Q. You are the Secretary of the Agricultural Implement Wage Board?  
A. Yes. I produce the Minute Book of that Board which shows that certain resolutions were arrived at on the 7th and 8th of October current with regard to the Agricultural Implement trade.

Q. Tell us with regard to the blacksmiths first of all.  
A. It was on the 9th September. Mr Lennon then moved and Mr M'Kay seconded the following resolution: That the minimum wage paid to blacksmiths shall be 8/- per day or £2/0/- per week of 48 hours. An amendment was moved by Mr Blochberg seconded by Mr Smith; they are the Employees representatives. "That the rate be 8/- per day. The amendment was lost. The motion was then put and carried. The Employers representatives and the Chairman voted for and the Employees representatives voted against the motion."

MR SCHUTT Now the fitters?  
A. On the 7th October, Mr M'Kay moved and Mr Lennon seconded the following motion: That the minimum for turners and fitters be 7/6 per day of 8 hours or 45/- per week of 48 hours. Mr Smith moved an amendment that the rate be £2/8/- per week.

MR SCHUTT That would be a little more than 8/-?  
A. Yes 8/1.

and Mr Lyon seconded. Mr Smith altered his amendment to read £2/6/- per week of 48 hours for turners and fitters. Mr M'Kay withdrew his motion and seconded the amendment which was carried.
HIS HONOR That resolution was carried unanimously by those present.
there were some of the members had left the Board. There were
present at the time Honors Smith & Lyons two of the Employers
representatives, Mr Lennon, Mr Cliff, Mr M'Kay and Mr Mitchell the
Employers representatives.

SCHUETT Now then as to the turners. A. That was the same notion
The notion was for turners and fitters.

Q. Well the sheet iron workers. A. "On the 6th October 1867
Mr Smith moved the following motion which was seconded by Mr
Mitchell. That the minimum for sheet metal workers and tinsmiths
be 1/- per hour. Carried unanimously". That will be 6/- per day.

Q. How the wood workers? A. "Mr M'Kay moved and Mr Mitchell
seconded the following motion, that the minimum wage for wood workers
wood machinists and carpenters be 7/6 per day of 8 hours. Mr
Monberg moved as an amendment which was seconded by Mr Lyons that
the rate be one 1/- per hour. This was subsequently altered to 1/-
per hour. Mr M'Kay withdrew his motion, the amendment thus became
the motion and was carried unanimously". The full Board was present
on that occasion. That is 5 on each side.

Q. Have you got the painters? A. On the same date the 9th of
October "Mr Caird moved that the minimum wage for painters be 11d
per hour. Mr Lyons seconded the motion. Mr Cliff moved as an
amendment that the minimum wage for painters be £2/-/- per week of
48 hours. Both the motion and the amendment were lost on the
casting vote of the Chairman. Mr Caird then moved that the minimum
wage for painters be 10ld per hour. Mr Smith seconded the notion
which was carried on the casting vote of the Chairman." The
Employers are represented on the Board by Mr Moore -- -- --

HIS HONOR Is that Mr Moore of Moore's Timber Yard? A. No. And by
Mr Lennon of the London Wharf Company Mr Cliff of Cliff & Hunting
Mr H.V. M’Kay and Mr J. Mitchell. The Employees are represented by Mr J. Caird, Mr J. Smith, Mr Francis Lyons, Mr Richard G. Blomberg and Mr Clarence Harding.

SCHUYE Now as to blacksmiths strikers. A. Mr Smith moved that the minimum wage for blacksmiths strikers be 5/- per day or 55/- a week of 48 hours. Mr M’Kay seconded the motion which was carried. One member, Mr Lyons, refrained from voting on that motion. 9 voted for it.

HONOR Why did he refrain, did he say? A. The minutes unless asked for merely record the bare resolutions and result.

EXAMINED BY MR ARTHUR

Q. That Meeting of 6th September was the 23rd Meeting was it not?
A. About that. There were a great number of meetings.

HONOR Is that the 23rd Meeting of the Board or on this particular blacksmiths matter? A. Oh no, that is the 23rd meeting of the Board.

MR ARTHUR It was the 23rd meeting of the Board to fix the wages of the employees in this trade. That was not the first decision to which they came as far as fixing rates was concerned.

Q. You have not given us any rates before the blacksmiths? A. No because the previous rate was rescinded. Some time previous to that the Board decided to grade the blacksmiths and have two grades. They had already fixed the rate for the two grades but that was all upset and the grading was knocked out. I do not think the grading was destroyed on the opinion of the Crown Solicitor. The opinion of the Crown Solicitor on the matter was taken.

Q. As a result at any rate the motion was rescinded? A. No I could not say that. In the end the motion was rescinded but I could not say it was on the opinion of the Crown Solicitor because I do not think it was nor on the direction of the Minister. I know the method on which the 2/- per day was arrived at. It was necessary
under Section 83 of the Factories Act to get information from employers as to the rates of wages that were paid in their factories. On that information averages were struck and a mean average obtained above which the Board had no power under the Act to go or they had no power to exceed that rate as the minimum rate. In this case they could have gone another 6d per week or if the Board had gone up to its maximum it would have been 8/- per day. The average was struck from information given by 64 firms "giving an average of £6/11/3 for 21 firms". I can tell you officially that the employees submitted notions which were rejected on account of being higher than the ascertained average but it was not on the occasion that the rate was fixed at 8/- but on the occasion of the grading.

HIS HONOR: They were in fact informed "If you submit a notion for more than the average obtained from the returns from employers it won't be received" and then under that limitation a notion was moved which was carried on the casting vote of the Chairman.

MR ARTHUR: The other notions of the 8th & 12th October were arrived at with the same restrictions.

Q. Did the employees or any of them move amendments on those?
A. Yes. An average was arrived at for all these particular occupations. The employees moved amendments which were greater than the ascertained average. In the case of the Painters the first notion was for 1/- per week more than the ascertained average and I presume that was rejected on the ground that it was above the ascertained average. The Chairman voted against it. I do not know what was in his mind. The Chairman intimated that he would accept any notion of that character provided the Board were unanimous on deciding about it.

HIS HONOR: We would only allow a notion or amendment involving more than the average in the event of all the men at the table being
willing? A. Or a majority of C. Any motion could be carried by 6 members of the Board.

ARTHUR You mean he would not do it on his casting vote. A. Yes he would not give his casting vote.

HIS HONOR He would not allow more than the Employers average to be carried on his casting vote. The Chairman is G.B. Blackburn Esq.,

MR ARTHUR The resolution with regard to the strikers was unanimous with regard to the other resolutions of the 8th October and the other day which were carried unanimously others were not above the ascertained average but with regard to the strikers the ascertained average taking in all the firms who replied was £1/11/3 but the Chairman intimated that there 2 firms that he did not consider should be included. He did not think the wage they paid was a wage for a workman or employee of average capacity. I mean it was too small. He rejected it as not coming within the reputable Employees cause and did not count them and that brought the average according to his reckoning up to £3/- and that was what was passed.

HIS HONOR With regard to the 7th October the same thing applies. I suppose to the resolution as to fitters? A. No there was none of the information excised. All the information supplied was used in taking out the average.

HIS HONOR Mr Arthur's question was, was the amount that was carried, 8/- beyond the average? A. No none of them were with the exception of the strikers.

Q. I understand that these determinations are not fixed, they are liable to be altered? A. At any time before they are signed they are subject to review and they may be altered at any time.

MR ARTHUR I have not written up the Minutes of the last meeting on Monday last the 14th October but at that meeting the Minutes of the two previous meetings were confirmed and a letter which was minuted by the Chief Inspector of Factories — — — —
Q. Were the employees present? A. No. It is a fact that they have withdrawn from the Board. They did not supply to the Board the reasons why they withdrew. Their letter was addressed to Mr. Harrison Ord, the Chief Inspector of Factories. I have not got the letter, I have seen it, but I have a copy. It is as follows:

"Melbourne October 11th 1907 - Dear Sir, We the Employees representatives on the Implement Board have taken into consideration the letter written by you to the Chairman of the Board and dated September 33rd 1907. Suggesting that the Board should adjourn the Bill before Parliament to amend the Factories Act be passed and recognising that the operation of clause 55 of the Act is seriously prejudicial to the employees at the present time have decided that we will not attend any further sittings of the Board until the restrictions imposed therein are removed and desire that if possible the sittings be suspended. In the meantime, Yours etc., James N. Smith, F. Lyons, John Caird, Clarence Harding and Richard B. Blomberg - addressed to Mr. Harrison Ord, Chief Inspector of Factories."

I have not seen the Bill which is before the House but if I can believe the newspapers it does include the repeal of the reputable employers clause.

WITNESS EXAMINED BY MR. BUCH

WITNESS: You are aware that the determinations were much higher in the wood section for Boards not hampered by the reputable Employers clause.

A. I think so.

WITNESS: The Furniture Board and the Wood Workers Board were appointed before this clause came into force and, therefore, it does not apply to them. My object is to show if possible that this Board fixed something near fair wages when not hampered. I think the reputable employers clause came into force in 1904.

WITNESS: It dates back I think to all Boards made since some day in 1903.
Yes the 30th of October 1903.

And this was appointed before the 30th October 1903.

With regard to the blacksmiths I am told that the average worked out at 8/6½. A. £2/6/7 I think

Q. I am told it is £2/11/3. The determination might have been 8/3 more a week, consistent with that average? A. Yes that does appear to be so "making a total of £61/11/3 or an average of £2/11/3 and 5/8ths.

If you were to divide that by 6 it would be 8/6½.

That is 8/3 more than the actual determination (So witness)

There were 24 firms included in the reputable employers list? A. For the blacksmiths? Yes. 21 of those were proposed by the employers and 3 others added by the employees.

The average ascertained was 8/6½ and Mr Blomberg the employees representative moved that the rate be 8/6½. That was lost on the casting vote. Then he moved that it be 8/4 and that was lost and then it was moved that the rate be 8/- and finally it was moved as an amendment that the rate be 8/3 and that was carried.

The determination of the Furniture Board adopted on the 9th of the current month, October 1907 was put in and marked Ex. 4 S.

I understand there is a list to be put in of the dates of the different determinations. I should also have the dates of the Board being appointed. It would be convenient if you Mr Duffy give me all the dates amalgamating Mr Sutch's with yours.

We have applied to Mr Harrison Ord and he thought we ought to get them for ourselves.
I am a blacksmith in the employment of H.V. M'Kay the applicant. I work mostly on piece work. When I work on day rates my wages are 1/- an hour. I do not do the same class of work whether I am working on piece work or on day rates. I do not make the same things. When I am doing piece work I do special work that is the devising and working out such things as trucks and gates. The trucks are iron bags trucks for farmers and the gates iron gates for paddocks. By trucks I mean hand trucks for handling wheat or boxes, preferably iron. There is no other class of manufacture that I make but just the three kinds of trucks and gates. I include the bag dumpers in three different kind of trucks. When I am on day rates I do blacksmith work. I do not know whether I have done any harvester work since I have been there. I may have done a paltry job or two, some plough work and a little thing that may be required about the shop, erecting machinery and things of that kind.

Q. When you do piece work how is the arrangement between you and Mr M'Kay arrived at? A. In this way, new work has to be devised and tools have to be devised. Mr M'Kay lets me make a number of them, say a dozen or more and then he says "what price will you make them for"? that is at per dozen or each. I then say "I am prepared to make them at such and such a price" and Mr George M'Kay has given me my price and in many cases has offered me more than I would take. The dozen or so that I make in the first instance are made as samples for Mr M'Kay's approval and for my assistance at getting at a price and his too I suppose. Sometimes these patterns go in the job and sometimes they are made on wages just as I like. I mean I am paid for them either at the piece work rate for the job or day wages just as I like.
GIOBONI: Have you ever been paid day wages for those things? A. No, only for the samples. I have in some cases and in some cases the other way. It is left to myself.

Mr SCHUTT: I sometimes have assistance. I do not do all the work myself.

Q. What is the arrangement that you make with those that assist you
A. I ask Mr M'Kay what those men are receiving as wages and after a little time I will see what they will do. They are not men, but boys. I have only had one man since I was there. My work is not men's work. I ask Mr M'Kay how much they are getting and he says so much and in every case I give them a quarter or one third more than he gives them. That applies to nearly all my assistants, with the exception of one or two lads. One would be Naylor. I have two lads working for me now and they are Naylors.

SCHUTT: Do you pay either of them more than the rate of wages paid by Mr M'Kay? A. I pay C. Naylor 5/- more. I pay the other one 25/- a week which I believe would be the rate if he was working for Mr M'Kay. I certainly have a reason for not paying C. Naylor more than his ordinary rate of wages. It is because he has never been in a blacksmith's shop before scarcely and he was not worth half the money half the 25/- as an assistant to a blacksmith.

SCHUTT: As far as you know is it optional with the man to work with you on piece work or with Mr M'Kay on day rates?

DUPHY: objected

Mr HONOR (To Mr Schutt) I was going to assume in your favor that Mr M'Kay would not dictate to those lads whether they should work for this man at those rates.

Q. Do you tell us that your principal work is devising and working out new apparatus? A. As far as those particular things are
Q. In the course of that you have also to provide new tools for the making. A. Mr McKay pays me for making them. I invent and prepare new tools for the making of the new apparatus.

Q. So your work is of a very high class character, it is not only work, but invention, not only of the apparatus to be produced but of the tools which are to produce the apparatus? A. That must be so I suppose. I think I am a good journeyman. I would be worth £1/3 per hour on time work.

Q. What do you consider you are worth when you are doing this superior work of devising and working out new apparatus. A. From £3/10/- to £4/- per week at least. I do very little time work and a very great deal of the other. So I suppose you consent to take a 1/- an hour while you are on the time work because of the large income you are able to make when you are doing the piece work? A. We do the best we can. I should have to be willing to take the 1/- an hour whether I was on the piece work or not. It is not that I am content to take 8/- a day when I am on day work because when I get piece work I make the general income bigger.

The question is could I do any better? At the greater part of my work I am making more than 8/- a day. When I do that on to time work at 8/- a day the result is that I strike an average very much higher than 8/- a day and so it goes without saying that it makes it worth my while to work part of the time for 8/- a day because the result is that I get more than 8/- per day for the average.

COUNCILLOR: Would you take 8/- per day for time work if you did not have piece work? A. I would have to. If they did not give me piece work I would have to work at 8/- because I could not do any better. That is all that is doing.

PUPPET: I see you were engaged on piece work for the fortnight ending the 6th August 1907 and you made during that time £1/14/9
for wages and £9/10/- on piece work. A. How many of us?

Q. The £1/14/9 was for you alone as wages. I see it was £1/16/9 and there is a deduction of 2/-. A. Yes that is for the Accident Fund I suppose.

Q. For 36 hours 43 minutes you get that to get £1/16/9 wages and that leaves 50 hours 12 minutes unaccounted for as far as the time is concerned. Whom were you employing at that job? A. How do you get 50 hours, is not there overtime there? Are the hours stated?

Q. Yes 36 hours 43 minutes. A. That is time work. I cannot remember who was working with me on the 6th August.

HIS HONOR: I have a book which record in a rough way what I give to my helpers in these things. I am not a scholar but in a rough way I keep the book at home.

Q. I will ask for the book.

HIS HONOR: It will not appear in the Firm's books whom he employed at piece work. This man is a master workman in many respects and he would have his own little book (To witness) How long have the Naylor's been working for you. A. Continuously for some weeks but I cannot tell you how long. The £3/10/- or £4/-/- a week is not after paying for my assistance.

HIS HONOR: When I made £3/10/- to £4/-/- a week I sometimes have two assistants and some assistance from a man in the shop as well.

Q. And sometimes one assistant? A. To make the £3/10/- or £4/-/-?

Q. Yes. A. That does not matter.

Q. How many assistants have you, sometimes one, sometimes two and sometimes several? A. It is casual. Two is the regular thing but sometimes one. At the present time the one assistant is C. Naylor. He is working with me by himself.
What does he do for you?—He acts as my striker. He has just turned 18 years of age. I give J. Naylor 15/- a week. He would get from Mr. M'Kay 10/- a week if he were working for him.

He is called in the wages book a striker at 1/8. In list "A" he is called a boy at 1/8. He is your constant assistant?—Yes, at the present time.

When you want two, who is the other man?—The last one was J. Naylor. He is a brother. He gets 25/- a week. He is something over 19 years of age. He does a bit of striking and other things. They do the striking between them when more than one assistant is wanted.

What is the greatest number of assistants you have had?—Two regular assistants. When I have a rush, I have for a day or two perhaps 5 assistants.

Then, when you are on this piece work, you are practically at liberty to take what men you require and make contracts with them?—No.

HIS HONOR: They must be men who belong to the shop?—I have to deal with Mr. M'Kay in this matter.

Mr. DUFFY: Mr. M'Kay gives you the liberty of drawing from the shop such men as you require upon application to him?—That is right.

I notice that, practically, you are always at this piece work. Every fortnight you are at it?—Oh no. Sometimes I have a run of 2 or 3 weeks wages.

HIS HONOR: He said that by far the greater part of his work is piece work.

Mr. DUFFY: It sometimes runs as high as £39 a fortnight for your job?—Well, now, I suppose you want to know how many men were on that job. Well, there were quite a number of men on at that time.

You told me the greatest number was 5?—Then I clearly made a mistake—a very large mistake. It was a rush on that particular occasion.

In doing this piece work, do you confine yourself to 8 hours a day or do you work overtime?—I do work overtime.

What is the maximum number of hours you work when on piece work in a day; what is the greatest number?—About 10½ hours lately, but last summer something more. It might have gone for 1½ days or 2 days. When I say 1½ days, I mean 10½ hours. My assistants work with me that extra time. I pay them time-and-a-quarter overtime. Any man who works overtime with me, whether one or a number, I pay overtime to.

HIS HONOR: What I think you said before was that, in nearly every case, you give them a fourth or third more than Mr. M'Kay gives them?—Yes, but that is the ordinary time, the ordinary days, but any overtime they work for me I give then equal to time-and-a-quarter at least, and sometimes more. That would apply to anyone who works for me.
Then, in every case you pay for overtime time and a quarter or more?—Yes.

MR. DUFFY: By overtime, you mean any time a man or boy works for you exceeding 8 hours?—Exceeding the usual time.

Exceeding 8 hours?—Yes, you can put it that way if you like.

Is that so?—Yes, go on, that will do.

Is that so?—We work more than 8 hours a day and make it up in the week. We work sometimes over 9 hours a day to get a half day on Saturday, and I am afraid you are setting a trap for me.

HIS HONOR: You reckon by a week of 48 hours and no more, and anything extra, taking the whole week together, is called overtime?—That is it your Honor.

MR. DUFFY: It is not the custom in the shop to pay anything extra for overtime. Mr. McKay does not pay anything over the ordinary wage for overtime?—Yes, that is so.

Why do you allow something extra for overtime work instead of paying the ordinary rate?—For the simple reason that I give them extra money for their perseverance.

Do you, as a matter of fact, get more work out of them than they would give in the ordinary course to McKay?—Yes, I claim I get more work from the men than Mr. McKay would get.

RE-EXAMINED BY MR. SCHUTT.

What is the nature of the work these helpers or assistants do— Is it striking or other work?—Cutting pipes, carrying them about, holding them while I bend them, bringing in a bit of coke, striking a blow with the hammer now and then, and so on. Of course, you might call it laborers work.

When you do piece work, are you paid in instalments as the job progresses, or are you paid after it is all finished?—I am paid in instalments.

You say you get more work out of the men than Mr. McKay does?—Yes, I mean by that that I have a few men to supervise, and that I have had a very large experience, and I direct their intelligences in such a way that Mr. McKay could not do, and I mind my own work as well. You see, Mr. McKay has not the time to do it. They never work hard under me, I never rush them.

HIS HONOR: You see, like most men, the value of the ruling mind being near the men who are working?—That hits it exactly right on the nail.
GEORGE HENRY BISHOP

SWORN AND EXAMINED BY MR. SCHUTT.

Your name is George Henry Bishop? — Yes. I am a blacksmith in Mr. M'Kay's employment. Like Mr. Richards I work on piece work and day rates too. The proportion of my piece work to day work is very little. There is very little piece work. When on day rates, I claim 3/6 a day. I have one helping me. I have had the one with me now for about 9 months — John M'Carthy, a boy.

MR. SCHUTT admits that neither Bishop or Richards were at this factory before M'Kay.

HIS HONOR: Were you in this factory before Mr. M'Kay got it? — No. I have been there about 2 years and 3 months.

MR. SCHUTT: Is it M'Carthy, 17 years of age, 4/8? — Yes. I always pay him 8/- in the £ of what I earn. That is, I make 12/- and he gets 8/-.

ROSS-EXAMINING BY MR. DUFFY.

You are a more highly paid man than the last? — Yes, I got the 8/- a day in April. In April I asked for a rise myself and I got it at once. I got the 6d I asked for.

HIS HONOR: You do not appear to have the broad shoulders that the last man has, although of course you are strong and you have to do some very hard work? — Well, it is all according to what you call hard work. It is not heavy work. I would not call myself a competent journeyman.

MR. DUFFY: Is that why you asked for an increase of pay? — No. I asked for it because I thought I was earning it on what I was doing. I was doing various kinds of work — plow and drill work. I consider myself competent on light work. I have done very little heavy work in my time.

HIS HONOR: How long have you been at the trade? — 6½ years shoeing and general blacksmithing. I have been off a good deal.

HIS HONOR: You forget harvesters doers? — No; now do I do bulldozing. I make bag lifters.

MR. DUFFY: How long were you working at the business of shoeing and general blacksmithing before you joined M'Kay's? — A little over 4 years.

HIS HONOR: What is your special work in the factory when working by time, and so on? — I do a little harvester work on various parts of harvesters and plows and all the drill work. When I am working on piece work it is on the bag lifters. I also do some piece work on plows.
MR. DUFFY: I am only able to find one job of yours on piece work, £3-11-8. Look at September and you will find some more.

Then until September you practically did no piece work?—Only a few days.

How long have you been with M'Kay?—About 3 years and 3 months.

So your piece work practically commenced last month?—With the exception of a few days.

You say you get 8/6 and the man you employ gets 4/8?—Yes.

Why do you pay him so much a larger percentage of the profits than his wages would be?—Because it is the usual rule throughout the shop that the assistants get 8/- in the £, with the exception of the last witness. The last witness is the only exception.

TO HIS HONOR: I have never worked in an engineering shop. M'Carthy would be between 17 and 18. According to the rule, a boy of 17 or 18 is entitled to 8/20ths as against my 12/20ths. Supposing, instead of a boy it was a man of 21 or 25 or 50, I would treat him the same way.

MR. DUFFY: Your idea is that anybody you employ as an assistant, who is able to do the work, is entitled to get 8/20ths as against your 12/20ths?—Yes; if he is a good assistant.

And you regard that as a fair thing for anybody who can do that sort of work, whatever his age?—That is a fair thing on piece work.

If it is fair on piece work, it is fair on wages?—I could not say.

HIS HONOR: It does not matter whether it is piece work or time work, you are both working at the same class of work?—Yes.

Of course, if the piece work speeds you up it will speed your assistant up too?—Yes.

Would not that rate be also a fair rate for time work?—They do not do as much work on time work.

If you were working time work, you would not have the same strain upon you to get more results. You would both stand level, and there would not be the same eagerness to get the work done. Perhaps you have never thought it out, but is there any reason why the same ratio should not be paid?—Not that I know of.

MR. DUFFY: What do you average on piece work a week—say from September, since you have been at the work?—8/1 a day between the two of us; that is, I make 12/- and he makes 8/-.

HIS HONOR: That is very good for a boy of 17.
MR. DUFFY: Well, a boy could do strikers work, and that is the position.

HIS HONOR: You say you don't regard yourself as a competent journeyman. What is a competent journeyman?—A competent journeyman would be one that could turn his hand to light and heavy work equally as well. They are almost two different classes of work. I, myself, have done very little heavy work.

Mr. M'Kay has told me that all men who are competent are classed under journeymen, and that those who are not competent are classed as improvers. Why are you not called an improver, and get less than 8/-?—I am always on light work, and I regard myself as competent on light work.

MR. DUFFY: I believe some time ago the men at dinner-time had a meeting about overtime?—Yes, it was shortly after Christmas at the beginning of this year.

I am told it was in May?—They were working overtime on the plows. It was before May.

Was there a resolution to the effect that the men would not work overtime unless they were paid special rates for it?—Yes, that they would not work overtime unless they got paid time and a quarter. I waited on Mr. George M'Kay and told him so.

He expressed his unwillingness to do that and asked the men as a favour that they should work that night overtime on the old terms?—Yes, and they did.

I believe, since that time, overtime has practically ceased?—Yes.

RE-EXAMINED BY MR. SCHUTT.

You were asked about asking for an increase in your pay?—Yes. I got the increase. I am satisfied for the present with what I am getting. I hope to get more some time. When I think I am worth more, I shall ask for it. I think what I am getting is what I am worth at present.

HIS HONOR: Why are you better than Mr. Richards?—That is a hard question to answer. Perhps, being younger, I can do more. At all events, I do not know what the difference is between us. I do not know Richards' reason for taking 8/- if he thinks he ought to get more. I can give no explanation why he submits to 8/-.

Do you think it is this, that as he does so much piece work, he is willing to do the time work at a lower rate?—I could not say.

MR. SCHUTT: How would you describe the work Richards does—heavy or light work?—Light work principally.

Is there any reason that you can give us why an assistant should get proportionately more on piece work than on day work?—I cannot give you any reason beyond this,
that the rule throughout the shop is that the blacksmiths working piece work must pay their strikers 8/- in the £.

Does the assistant do more or less work when doing piece work than when doing day work?—-He does more. He works smarter.

HIS HONOR: If that is the rule throughout the shop, why does not Mr. Richards follow it?—-He is in a special line. I understand he is an exception to the rule.

MR. SCHUTT: In regard to this deputation about the overtime, you say you waited on Mr. M'Kay and conveyed to him the wishes of the meeting?—Yes. When I first went to him, I just told him what the meeting had decided upon, and he asked me to see him again after he had been in the office. I saw him again, and he just told me to call the men together at half-past five and that he had a few figures to lay before them.

Did he express any sentiment in the matter?—No; not to me. At 5-30 he called the men together and explained his reason to them. He explained that all the overtime we had worked amounted to 16 hours, and that at Christmas time he had given gratuities to the men that would amount to 160 hours for overtime, and he said he thought the men had been very fairly treated, and that it was a little bit unreasonable, seeing that there was so little of it, that they should act in that manner.

MR. SCHUTT: That is all the evidence I have to lay before your Honor. Your Honor asked me if Mr. H. V. M'Kay was going to be called, and I said, "Yes." I had intended to call him to confirm in a general way what Mr. George M'Kay said.

HIS HONOR: There was something he was to be asked about.

MR. SCHUTT: Yes; as to what took place before the Wages Board.

HIS HONOR: There were one or two things you were to get for me?

MR. SCHUTT: Yes. There were the Apprenticeship Articles and some Reports.

21 APPRENTICESHIP AGREEMENTS put in and marked EXHIBIT K.

HIS HONOR: I shall assume I have them all. There are 21. I do not want to form any erroneous conclusion, I want all of them.

MR. SCHUTT: I will make sure that they are all handed to your Honor.

HIS HONOR: Very well, I will trust to your statement. I was promised a list, showing the constancy of work.

MR. SCHUTT: That is already in Exhibit 6. I have some documents containing the information asked for on various matters. The first is under wood workers' apprentices. We were asked how long P. Clarke had been employed. The answer is that he started at Ballarat about 7th Oct., 1904, at 2/11 a day, and he has received rises, and now receives
There are several apprentices in the wood workers. Then we were asked as to painters apprentices, whether the one apprentice as shown on the April list is employed now. His name is D. McVeigh. He left in August 1907. Then we were asked about Hollingbury's rate of wages. He is the pattern maker. The answer is 8/6 a day. By accident he was left out of list "A". Halloway started in August 1905 at 6/6 and he has received rises and now receives 10/6 a day. He appears in the list under "wood machinists" - shaping machine. We were asked to make out a list, showing the number of improvers over 21 years in each department. We have had that list made out.

HIS HONOR: There was a summary given of ratios of journeymen and the rest. Have you had a chance of verifying that?

MR. SCHUTT: We have not verified it yet.

HIS HONOR: I wish you would do so.

MR. SCHUTT: We were asked about the rise in the wages of the engine drivers since April 1907. Walker has had no rise. He is the one at 8/-, Sutherwood is another at 8/- M'Kay gets 9/-. He is a nephew of M'Kay's. Sutherwood has had a rise of 3/- per week on account of being a first-class engine driver instead of a second-class - that is 6d a day. M'Kay got a rise of 2/- per week on 3rd Aug. because he was working as a fitter previously. We were asked for a list of men over 21 years of age who started working in the factory as improvers and who are now getting journeyman's wages. The list shows that there are six men in that category.

HIS HONOR: How many in the whole factory?

MR. SCHUTT: Twenty-one.

HIS HONOR: On whose authority is that statement about improvers made?

MR. SCHUTT: Mr. George M'Kay compiled it.

HIS HONOR: As long as you have taken precautions to get the best evidence you can I am content.

MR. SCHUTT: I understand George M'Kay got it from the records. The total number of men in the factory over 21 is 313; under 21, 162.

HIS HONOR: How do you get the number?

MR. SCHUTT: I have not seen him since, but he sent this list in. I understand he asked the men what their ages were.

HIS HONOR: I may take this then as stated to Mr. George M'Kay by the men?

MR. SCHUTT: Well, I will ask him and find out.

HIS HONOR: I shall be glad if you will.

DOCUMENTS GIVING PARTICULARS OF THE FOREGOING INFORMATION PINNED TOGETHER and put in marked EXHIBIT L.

MR. SCHUTT: The reports in reference to unbound apprentices
are written in a book. It is at Mr. Shaw's office, and it will be brought up and put in.

HIS HONOR: I have felt concerned with what you said yesterday, that you had opened the case on this basis: that you would rely on what other employers were doing in paying the men. I was concerned to see that you were not misled about it, and I think you said that Mr. Duffy had not urged it would not do, and that I had not said it would not do. I have looked at the shorthand notes and I cannot find from stem to stem any statement in your opening that you would rely upon what other employers were doing. You said you would rely on the determinations of the Wages Board, and of course that was strictly relevant, but if you had said that you were going to rely upon what other employers were doing without more, I should have at once, I think, intervened and prevented you from being misled. What I feel is this: Supposing you have employers A, B, C and D. A gets into the box and says he is giving the same as B, C and D; and B gets into the box and says he is giving the same as A, C and D; and C gets into the box and says he is giving the same as A, B and D; and D gets into the box and says he is giving the same as A, B and C. Now, I should attach no great importance to that sort of thing.

MR. SCHUTT: I am afraid I did not convey myself properly to your Honor. What I said was that I had opened the case on the basis of the rates of wages paid by other employers, and I said that I had not referred to the cost of living.

HONOR: You said also going to rely upon what the other employers were doing.

MR. SCHUTT: But that was only one amongst many other things. Your Honor may remember that when I opened the case I held a sheet of blue paper in my hand from which I practically read out the conditions which to my mind had to be considered to show what was fair and reasonable. They were these: (Reads from paper.)

HONOR: Yes; I remember some of those things. The effect of your argument to my mind was this, that you were going to rely upon the health conditions and upon the nature of the work and upon the determinations of the Wages Board in similar industries.

MR. SCHUTT: I have not got a copy of the shorthand notes before me, but the gentleman instructing me took note of what I said, and he appears to have a note about it. That would go to show that I must have referred to it.

HONOR: I cannot find it in the shorthand notes. However, most certainly I will not attach much importance on this inquiry as to what is paid in any other establishments when other establishments are applying to me to declare that they are paying reasonable wages.

MR. SCHUTT: I cannot imagine for a moment that I did not put this matter before your Honor.

HONOR: I suppose you must have, but all I can say is it does not, as far as I can see, appear in the shorthand notes, and it is not within my recollection.
MR DUFFY - If Your Honor pleased - I suppose the ordinary procedure had better be followed in this case, viz. that I address the Court, and then Mr Sutch to follow with his address, and then call the evidence.

HIS HONOR: If you think it would be better for your case to address the Court, I shall be glad to hear you both. Of course we are all familiar with the kind of evidence that has been called, and I think I can guess the sort of evidence that you will call. If you want to open up some new views, I shall be glad to hear you.

MR DUFFY: I think I can put it shortly. Mr Sutch is anxious, with Your Honor's permission, to call his evidence first, because he has got his witnesses here. Perhaps Your Honor would allow Mr Sutch to do that after hearing me?

HIS HONOR: Certainly.

MR DUFFY: In view of what Your Honor has said, I shall be very short indeed. I shall not go into any details, but I propose to ask Your Honor's attention to what I consider are now the issues which have to be determined. Really the way in which the applicant's factory is conducted is this.

He has a great deal of work divided up necessarily into different classes. That is to say, in making a harvester work has to be performed of a fine description and of a less fine description in all the branches. For the sake of economy he pursues a certain plan. In each branch there are certain leaders, men of experience, the best men obtainable, men who are not to be had unless they are paid the best wages. Whether they be foremen or whether they be leaders exhibiting the manner in which the work should be done, they are paid a high wage as compared with the wage paid to the other workers. But outside of that, the applicant finds that it is desirable to have tradesmen's work done by persons who are willing to take, under the circumstances of the case, a less wage than is ordinarily paid to tradesmen. I have no doubt the applicant does it in what he considers a perfectly legitimate fashion, because Mr Rigby tells us, as Mr George McKay has told us, that he thinks it is perfectly reasonable for the proprietor to say to the individual: "Well, I think it is worth while to give you so much, take so much; if you refuse it you may go." That is what may be called freedom of contract which means under certain circumstances freedom on one side and submission on the other.

HIS HONOR: Like the freedom of contract between the wolf and the lamb.

MR DUFFY: Yes. It is not dishonest, it is one of those things which they take into consideration when they want to make the most money. The applicant in this case comes here and he asks for a remission of a large sum of money. It has been said that Mr McKay makes sometimes 10 machines a day; that only refers to harvesters, and there may be a good many other machines as well. He would probably make 2,000 harvesters a year. £6 on each machine would amount to £12,000. In order to get this remission the applicant prepares a list showing the men he employs and the rates of pay they receive. That list needs a great deal of scrutiny. You get a man called an improver when in fact he is nothing more or less than a journeyman but who through the force of circumstances is content to take a less wage.
Than you get unbound apprentices. An unbound apprentice is nothing more or less than a boy who has grown up in the service. In common with other manufacturers of harvesters no doubt, Mr McKay employs a number of boys who learn the business. They start at a low wage and they are tempted to remain on the works because like the donkey and the carrot we have all read about, the employer by means of a twopenny carrot or a fourpenny carrot which he dangles before them tempts them to stick at the work. They go on from 4/6 to 4/10, their wage gradually rising in like manner until they think it worth their while to hang on with the idea that one of these days they may reach the ordinary journeyman's wage.

**HIS HONOR** But there is no definite obligation on the part of Mr McKay to teach him the whole trade. It would be quite possible to take a boy on and get him to devote his time to a few of the operations and then when his time is up to say to him "You are not yet a full tradesman, we will keep you on as an improver.

**MR DUFFY** You get this which is worse. You get a man who has worked as an apprentice. He gets, for the sake of illustration, say 5/- at the end of his time. The master says to him "I will give you 6/- if you will stay on". Rather than go and seek his fortunes in new fields, the man says "All right I will begin at 6/-". Then by and bye he gets some homeopathic palliatives administered to him in the shape of 2d. rises - homeopathic doses to keep his system in good order. Of course that is a perfectly legitimate transaction in the point of view of all traders, I don't deny that, and it shows a perfect knowledge on the part of these applicants of the methods of business and the weaknesses of human nature. That I think is what obtains at the applicants factory. A boy is taken on, and he learns perhaps only one branch of the trade. He is tempted to stay on from 6 months to year in the hope that ultimately he will receive a tradesmen's wage and so by that means Mr McKay manages to run the establishment with the result that he has in his employ a number of persons who are not tradesmen, or rather, who are not paid as tradesmen, carrying on and doing the business of the trade. I gave Your Honor a return in this case which showed the relative numbers of the journeymen who are paid journeyman's wages and of the improvers who are underpaid tradeemen:- journeymen 109, improvers over 21, 91; improvers under 21, 88; bound apprentices 21; unbound apprentices 52; laborers 46.

**HIS HONOR** Is there any evidence of any unbound apprentices becoming improvers?

**MR DUFFY** No but I have got from Mr McKay in his examination this. He says that what will happen will be - he takes in an improver as an improver as in the case of Partridge; or else a boy is trained up and becomes an improver by virtue of having ceased to be a boy, and not having been long enough in the business or experienced enough in the eyes of Mr McKay to be given the full wages. So that an apprentice whether bound or unbound develops into an improver if Mr McKay does not think that it is proper to give him full wages. Partridge is a man of 23, he came as an improver in June 1904 at 5/6.

**HIS HONOR** This of course is mere speculation that it is the practice to turn unbound apprentices into improvers and keep them on as such. If you had some instances it would help me very much.

N-2 Mr Duffy
MR DUFFY I shall do that from the books. It is not speculation. Mr McKay said that what happens is that a man might come on as a boy or as an improver having done some work already in another place and an unbound apprentice is nothing more or less than a boy about whom reports are made.

HIS HONOR As to the reports, they were only as from about last June. It seems then to have been only done with a view to recent events.

MR DUFFY Yes. The matter is simply presented in order that it shall not appear that there is one class of men doing one class of work and getting a lower rate of wage than they are entitled to. The classification of improvers and unbound apprentices means a class of men doing the same sort of work but a class who in the eyes of Mr McKay are not deserving of the journeyman's rate of wage. It is a mere sham - a mere simulation. Until the necessity of this application arose it never entered into Mr McKay's head to distinguish in any way. Even amongst the journeymen, those whom he now calls journeymen and to whom he pays higher wages - their wages are also a delusion. Take Richards. He figures as a man at 8/- a day. When he is really examined, and I suppose we may take him as a type of the other men, he is a man at 12/- a day which he acquires by means of sub contracting and if it be that there are men well qualified who come into the service willingly at 6/- and 9/- and 9/6, I think it is explained by the fact that when their whole earnings are put together those men who are picked for the purpose by Mr McKay make very much larger wages. Mr Richards has told us that he makes from £3 10/- to £4 a week for himself net. Mr Bishop makes 12/- a day. So that I say this list has been prepared for the exigencies of the case and I think it may be overlooked and disregarded altogether.

HIS HONOR I am only going to look at facts and not names in this case. I have not yet had an opportunity of seeing the Wages Books. Is there any classification of the employees in those books?

MR DUFFY It is a classification simply under their various trade names like machinists and drillers.

HIS HONOR I mean to say there is not any classification according to the status for wages. You have got the machinist in one column and the fitter in another and so forth.

MR DUFFY The later books, since this has been commenced, show the distinction made in the classification of the men.

HIS HONOR I should like to see the book before and the book after and to compare them. Apart from the classification was it the practice to put in the name of a man as an improver or as an apprentice?

MR DUFFY As far as I can discover anything in the books it never was the custom to put anything beyond whether a man was a bound apprentice. If he was a bound apprentice he was put down as a bound apprentice.

HIS HONOR Give me some instance where a man is referred to in list A as an unbound apprentice and who appears in the books not as such?

MR DUFFY There are three pages in the Wages Book which will illustrate what I mean. The first is not in evidence and
I will put it in evidence. It shows how they were marked on the pay day, 4th April 1907. I am putting in the pay day of the 4th April 1907 until the 14th May 1907. On that there appears a list of blacksmiths and strikers and the various people are called blacksmiths and strikers merely. Then the next opening I go to is already in Ex. 10. The first pay day is 28th May 1907 and the last is 29th June 1907. The list originally stood in ink. The man who was called a blacksmith or a striker according to the work he did was so called and nothing else. Somebody has been through the book with a lead pencil and with it has marked off certain ones with the word "Imp" which I take stands for the word improver. There are certain others marked off with the word "Striker" who were formerly marked blacksmiths.

**MR DUFFY** I am. One is now marked off as only a boy in pencil who was formerly marked off as a striker. Take McCarthy, John. He was formerly called a striker. He is now called a boy. Take Williams S. He was formerly called a striker but is now called a boy.

**HIS HONOR** Are you sure of that?

**MR DUFFY** I am. I am now marking off as only a boy in pencil who was formerly marked off as a striker. Take McCarthy, John. He was formerly called a striker. He is now called a boy. Take Williams S. He was formerly called a striker but is now called a boy.

**HIS HONOR** I do not think there is any suggestion of the books being cooked. Very likely in making up the list for the Court, whoever it was who had it in hand went through the names and put these pencil marks alongside so as to know what to class them as.

**MR SCHUTT** That is exactly what happened.

**MR DUFFY** It was done for the purpose of suggesting what should appear in the future, either in the list or in the books. Then I turn to the next opening which is Ex. 2. I find on opening, on the 29th June 1907 to the 6th August 1907, that the instructions which have been made in lead pencil have been carried out in ink.

**HIS HONOR** There does that appear. Do you mean to say it appears in ink now when it was in pencil before?

**MR DUFFY** Tell, it was nowhere before. That happened was this. When they were dealing with Ex. 10 there were certain entries in ink and after the page had been completed somebody went over it before Ex. 2 was made and instructed that for the future the list had better be made in this way. In the future it is carried out in ink to correspond, as I suggest, with the list which is tendered to this Court. If Your Honor would look at the three different pages you will see that my contention is borne out.

**HIS HONOR** Examines some of the names as examples including Tyrer and S. Williams. It looks like it.

**MR DUFFY** I do not suggest that there is any dishonesty but Mr. McCay has pursued a plan of getting men for what wages he likes to pay and allowing them to do the work. Then when he seeks to get an exemption he says, "Well, really I think this man is doing such small work that I might fairly call him only an improver." Then he says "This improver is a striker perhaps, but he is a boy, and we will call him a boy." All that is done for the purpose of impressing the Court with a notion that the men and boys are distinct sets of persons who are being paid distinct rates of wages and who have no relation one to another. And until this inquiry came into existence the idea was this: when
you have got a piece of work to do got the cheapest men to
do it and pay them according to what they will take be-
cause if they do our work that is sufficient. I do not
blame Mr McKay for it. Any man trying to make all he can
out of a business would do it. But I do say this that
it is preposterous to say that the nomenclature which Mr
McKay with the assistance of his learned advisers has
adopted can have the slightest influence on the Court. I
now propose to ask the Court to consider quite apart from
whatever he calls them what would be a fair thing to give
to these various men. The Court will have to remember
first of all that an important ingredient in fairness and
reasonableness of wages is the question of continuance of
employment. Now the exigencies of Mr McKay's business are
such that it is impossible for him to give continuous employ
ment to his staff with pecuniary advantage to himself, and
the result is that nobody gets more than 11 months employ-
ment. So that in estimating what is a fair wage for a man
Your Honor must remember that the wage Your H'nor gives is
not a fair wage for 12 months but 11 months. A month is
made up of a fortnight at Xmas and certain other holidays
during the year. So that what these men have to live on
is the remuneration which they will get for 11 months
labor and that includes the most fortunate persons in the
shop.

HIS HONOR But that is not compulsory. I do not suppose they
are compelled to take a holiday.

MR DUFFY Oh yes. The place is closed.

HIS HONOR (To Mr Schutt) Is that so. Is the shop closed a
month during the year. I can well understand that as
soon as the harvest season is over the factory might be
closed for a while.

MR SCHUTT I am told that about Xmas the place is closed for
about a week.

MR DUFFY That is not in accordance with the evidence at any
rate. Mr Bult in his evidence before the Tariff Commission
at Q.66,469 says (Reads)

HIS HONOR I remember all that. Is it closed at Xmas time for
three or four weeks?

MR SCHUTT It varies. There is no fixed rule.

HIS HONOR I think you are making too much of this point.

MR DUFFY It is not big in itself but what I say is this. The
most fortunate people are out one month of the year, that
is to say by convention of the trade. It is highly infor
mative when Your Honor looks at the way he gave the evidence
he says "It is alleged against the Sunshine people that
they do not give good wages, that is wrong because in mak
ning an estimate of what the wages are we divide the total
by the number of working days and the result is so and so." But Your Honor the number of working days has to be dimin
ished by a month.

HIS HONOR I follow all that quite well.

MR DUFFY That is Mr Bult's own view of the matter. He says
"It is absurd to say you should divide the total by this
number of days because they have to be reduced by a month
during which time the men do not earn anything." Leave
that for a moment. Add on to that that a large per centage

N-5 Mr Duffy
of the men go off at the end of the season, and either new men or the same men are taken on when the season commences again. The result of that is that in estimating these wages Your Honor has to say how the men are to live all the year round. If they earn a fair living wage during the time they are working then the moment they are turned out they, their wives and their children are hungry until they get a job somewhere else. My learned junior puts it to me that these men have not learned the habit of hibernating. That is a matter the Court will have to consider in looking at the question of wage, whether it be the wage of a journeyman, of an improver or a boy. On the question of full time an extract has been made for me of the days when the men are at work. The gentleman instructing me has had a list made showing the number of persons who have had full time when they were actually working. As to how short of the full time it was I am not prepared to say because however short the time was it has been taken out. Certain pay days have been taken out as fair samples. Pay day 25th May 1907, full time 213; short time 140. Pay day 11th June 1907, full time 29 —

HIS HONOR Is that only one of those small cases of 8 minutes short?

MR DUFFY No. In this particular case 205 were paid for 67 and 1/6th hours in the fortnight. The next pay day is 26th June 1907 — 270 full time and 85 short time. Then there were few stock weeks, weeks devoted to taking stock. Then we get 23rd July 1907 — full time 32; short time 375. Of those, 110 were only short 8 minutes and their pay was stopped for the 8 minutes. Then on the 5th August 1907, full time 276; short time 163. There the books which have been produced end.

LIST put in marked Ex. 15.

HIS HONOR (To Mr Schutt) Is there any objection to this list going in and my looking at it. You will have a full opportunity of verifying it.

MR SCHUTT Very well Your Honor.

HIS HONOR I hope you are going to give me some illumination on the larger question as to how I am to form a basis. It seems to me that both you and Mr Schutt have kindly assisted me in some of these subordinate matters but I have not had any such guidance as I know you can both give me in the direction of general principles.

MR DUFFY Well I am now going to deal with the principle on which payment ought to be made, leaving out the question of profit. I am seriously going to address Your Honor on the question of profit at the end of the case because I think I ought to do it. I think Your Honor will necessarily take notice of it.

HIS HONOR What I want you to clearly understand is that I think the idea of the Act is that the profit is what remains, after you have paid for your material and the wages for the work done, and that the Act contemplates, and similar Acts do the same, that it is not only the cost of the materials and the cost of the labor at such prices as you can get men to work for but the cost of reasonable remuneration for labor, and then comes the profit, and that therefore I think a profit, for the purpose of the Excise Act, is
we have found what an employer has paid for his material and what he has paid for fair and reasonable remuneration.

MR DUFFY - Put in that way it is not unlike the proposition I shall come to put to Your Honor, that Your Honor will call the profit that which remains after you have subtracted the cost of reasonable remuneration as well as the expenses of the business.

HIS HONOR That is the idea of the Act. I want to keep steadily in view the Act upon which I have got to work. Of course I will take any assistance I can get from anything else but that is what I have to do. I say it is not a profit sharing concern at all, but it is simply a concern which, before it is entitled to profits, must show that it pays reasonable wages.

MR DUFFY That is to say, a fund having been given to the employer, that proportion of it which he will ultimately call his own profit is only such as is left after he has paid the wages which Your Honor says is reasonable. Now in that point of view, what is a fair and reasonable wage? I have pointed out to Your Honor that the wages must be wages fair and reasonable for the whole year. Now what is fair and reasonable for the whole year? The standard of payment is founded on the lowest wages - I do not mean the lowest wages paid, but the lowest class. What I mean is, in estimating what are fair wages, the way to begin is to say - What are fair wages for unskilled men, and then go upwards.

HIS HONOR That is what I said before. You agree with that?

MR DUFFY Yes, Your Honor, I do. That means that the investigation takes this shape. First, you look to see under this Act what will be fair and reasonable wages for a person who merely gives labor without special skill. Then, having ascertained that, you see what is reasonable for a man who as well as labor supplies skill, and the addition or accretion in each case is to be measured by the amount of skill which is offered by the employer.

HIS HONOR In skill you would include health?

MR DUFFY Yes, and risk of sickness and all sorts of things. But the important thing of course, the dominant thing, is the amount of skill which a man is required to have for the work which he does.

HIS HONOR In the big chemical works in England the men get splendid wages, but they are not able to stand the thing more than 10 years at the very outside, and their hair turns grey, and they very often die in the course of that time. But they get a very heavy wage.

MR DUFFY In that case the dominant element would be danger.

In our case the dominant element is skill, although undoubtedly if a man is using a buzz plane he ought to get something for the risk of losing his hand. By skill I mean to say whatever is added to the ordinary capabilities of brute strength. Whatever a man has to offer to his employer in addition to the mere strength which nature has given to him, if he offers to run a risk, that is something in addition, and if he offers to give certain skill that is something in addition; and if he offers to do work which will wear him out within a limited time, that is something in addition. Anything which can be added to the services in addition to the bare strength, which is the beginning, the lowest element in labor, is something which ought to be
compensated for. For that reason it is important to see where we are going to start. If you don't get a starting point you are in the air and it would be impossible to fix what would be a fair and reasonable sum. I therefore propose first to deal with labor only without risk being added to it or skill, or shortening of life or sickness or anything else - only the mere labor. In doing that, there are two elements which I think ought to be considered. First, what is a fair living wage for a man, by which I mean not a sum on which he can exist, but a wage on which he can get the reasonable comforts of life which a man might expect who occupied that position, for himself and for his family, because the Court of course, in the interests of the Commonwealth, will regard an ordinary man as being a man who will and who should marry and bring up a family.

HIS HONOR Are you using the term living wage in the sense of the Factories Act?

MR DUFFY No.

HIS HONOR Well they evidently use the term living wage there as the inferior limit beyond which the factory award cannot go - something which is enough to keep a man alive.

MR DUFFY Well, such an amount as will give a man the ordinary comforts which are reasonable and proper in that position of life.

HIS HONOR Do you think then what I suggested yesterday or some dependence that the wage I am to define is a fair and reasonable remuneration. It is not a wage. I am to find fair and reasonable conditions of remuneration. Remuneration involves I think a shade more than wage. Do you agree with what I thought the other day, that the fair and reasonable remuneration is something between what is called by the Unions a good wage and a living wage?

MR DUFFY I would entirely, Sir, except for the fact that behind my argument lies this. I agree with it wholly except this, that I think it is impossible in this inquiry to eliminate the difference between a man who is working say at the Otis Foundry at 10/- a day - the Otis Foundry is not protected by any Act of Parliament at all, it is free from any Act of Parliament. What would be a proper wage there for a man, not a mere living wage but a proper living wage for a man there would be exactly what would be a proper and reasonable wage for a man in the harvester business if there were no Act of Parliament. The Act of Parliament being in existence to my mind necessarily implies that there must be some amelioration, and that you cannot have a person who is unprotected and a person who is protected bound to pay the same wage, and that in fact the position you have got to find here is that they have got to get what Your Honor calls a fair wage, that is not good wages - a fair wage plus something for the protection which is given to the harvester manufacturer by getting this enormous excise exemption.

HIS HONOR I think you are making a great mistake in the interests of the employes Unions, if I may say it openly. I have got nothing to do with the employers' private concerns or private profits, or his advantages or disadvantages. What I have to do with are the conditions of the worker and the Act itself to find out what are the fair and reasonable conditions, protection or no protection, Act of Parliament or no Act of Parliament.
It is the more clear way to clear the way.

Honor It is the right way

It keeps clear the question without involving any other
we do not desire to inquire into individual profits but we say
you would have a man outside protection and inside protection both
entitled to the same amount of wages in fairness and reasonableness.
Take the case of A.B. he is working at the Otis Engineering Works
and he works for 10/- a day for 10 years. That is a fair and reason­
able remuneration there but he then goes into the employment of C.B.
a harvester manufacturer who comes under the protection sixth what
was fair and reasonable for that man when in employment where he
was not under protection is not fair and reasonable when he is in
employment under protection.

Honor If a man is not under the Factories Act is he to pay more
wages?

Honor No.

Honor What distinction do you draw

Honor You have to look at the Acts of Parliament. When Parliament says
"there is a bag of gold. In return for that bag of gold you are not
to give reasonable wages but to see that the conditions of wages are
fair and reasonable." What can that mean but"in considering what you
have to give those men you have to consider what you got from me"

Honor What the Act says is "we will remit the Excise 20 if it is
found you are paying fair and reasonable wages.

Honor When you say fair and reasonable wages does not that mean fair
and reasonable wages considering the whole provisions of the Act?
and the whole provisions of the Act are "I am giving you a bag of
"gold"

Honor If they meant no to do that in the Act they would have put it
more specifically. They would have said "If he pays fair and reason­
able remuneration having regard to protection" or "having regard to
Supposing it is said "provided that he gave the same wages as are given by other harvester manufacturers" if you do not adopt the view I am putting you will start with the assumption that Parliament knew they were giving lower wages.

HONOR Not at all. Parliament says "we are giving a great boon to manufacturers. We put £12 on the imported harvester and £6 on the harvester made here" but we will even remit that £6 on such harvesters as are made by you under fair and reasonable remuneration" and they simply accept my finding as to whether the rates are fair and reasonable.

Supposing to say to a friend of mine who is employing another friend of mine "I say here is a £1000 for you take care you treat my friend in your employment fairly and reasonably" that would not mean that he was to give him the same wages as other persons in his employment were getting. "You have to look at the surrounding conditions and consider you have been treated so well by me. Is it fair and reasonable?" Following that out this Court is allowed to see if in the opinion of this Court it is fair and reasonable. I should think the idea of Parliament is this "there is a specific sum for you. Take care that out of this donation I am giving to you there is with this bequest of mine a condition and that is these people shall be fairly and reasonably treated."

HONOR You mean to say "fair and reasonable" means one thing to a
DUFFY Yes

HONOR Really I could not take that view. Of course I do not like to stay your interesting argument but it will be utterly impossible to shake me.

DUFFY I have conveyed to Your Honor what I meant I hope. I shall now proceed on the proposition that Your Honor was asking me to consider a moment ago and which I said I would accept except for this view that Your Honor is not willing to receive therefore I let it pass. I will say now that I think "fair and reasonable wages" does mean not necessarily the highest wages which can be obtained anywhere but liberal wages.

HONOR It might be paraphrased this way "we will give remission to a man if he is acting fairly and reasonably to his workmen." between themselves and him he is doing the right thing"

DUFFY Does not that mean necessarily that he is giving not extreme wages, but liberal wages, he is dealing liberally with them

HONOR Yes but I don't like the word "liberal" there. That is the difficulty of all arguments that words have not exact significance. I am glad you agree with me apart from your argument on profits. It is something between what is called in the labour ranks "good wages" and in the Factories Act "a living wage"

DUFFY In estimating these fair and reasonable wages two methods of investigation will be useful. One to examine the life of a labourer and see what wages are necessary for him to enjoy the reasonable comforts incident to that state of life. He must be able to eat comfortably, to be housed comfortably and to have the reasonable enjoyments which a man enjoys in that state of life. To have his bit of tobacco if he wants to smoke, to have his glass of beer and to go to see a Football Match on Saturday if that is the sort of enjoyment he indulges in. He has got to be able to clothe his
wife and children and he himself has to have his working clothes and a decent suit to put on when he is not working. In other words the man who is the employee has to be surrounded by comforts such as an ordinary man of that class might reasonably desire, not such as if he got a fortune, but what he could reasonably expect from his own labours. Another way to examine it is "what is given to that class of labour elsewhere"? That is not conclusive but it is important in making the investigation.

HONOR "Elsewhere" do you mean in the same city?

DUFFY In the same community. It governs everything of course.

HONOR What might be luxury beyond the hope of a labourer in one country might be what is ordinarily expected in another. My learned friend Mr. Arthur and I confine ourselves as far as I am concerned to Victoria. If we get outside Victoria there might be other conditions which we are not aware of that affect the matter.

HONOR I think it is better to do so. It will make the inquiry simpler but as I told you throughout from the first that I intend to let this inquiry, which has taken a long time, inform my mind as to the conditions of the industry generally and I will be able I hope to approach New South Wales and Queensland and the other States with a better knowledge from this inquiry.

DUFFY I assent with great respect to what Your Honor says but for my purpose it will be waste of time to go outside when we have plenty of material within the State. We have already got some interesting material on that point. It appears from Mr. Rigby’s evidence that he himself rates labour higher than Mr. M’Kay does. And as a matter of fact Your Honor will find if you will look at the large employers who are not attempting to grind, whose interest it is not to make money out of their employees - I do not say it offensively but a man is bound to make the best he can out of his labour. When you look
at employers who are not in that position labour by itself is
remunerated at a higher rate than by Mr M'Kay and higher but not
very much higher than by Mr Rigby. What we suggest in that you
should start at 7/-.

HONOR For whom?

DUFFY For a competent adult unskilled labourer. That is not higher
than Mr Rigby pays in some instances.

HONOR Mr M'Kay pays 7/6 7/0 and 7/- to some if they are real labourers.

DUFFY 7/4 is the highest Mr Rigby goes to.

HONOR Mr M'Kay goes to 7/8 but I do not think we got what the labour
was because unfortunately the classification is very mixed

DUFFY I am told that Mr Rigby said this "a fully qualified labourer
ought to get 6/6" it was in answer to Your Honor's question. As I
said I do not propose at all to go into details. We will call
evidence that that is the sort of wage given by big institutions
like the Melbourne Board of Works, the Melbourne Corporation and
many of the Corporations in the suburbs to people who do ordinary
scavenging and labouring duties.

HONOR Is that the only kind of evidence you are going to give me on
that subject.

DUFFY No. I propose to give Your Honor other evidence bit that
appears to be very important evidence because it shows what sort of
remuneration is given by people who have not to make any profit out
of it. They do not say "what is the best bargain we can make with
a man to save our pockets?"

HONOR Is not there an Act of Parliament to compel some of those
bodies.

DUFFY Not that I am aware of.

HIS HONOR You are going into the Railway Service too?

DUFFY I was not instructed to but if Your Honor thinks we should
perhaps we will. I am now instructed that we will. I do not
I propose to go into any detail more than to give Your Honor an idea. We say 7/- and we propose to show that a man cannot get the ordinary comforts of life and the necessities of life in his own orbit, in his own sphere under 7/- a day, that means what is given very largely by employers of labour.

HONOR Have you any direct evidence of a workman's wife or housekeeper?

WIFE We are going to call them to show how they live.

HONOR There is no one can give better evidence as to the way the shoe pinches, if it does pinch than the workman's wife.

WIFE These women do not wish naturally, to have their names published in the newspapers and I will ask Your Honor when the time comes to take an order that they shall not be published.

HONOR Mr Schott would you have any objection to that?

WIFE No.

HONOR I should certainly do it.

WIFE We will call these women and they will tell you how they spend their little store and they will show Your Honor how they cannot get what is necessary under that sum. That being what I say ought to be given to a labourer how much ought to be given to skill? I will begin now by taking the journeymen, tradesman, and I will lay down the proposition that tradesmen ought to get 10/- a day.

HONOR All of them?

WIFE That is all men who are journeymen, who are capable of doing a trademen's work. A striker for instance is not.

HONOR Would you apply it to all machine men?

WIFE Some of them do. For instance the iron moulders.

HONOR I think I can say freely to you with regard to the skill. It is very much a matter of opinion and it is also a matter of custom.
and the employers themselves. If you once fix your datum point, the unskilled labourer then may I not lean with a good deal of confidence upon the ration fixed by the Wages Board decisions in the other industries which have these trades?

UPPY: I should think you could.

HONOR: I think it will save a great deal of trouble. I do not think I could err much on some facts of the findings.

UPPY: If they were legitimate findings of the whole body.

HONOR: I shall not forget those peculiarities of the Factories Act.

UPPY: Supposing I saw the Blacksmiths sent 4 delegates and the employers sent 4 delegates and those men agreed at 8/- is the rate Your Honor will be ill advised to go outside it.

HONOR: I am going to treat the decisions put in this morning as admissions by the employers because they are covered by that condition with regard to reputable employers and we cannot go beyond that.

UPPY: I was the reputable employers themselves do this, what more can you have?

HONOR: That's the legitimate way of looking at it. Supposing you find a whole Board agree Your Honor ought to say "that is reasonable" I will point out what was clearly proved before Mr. Justice Wood and what he admitted or assented to namely that the cost of living of late years has increased. My learned friend Mr. Arthur says that the learned Judge says there was an increase but he was satisfied it was nothing but a temporary increase. The terms made some years ago are no longer correct because of the increase in the cost of living. Supposing Your Honor found that in 1901 the cost of living was 10/- per individual and supposing you found on account of various things the cost of living had increased to 11/- per individual then Your Honor would I think naturally add that on. Take an ordinary family of three four or five and allow them
a 1/- each for the wage. It is only on that point of view that I would adopt the findings, provided they are the legitimate findings of the whole Board. What I want to do away with is this unholy subdivision of men doing the same work into different classes, giving them different pays and calling them different names.

SCHURTZ: Doing the same work in different ways.

SUPPFD: Very well, doing the same work in different ways. There is an end of that. Once you leave it to the employer to discriminate whether a man is worth it the award of the Court is not worth the paper it is written on.

HIS HONOR: Then the only way of dealing with it would be for me to define for the purpose of my award who is an apprentice, who is an improver and there may be something else, there may be helpers and strikers, and then say all the rest would be journeymen.

SUPPFD: Yes. I would say that Your Honor would look at the sort of work and say the men employed on this work are blacksmiths. If they are doing blacksmiths work they are blacksmiths. If they are strikers that is another matter. But if they are blacksmiths and if they are not fit to be blacksmiths let them go and do something else.

HIS HONOR: In your view are strikers to be put on a different footing from labourers?

SUPPFD: Yes. They are not tradesmen because they have not learnt a trade. They are labourers with a little additional skill. Those are the only ones I would have, I would have tradesmen. I would have helpers that is to say not people who do the same work with an alleged different amount of capacity or skill but do work assisting in the trade.

HIS HONOR: I want to tell Council in order if they see a flaw in it they will let me know before it is too late. What I intend to do is to frame what I light call for the present purpose an Excise Standard
because the important thing is not merely to say whether the machines made this year are different to be free from this Excise duty, but to let a manufacturer know where he is and what he has got to do to get remission. It is the future rather than the brief past of this year that is the important thing. If it agrees with Counsel's approval I propose having made up my mind as to what I conceive to be an effective standard under the existing conditions to say "A. B. has not come up to that standard in certain respects" or "A. B. has made whatever it is and then I would also put this clause at the end that until the standard is varied on an application by some employer the employees or some Union - until the standard is varied that standard shall remain for Victoria! Then the result is that he would be able to make each machine he goes to the Customs or the Customs officer goes to him and he says "Here is my affidavit. I have made these machines in accordance with this standard" and then he is not charged the Excise duty. That seems to be the most workable way.

PUT Y. As the representative if the labourers I see no objection to that.

SCHULTZ I quite understand what Your Honor means.

PUT Y. You have got to look not at the capacity of the man but to look generally at the class of work he is doing and if you got a man expected to do carpenter's work he is a carpenter. Let the manufacturer get men who are capable. Let him not endeavour to do the worst thing for the trade and the employees that is pack it with cheap labour. Unless this Court says the standard of a carpenter is to be kept up there will always be an opportunity for packing the trade with cheap labour and perhaps competent cheap labour because a man must get work at any risk. There would be this sort of thing. "your wage is 10/- is it?" "Yes" "Well I can get plenty
of people to do it for 9/- by all means get the best men you can in the market but whoever you get pay them the same wages. If you open the door you give them unlimited opportunity to evade the Act. There is a clause in the Act of Parliament No. 2008 which throws a light on the view the legislature takes of that sort of thing.

CHONOR: It is a different legislature from that which passed the Ernir Act.

MUTE: Yes but it shows you the legislature provides for the case where it is possible to say a man is capable of doing good work but was not employed on good work all the time. It is section 15 of the Act 2000 (Reads from "when any per on is employed") that is to get rid of this very difficulty. Just as here he says "this man was doing carpentry work but it was an inferior class of carpentering work".

CHONOR: Have you considered the effect of this kind of order you ask me for, that is to say to fix a standard below which you shall not employ your blacksmith and so on?

MUTE: I have.

CHONOR: Have you considered it may be said that it is very hard upon old infirm and incompetent workmen, that is to say workmen not fully qualified?

MUTE: It can only be hard on the old otherwise the tendency would be to make the young men work and study their business so as to make them competent.

CHONOR: But supposing a man of weak health and weak constitution and he cannot be hurried up.

MUTE: It will drive him out of the business.

CHONOR: I have a suggestion to make as to that later on.

CHONOR: I am glad to get help but I have to balance things and see that I do not do harm while I try to do good. Of course if you are face to face with this, there is one billet and you can put in the
weal man and you can put in the strong man, which is the better for the State to be put in?

DUFFY. I say the strong man.

His Honor. Yes. It is better for the industry. He will produce more and he has generally been dependent on him.

DUFFY. It may be hard to make the choice but in the interest of the trade in the interest of the employer and in the interest of the community the best thing is that the best man be employed and to encourage the best man. Your Honor of course in dealing with a limit of trade where Parliament deals with trades as a large body it does what I am asking Your Honor to do but makes special provision for men to be employed at lower wages.

His Honor. I have nothing to do with the Victorian Act which provides for old and infirm workers. I have to deal with the Commonwealth Act and I must as far as possible treat them on the same principles. Then the Victorian Act does not deal with a case quite as common as the old and infirm and that is the man who is not able to do the work fully.

His Honor. The words are "old slow and infirm."

DUFFY. My problem is more complex because I have to see how to fit this thing in with the awards in the other States. Do you wish me to make any provision for a reduced rate for old slow and infirm workers?

DUFFY. If I thought it would be honestly acted on but I am afraid if you do we will have a splendid array of old workers. There will be a sudden paralysis of activity on the part of harvestor employees. They will all get slow.

His Honor. That is the sort of thing said about us because we give a crippled work.

DUFFY. I hope I have not said anything that would be offensive.
He has done what 999 out of a 1000 would have done, he has tried to get the very best he could out of his workmen.

He has tried to get the very best he could out of his workmen.

I say one method of enabling him and others to do that would be to say "you must pay all persons but you may if you like rank men as slow and pay them X - Y." There might be some difficulty in striking a whole community with age and sickness but there will be no difficulty in striking them with slowness. It will be a matter entirely for the proprietor. Mr. McKay will say you are all too slow for me. 2.15 is my gait.

HIS HONOR: At all events you disapprove of that.

MR. DUFFY: Certainly. I would like it if it could be secured in any fashion so that that difficulty would not arise. I have no objection to thus, that the Court grants exemptions in certain cases.

HIS HONOR: No, the only thing that as far as Victoria is concerned it might be easy enough to defer to the Factories Act of Victoria and its framers who have thought there should be an exemption.

A permit is always given by a responsible Minister and I might as far as Victoria is concerned "any person who has a permit from the proper authority" but that would not bind me in the other colonies.

MR. DUFFY: At a later stage I might say what my clients desire. I see great dangers in it. It is pointed out to me by my learned friend Mr. Arthur that in Victoria under the Factories Act the certificate is surrounded by stringent conditions.

MR. ARTHUR: It is given by the Chief Inspector, it is limited to 12 months and there must exceed a certain number of the employees. It is Section 99.

MR. SCHUET: Your Honor is evidently thinking of the appeal to the Minister in case the Inspector refuses, but it is the Inspector...
in the first instance

DUNPHY: I was urging on the Court that once and for all these names should be got rid of. The only way I see at present is by saying a man shall be judged first of all by the capabilities of that which he purports to be. If a man purports to be a journeyman then he is to be paid the wages given to the proper journeyman. If he does any work which ordinarily is done by a journeyman be it high work middle work or low work, then he is a journeyman.

HIS HONOR: That is very dangerous. You heard the evidence of Mr M'Kay that a man comes to him and he says "What are you?"

DUNPHY: I said if he purports to be a journeyman he must have a journeyman's wages. Now does he purport? If a man does any work high, low or middling by that Act he purports to be a journeyman.

HIS HONOR: If a man purports to work at a trade and if he is not an apprentice and is not some other qualification he is a tradesman?

DUNPHY: He is a tradesman.

HIS HONOR: That is the only way to do it.

DUNPHY: When I say "purports" it is not what he says.

HIS HONOR: I misunderstood your word "purport."

DUNPHY: It is this "what are you doing?" "I am doing part of the work done by a blacksmith." "Then you are a blacksmith." "But I do only the unimportant parts." "That does not matter. If you are not good enough let him get some one else." If an employer employs any person for any part of a tradesman's work then he ipso facto puts him in the position of a tradesman and he cannot say "he is only a tradesman so far as that is concerned and he cannot get a tradesman's wages." So we have got unskilled labour and at the other pole we have got the journeyman, the person who does any part of a journeyman's work. Between them you get a man who in an insufficiently skilled tradesman, a person who does not
purport to be a tradesman but does purport to do some assistance to a tradesman which he requires more than mere labour.

His Honor: You admit you must have an exception for strikers?

Mr. Duffy: Because he is not a tradesman. He is like a bat he is neither bird or beast. He is neither labourer or tradesman but something required for carrying on the business and he has got additional skill for which he is to be paid. The question is what is a fair thing to pay a man for the additional skill he exhibits? Or it might be that he has to show additional intelligence. Supposing the man was not required to show any skill or intelligence but to run certain risks or anything that adds to the ordinary labour of his hands. The inquiry is limitless if we go abroad but here the inquiry seems to be limited to strikers or helpers.

His Honor: What are you to do with the boys that are in the factory?

Mr. Duffy: It is suggested say that the most efficient way would be to have a main price for all labour according to age, that is to say a boy of 14 not less than X. Mr. Sutch has got a list here a boy learning a trade, not the natural age but his age in the trade ---

His Honor: That is apprentices?

Mr. Duffy: That would be bound apprentices or boys if permissible in the trade who are simply learning the business. ---

His Honor: I have no right of course to impose any theories of my own. I am to obey the Act but if it were practicable for the purpose of a standard obviously it is expedient to have no apprentices except those bound. Where there is some defined duty on the part of the boy or some defined duty on the part of the employer. Mr. M'Kay admits frankly that when the seasons are bad he discharges the unbound and keeps the bound boys. If a man is learning a trade he must stay right on. I must be careful not
to go beyond what my function is.

MR. DUFFY The practicable thing is whether the wages paid by Mr. M'Kay are fair and reasonable and therefore you have got to take into consideration certain persons who employs [sic] unbound apprentices who to a large extent are under 21 and are doing a tradesman's work. Now how are they to be paid? What I suggested to me is if they are learning a trade pay them according to their year in the trade, to a boy of the first year or a boy of the second year or a boy of the third year.

HIS HONOR Supposing one boy comes on at 14 and another at 19 would you treat them both in the same way?

MR. DUFFY Your Honor ought to differentiate. A boy who has been learning this business for 5 years, what is he to get? If he comes late it is his own fault.

HIS HONOR There are two scales, one a scale for age and one for experience.

MR. DUFFY A boy of 19 is infinitely better than a boy of 16 but I do not see that there is much difference between a boy who starts at 16 and a boy who starts at 18 after 3 years in his knowledge of the trade.

HIS HONOR Then supposing 2 or 3 of his years of apprenticeship come after he is 21 would you not still allow the apprentice scale to apply?

MR. DUFFY I am inclined to think that the proper way would be to follow what is done under the Factories Act. It opens the way to getting a man of 21 or 24 perfectly capable of doing the work and who is still an apprentice.

HIS HONOR I find in the scales put in there are some scales for age and for some for years experience.
BUFFY: But all apprentices must be under 21.

HONOR: Supposing a fellow is articled at 18 and has 5 years to do, what is open to him after for the 3 years after he is 21?

BUFFY: I should think if he likes to stay so long it is not unreasonable to say to him you are only to be paid in the same way as apprentices that is, if you are bound apprentice, as if you are 21.

HONOR: Would it not be possible to compose a scale for apprentices for the number of years of experience?

BUFFY: Yes.

HONOR: The improver is to be improved out of existence?

HONOR: I told you days ago that I regarded improver as only a name.

Adjourned till 10.30 am a.m.

Thursday October 17th, 1907.