witness for the renters that the intention of the clauses was to permit of an individual renter closing down his business if it were found to be unprofitable under the taxation or legislative conditions obtaining in New Zealand at any time, and it was suggested that this was a reasonable provision, despite the fact that there was no corresponding right of cancellation by the exhibitor for similar reasons. On the other hand, the evidence before the Committee showed that in 1930, when the clause was inserted, a statement was made by Sir Victor Wilson on behalf of the Motion Picture Distributors' Association, of Australia, which is the controlling authority on policy matters for Australia and New Zealand for the associated American companies, that the clause *would not be operated unless there was unreasonable delay in holding an inquiry into the operation of the film-hire tax.* To put the position clearly, it must be remembered that during the period when discussions were taking place between the renters and the Government regarding taxation the renters refused to make any new contracts with exhibitors; but, as there was no provision for cancellation in their then existing contracts, the exhibitors had a sufficient supply of films contracted for to enable them to carry on. On the resumption of trading the clause in question was inserted in all the American renting companies' contracts, and the statement quoted above implies a threat to paralyse the industry by closing down at thirty days' notice. It is considered that in a country such as New Zealand there is no justification for a clause of this type in contracts on the security of which an important industry relies for its operation. The facts mentioned under Order of Reference No. (2) show that the Government was fully justified in the action taken in 1930.

14. *Exclusion of Oral or Written Representations.*—Practically all the contracts contain a provision excluding from consideration under the contract oral or other representations other than those contained in the written contract. The clauses in Warner Bros.' contract are Nos. 41 and 64. An alternative form found in other contracts is—

> "This document embodies the whole agreement between the parties relative to the said films and other matter comprised herein, and all previous negotiations, warranties, representations, and arrangements in respect thereto are merged herein and otherwise are excluded and cancelled, except so far as the parties hereto may otherwise expressly state in writing signed by both parties."

The evidence before the Committee showed that in most cases the renter refuses to modify or delete the printed terms of the contract, but that it is trade practice to permit variations by unwritten arrangement between the parties. A typical case was quoted where both selection of films and allocation of screening dates had been arranged by the exhibitor over a number of years, although the annual contracts had been left in the usual form providing for both matters being at the distributor's (renter's) option.

15. The evidence showed that it was a very general practice for the renters' representative when "selling" his films to the exhibitor to use "policy books," trade-paper advertising, and typewritten lists of pictures, to indicate the nature of the films included in the service. The contract form usually contains very little space for written matter, and in most of the "blind" and "block" contracts referred to above, which form the great majority, no mention is made of these representations. It will be clear from the general observations above that it is the better-class or "special" pictures which the exhibitor relies on for his profits, and the representations with regard to such pictures would be important factors in his decision to "buy" a service. It was stated that in some cases the renters did not include in the films supplied under the contracts films discussed during the negotiations, and as the prior representations are expressly excluded the exhibitor has no redress. A typical illustration quoted was that of Warner Bros.' 1933 service, which was advertised to include two pictures likely to be highly profitable, "The Gold Diggers of 1933," and "Voltaire"—a George Arliss picture. It was suggested that the reason for deferring the release of these pictures was to strengthen the 1934 service.

16. The Exhibitors' Association advocated that the contract should be amended so as to provide that the description of the films on which the negotiations for hiring take place should be included in the contract either directly or by a reference to policy books or other advertising-matter. The Committee had submitted to it in evidence the form of contract used in Canada. This provides that the exhibitor shall not be required to accept in lieu of any film described as the photo-play of a star, or of a director, or based upon a specified book or play, or by an identifying description, any other film not corresponding to such identifying description. It is therefore evident that the practice in Canada is in some accord with the suggestion of the Exhibitors' Association. In view of the "blind" and "block" booking system which is universal in New Zealand and the necessity for exhibitors operating under the system of "average" values referred to earlier, the proposal made by the Exhibitors' Association appears to the Committee to be reasonable, and it is recommended that the necessary provision be made in the standard contract form.

17. *Substitution Clause.*—Most of the contract-forms provide that if the renter is unable from any cause beyond his control (some of the contracts go beyond this limitation and add "or for any cause whatsoever") to supply any of the pictures named in the contract he may, at his discretion, substitute other films, and the exhibitor must accept such films in lieu of those designated. The pertinent clauses in the Warner Bros.' contract are 25, 26, and 48. Reference should also be made to clauses 19, 47, and 61, which negative the assumption of any corresponding right on the part of the exhibitor. The question of substitution has several applications—

(*a*) A film may be deferred from one year to another for policy reasons, such as in the case of Warner Bros.' 1933 contract referred to above. It should be noted that under the contract the renter would be released from liability in such case, as the failure to supply is beyond his direct control. The usual practice is to replace the film by one which would otherwise be supplied at a lower grading, and at a cheaper price, and the exhibitor is therefore prejudiced by the substitution.