this tended to strengthen the union financially.” William Scott of Otago/Southland similarly argued that sheepowners had to become organised and united, and considered that it would be disastrous for the employers not to register their unions — “the effect of registration was security of control over the members of the union”. In other words the Federation accepted that they too had to organise and represent the interests of sheepowners effectively in the milieu of the arbitration system. This was in its own interests both in the struggle with an increasingly active, organised, radical and powerful union, and to control its own members.

We can leave the last word to Acland himself, the linchpin of the sheepowners for several decades. He argued, paradoxically, that it was all the more important to engage effectively with the arbitration system for the very reasons which became so important in later arguments for excluding rural workers from the system (Annual General Meeting, August 1911).

The Shearers' Federation was largely political and it was well organised. Mr Acland pointed out that under the Arbitration Act, the burden of any increase in wages or otherwise fell upon the primary producer, namely the farmer, but in the case of shipping companies, freezing companies, shops and all other industries in New Zealand, the employer passed it back to the consumer. This, sheepowners could not do hence there was greater necessity for protection amongst sheepowners and farmers than with any other class of employer.

Just as the Federation of Labour came to see the system as labour's “leg-iron”, the Sheepowners began to realise that they could take advantage of the arbitration system which gave them considerable power not only over shearers but also over their own members. Later on, the sheepowners chose to array themselves alongside the Farmers' Union in urging the abolition of the arbitration system. But this does not help us understand the origins of this organisation. The Sheepowners' Federation emerged in the first decade of the 20th century very much as a creature of the arbitration system itself.

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