

1934.
NEW ZEALAND.

MOTION-PICTURE INDUSTRY, 1934

(REPORT OF THE COMMITTEE OF INQUIRY INTO THE).

(MR. HARRIS, CHAIRMAN.)

Presented to both Houses of the General Assembly by Command of His Excellency.

ORDER OF REFERENCE.

- (1) Whether the present forms of contract used by the film exchanges are reasonable and equitable, and as to the desirability or otherwise of the provision of a standard form of contract and the terms and conditions of such contract.
- (2) Whether any amendments are desirable in regard to the amount or form of taxation to which the industry is at present subject.
- (3) Whether the present system of “blind” and “block” booking should be continued, and whether provision should be made for statutory rejection rights, either additional to those at present operating under the Cinematograph Films Act or alternative to such rights, or whether special rejection rights should be provided with respect to “block” booking, and whether differential rejection rights as between exhibitors should be permitted or prescribed.
- (4) Whether the hiring of films by any exhibitor in respect of any theatre under his control should be restricted to such number of films as is reasonably necessary for the effective operation of such theatre, and whether special provision is desirable for the division of the “service” of individual renters between competitive theatres under equitable conditions.
- (5) Whether the proposals of the Exhibitors' Association with reference to insurance against loss or damage to films are reasonable as an alternative to the condition insisted upon by the renters under the present contract, and, if so, whether provisions should be made for giving effect to such proposals.
- (6) Whether the clause in the contract requiring a minimum charge of 1s. for admission to theatres is reasonable or whether a modification is desirable in certain cases in the public interest.
- (7) Whether any restriction on the erection or licensing of additional theatres or on those already existing is desirable in the interest of the industry or in the public interest to prevent economic waste.
- (8) Whether any amendments are desirable in the present provisions of the Cinematograph Films Act or regulations.
- (9) Whether any provision is desirable for setting up a Board or Committee for internal control of the industry and the settlement of difficulties which may arise as between renter and exhibitor, also the constitution of such Board, and whether Government representation is desirable.

CONSTITUTION OF THE COMMITTEE.

Mr. A. HARRIS, M.P. (Chairman).
Mr. A. E. ANSELL, M.P.
Mr. P. A. DE LA PERRELLE, M.P.
Mr. P. MCSKIMMING, M.P.
Mr. C. A. WILKINSON, M.P.

Hon. A. D. McLEOD, M.P.
Hon. J. G. COBBE, M.P.
Mr. H. HOLLAND, M.P.
Mr. D. G. SULLIVAN, M.P.
Mr. J. A. LEE, M.P.

Secretary to the Committee : Mr. R. E. KEMP.

REPORT.

REASONS FOR THE INQUIRY.

1. It is considered desirable to set out briefly the matters leading to the setting-up of this inquiry. In 1930 the Department of Industries and Commerce was approached by the Exhibitors' Association submitting that a number of clauses in the film-hiring contract with the Film Exchanges operated unfairly and detrimentally to their interests. Several conferences between the Film Exchanges and Exhibitors' Associations were arranged by the Department, as it was thought that this procedure would be effective to bring about more harmonious relations between the two associations, and was preferable to any State intervention. The parties met in conference, but negotiations proved abortive, and the position remained to a great extent unaltered.

Early in 1932 a further difficulty arose in regard to the adoption of methods of competition between chain-theatre interests and the independent exhibitors. Urgent representations were made to the Government by a number of exhibitors, who submitted evidence alleging that unfair methods were being employed to obtain control of or a financial interest in the independent exhibitors' theatres. As a result of these representations the Government brought down regulations under the Board of Trade Act to prevent the operation of unfair and monopolistic practices. These regulations were declared *ultra vires* of the Cinematograph Films Act by decision of a Court of Appeal on the 7th April, 1933.

2. Petitions to the House of Representatives were made during the last session of Parliament by a number of independent exhibitors, complaining of alleged "inequitable conditions contained in the film contract they were compelled to sign in order to secure the necessary supplies of film to keep their theatres going." The Labour Bills Committee of the House, which heard the petitions, recommended that they be referred to the Government for consideration. Another matter that has arisen is the question of compulsory minimum charge for admission to theatres. This was the subject of a private member's Bill introduced during the 1933 session of Parliament. This Bill was referred to the Industries and Commerce Committee, which, after hearing the evidence, made the following recommendations to the Government:—

"That in the opinion of the Committee an exhaustive inquiry into the film industry in all its bearings should be undertaken at the earliest possible date.

"That in view of the amount of evidence offering and the limited time at the disposal of the Committee it is impossible to undertake such inquiry during the present session.

"The Committee therefore recommends such inquiry be made by the Government, and pending same that the Hire of Films Bill be not allowed to proceed this session."

PROCEEDINGS.

3. The Committee held its first meeting on Tuesday, 13th March, 1934, and sat on twenty-one days in all, fifteen of which were employed in hearing evidence. A total of twenty-seven witnesses appeared before the Committee, seventeen representing exhibitors, six representing renters, and four on behalf of other interests. In addition, the Committee considered a considerable volume of written evidence referred to elsewhere in this report. All witnesses were examined on oath. In view of the technical nature of the industry it was deemed advisable to hold the inquiry *in camera*. The freedom with which evidence was tendered proved the wisdom of this course.

4. Counsel appearing before the Committee were Mr. E. P. Hay, for the Film Exchanges' Association of New Zealand, Inc., and Mr. F. C. Spratt for Fuller-Hayward Picture Corporation, Ltd., John Fuller and Sons, Ltd., J. C. Williamson Picture Corporation, Ltd., and Kemball Theatres, Ltd. Mr. J. Robertson, Dominion Secretary, appeared for the New Zealand Motion-picture Exhibitors' Association, Inc., and Mr. R. H. Allen, Secretary for Amalgamated Theatres, Ltd., for his company, which operates the only important chain of theatres outside the Exhibitors' Association. Expert departmental officers attached to the Committee were Mr. F. Johnson, of the Industries and Commerce Department, and Mr. R. Girling-Butcher, of the Department of Internal Affairs. Mr. R. E. Kemp, of the staff of the Minister of Industries and Commerce, acted as Secretary to the Committee.

REFERENCE.

5. Prior to the commencement of the inquiry a memorandum had been prepared by Mr. R. Girling-Butcher, Chief Inspector under the Cinematograph Films Act, explaining the operation of the industry and the nature and effect of the controlling legislation. Copies were circulated to both sections of the industry and to members of the Committee. The memorandum has been the subject of frequent reference during the inquiry, and, with the exception of a few criticisms of a minor nature, it has been accepted by both sides of the industry as a fair and impartial statement of the conditions existing. It constitutes a convenient reference for matters which would otherwise have to be dealt with in detail in this report, and is therefore published as an Appendix.

GENERAL OBSERVATIONS.

6. The Committee recognizes the difficulty of making comparisons with other businesses on account of the unusual character of the industry from a technical point of view. It will be seen from the references in paragraphs 18 and 25 to 27 of the Appendix that the payment for film-hire made to both producer and renter consists in many cases of a percentage of the actual gross receipts. Both for this reason, and because of the different comparative box-office results obtained from the exhibition of films in different towns or theatres, it is impossible to assign a definite renting value to any particular film, and the industry largely operates on a system of "average" values.

7. The box-office returns from films vary to an extent which is not generally realized by the public. It will be seen from paragraph 43 of the Appendix that most of the principal theatres in the cities and large towns are operated by chain theatre companies, and it is the practice in the cities for exhibitors to divide the films available between their theatres according to a grading made after preview of the films—the better-class films being exhibited in the larger and more comfortable theatres. Confidential returns for the year ending 30th September, 1933, submitted to the Committee in respect of operations in one city showed that even in the theatres in which the higher-grade film is screened the maximum and minimum weekly receipts varied in the proportion of eight to one, while the variation between the maximum weekly receipts for first-grade and the minimum for second-grade films was in the proportion of seventy to one.

8. The evidence showed that the general policy adopted in New Zealand differed from most other countries in that, as a general rule, only one “feature” or long-story picture is shown at each performance, while in America, Great Britain, and Australia it is customary to show two “features” on the one programme. The question of the quality of the film is therefore more important under New Zealand conditions, and it was made clear in evidence that a theatre cannot operate successfully unless a fair proportion of films of reasonably high entertainment value are screened.

ORDER OF REFERENCE NO. (1):—

Whether the present forms of contract used by the film exchanges are reasonable and equitable, and as to the desirability or otherwise of the provision of a standard form of contract and the terms and conditions of such contract.

9. The question of contracts for renting film must be considered in relation to the “blind” and “block” booking of film, described in paragraphs 19 to 24 of the Appendix, which is general in the industry. The form of contract which was selected for particular consideration during the inquiry as being the most comprehensive, was that used by Warner Bros. First National Pictures, Ltd., and a copy of this is printed at the end of the Appendix. It will be noted that this contract form comprises no less than sixty-five clauses.

10. The contract forms used by the other renters, and particularly American-owned companies, contain most of the important clauses of this contract, although in some cases expressed in different wording. During the inquiry some exception was taken by counsel and the principal witness for the Film Exchanges' Association to the contract form being referred to as “definitely one-sided” in paragraph 28 of the Appendix. (Reference should also be made to paragraphs 29 to 32 and 50 to 56.) After perusal of the contract forms in use and consideration of the statements made on behalf of the Exhibitors' Association and by counsel for the renters, the Committee had no difficulty in coming to the conclusion that this description was amply justified.

11. The consensus of opinion of exhibitor witnesses appeared to be that the reform of the contractual arrangements between renter and exhibitor was one of the most important matters brought before the Committee. Several witnesses with long experience in the business expressed the view that if an equitable standard contract were arranged, most of the difficulties in the industry as at present operated would be overcome. The only exhibitor witness giving negative evidence was the representative of Amalgamated Theatres, Ltd., but this witness admitted in cross-examination that his firm was in a particularly fortunate position with respect to its contractual relations, firstly, because it had considerable buying-power as being the second largest chain of theatres, and, secondly, that it was in the renters' interests to keep his company operating in opposition to the other chain-theatre interests, which are more or less associated in business.

12. On behalf of the exhibitors generally the representative of the Exhibitors' Association took exception to the whole or part of the following clauses of Warner Bros.' contract: 6, 6A, 9, 10, 15, 16, 17, 19, 21, 23, 25, 26, 28, 29, 30, 32, 34, 37, 41, 45, 46, 48, 50, 51, 61, 63, and 64. It is considered desirable to make special reference to the more important of these clauses.

13. *Renter's Right of Cancellation.*—This clause, which reads as follows, is numbered 21 in Warner Bros.' contract:—

“If by reason of the burden of any existing or future duties taxes charges or impositions or the award of any industrial arbitration or conciliation court tribunal board or committee or by reason of any legislation or statutory ordinance rule or regulation it should at any time hereafter be in the opinion of the Distributor no longer commercially profitable to carry on its business as a Distributor of films and/or sound records and/or advertising materials and/or accessories either in whole or in part or to perform this agreement (of which matters the Distributor shall be the sole judge without its decision being subject to review by any court or tribunal) the Distributor may at its option terminate this agreement on giving thirty days' notice of its intention so to do to the Exhibitor without incurring any liability whatsoever to the Exhibitor by reason of such determination. Such determination shall be without prejudice—

“(a) To the right of the Distributor to recover from the Exhibitor all moneys due and payable by the Exhibitor to the Distributor up to the date of such determination and

“(b) To the right of the Distributor to recover from the Exhibitor damages for any breach of this Agreement committed by the Exhibitor up to the date of such determination and

“(c) To all causes of action which shall have accrued to the Distributor prior to or on the date of such determination.”

This was inserted in identical form in all the American contracts at the time trading was renewed after the hold up of film during the film-hire-tax dispute in 1930. It was suggested by the principal

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.

- (b) It is the practice for the renter to allocate the screening-dates of a film some time ahead, either by agreement with the exhibitor or under the powers given by the contract-form. It is frequently found, in the case of the better-class films, that it is profitable both to the renter and to the prior exhibitor to screen such films for extended seasons in the cities and large towns. As the number of prints of a film available is limited, this may involve the screening of a film by a subsequent exhibitor at a considerably later date than arranged for, and owing to the loss of publicity value which follows the first release in the cities the delay may on occasions seriously affect the box-office returns.
- (c) Cases of failure to supply also arise from the neglect of a prior exhibitor to make satisfactory arrangements for forwarding the film after screening to the succeeding exhibitor on the circuit. Failures from this or the preceding cause may involve the exhibitor in extra costs owing to extra charges in obtaining a film at short notice, wasted advertising on the films arranged for, and disappointment of his patrons. Under the contract he has no claim on the distributor in respect of these damages.

18. The Canadian contract form referred to above provides that if the renter is unable to supply or the exhibitor to exhibit any film for reasons beyond their respective control the contract shall terminate in respect of such film without liability on the part of either party. This appears to be a more equitable provision than that contained in the New Zealand contract, and the Committee is of opinion that a modification of the latter with respect to the rights of substitution of films is desirable.

19. *Arbitration.*—The contract-form used by one of the British renting companies (British Empire Films, Ltd.) provides for arbitration in the event of a dispute arising between renter and exhibitor with respect to the matters contained in the contract, and a similar provision is contained in the Canadian standard contract-form. Only one of the American renting companies' (R.K.O.) New Zealand contracts has provision for arbitration, and in this case the clause only applies at the option of the renter. The Committee considers that an arbitration clause of similar type to that contained in the Canadian contract is desirable in view of the intricacies of the business, and that a provision of this nature would tend towards the smoother working of the industry, and would to a great extent obviate any necessity for an internal tribunal such as is suggested in paragraph (9) of the Order of Reference.

20. Counsel for the Film Exchanges' Association in his final address submitted a memorandum discussing in some detail the clauses in Warner Bros.' contract to which exception had been taken by the exhibitors. The general effect of this statement was to infer that the clauses of the contract objected to had not the effect suggested by the Exhibitors' Association representative, and that the exhibitor had common-law rights under which he would receive protection from the Court under the circumstances set out in the evidence. The Committee is not impressed with this view. There is also some doubt as to the legal interpretation, since evidence submitted by the Exhibitors' Association quoted solicitors' letters written on behalf of renters to exhibitors, expressing the contrary view. It must also be noted that all contracts are deemed to have been made in Wellington. An exhibitor wishing to exercise any rights he may have under the contract or to defend himself against the claims of a renter is at the expense of conducting Court proceedings at Wellington. The moneys in dispute, although a serious matter for a small exhibitor, would, in some cases, be less than the cost of Court proceedings.

21. After giving the matter full consideration, the Committee is of opinion that provision should be made for the use of a standard form of contract in the industry. It is not considered that all the representations made by either renters or exhibitors are justified by the facts as disclosed at the inquiry, but there is evident an undercurrent of irritation in the industry which is due to a great extent to the contractual relationship of the parties. There appears to be a number of clauses in the contract other than those referred to above which are of doubtful meaning, and the necessity for which is not apparent to the Committee. It is considered that a simplification of the present form of contract is necessary, and that a standard form should be drawn up which will reasonably conserve the interests of both renter and exhibitor.

22. With respect to contracts, there was a decided disinclination on the part of the renters to admit that any modification of the contract-form was necessary or desirable, or to make any suggestions with respect to the modifications under consideration. As the inquiry progressed, however, there was evidence of a tendency which is commendable, on the part of both renters and exhibitors, to get together on the principal matters in dispute. The Committee considers that once the principle that a standard basic form of contract must be adopted is made clear to the industry, the best method of obtaining a workable contract form would be by negotiations between the parties.

23. The Committee has therefore refrained from making specific recommendations with respect to the form of contract other than the comments made above, but it is suggested that arrangements might be made for the question of the standard contract to be submitted to an advisory committee appointed under section 41 of the Cinematograph Films Act, 1928. With regard to the appropriate legislative provision, it is recommended that it be made a condition of the issue of a renter's license under the Cinematograph Films Act that the renter shall use for his business only such form of contract as may be approved by the Minister after consideration of the report of the Advisory Committee. In view of the frequent changes which take place in the industry (see paragraph 86 of Appendix) it is also recommended that the form of contract should be reconsidered at not less frequent intervals than two years, and that provision should be made that the Minister may at any time approve of a modification dictated by changing circumstances, on joint application by the renters' and exhibitors' organizations.

ORDER OF REFERENCE No. (2):—

Whether any amendments are desirable in regard to the amount or form of taxation to which the industry is at present subject.

24. Representations were made to the Committee by the accountant for the Film Exchanges Association on the following matters:—

- (a) That section 40 of the Cinematograph Films Act, 1928, be amended by the deletion of the words “not less than” before the words “12½ per centum.” The witness pointed out that the film-renters were at a disadvantage as compared with other businesses whose income was assessed on the basis of a percentage of turnover, in that in the section referred to the percentage named was a minimum only and not a maximum as well, as in other cases.
- (b) That section 40 (1) (a) of the Finance Act, 1930, be amended to provide that the Commissioner of Taxes may include the exchange cost of remitting moneys to England as an expense paid in New Zealand, and therefore to be deducted from the gross rentals before assessment of film-hire tax. It was pointed out that the film-hire tax was imposed in lieu of an *ad valorem* Customs duty, and that Customs duty was not payable on the cost of exchange.

25. With regard to these representations, the Committee decided that the question of the amount of taxation which the Government requires from the industry is one of Government policy, but that, in the opinion of the Committee, the aggregate amount of tax received is by no means excessive. With respect to section 40 of the Cinematograph Films Act, 1928, the Committee recommends that the section of the Act be amended by the deletion of the words “not less than” before the words “12½ per centum.” With regard to the question raised regarding the effect of the present exchange-rate on the collection of film-hire tax, it is noted that the fixation of the exchange-rate at its present figure was the result of a policy decision of the Government, and the Committee has no recommendation to make in the matter.

26. Representations were also made to the Committee by a representative of Australia and New Zealand Pictures, Ltd., which is a renting company operating on local capital. It was requested that certain relief be granted from the film-hire-tax provisions of the Finance Act, 1930. After considering confidential evidence on the question given by an officer of the Land and Income Tax Department, the Committee is of opinion that the position can be adequately met under the present provisions of the Act.

27. Representations were also made by Filmcraft Ltd. and Soundfilms Productions (N.Z.), Ltd., asking that consideration be given to the reimposition of a footage duty with the object of establishing the film-printing industry in New Zealand. On this matter the Committee has no recommendation to make.

28. In view of the criticism which was levelled at the Government at the time when the film-hire tax was imposed and the retention in the American contract forms of the cancellation clause referred to in paragraph 13 above, some reference should be made to the present system of taxation in New Zealand. The question is fully dealt with in paragraphs 106 to 117 of the Appendix to this report, and during the course of the inquiry the following return showing the film-hire tax payable during the past four years was obtained from the Commissioner of Taxes:—

	Nine Months ended 31st March, 1931.		Year ended 31st March, 1932.	
	Foreign Film.	British Film.	Foreign Film.	British Film.
	£	£	£	£
Gross film rentals	322,404	26,197	273,538	47,594
12½ per cent. income-tax deduction	40,300	3,274	34,192	5,949
Operating-expenses	98,040	7,164	91,213	15,487
Balance subject to tax	184,064	15,758	148,133	26,157
Amount of film-hire tax	46,016	1,576	37,033	2,615

	Year ended 31st March, 1933.		Ten Months ended 31st January, 1934.	
	Foreign Film.	British Film.	Foreign Film.	British Film.
	£	£	£	£
Gross film rentals	209,095	73,811	163,935	64,411
12½ per cent. income-tax deduction	26,136	9,223	20,492	8,056
Operating-expenses	79,679	26,427	52,991	15,828
Balance subject to tax	103,280	38,161	90,452	40,527
Amount of film-hire tax	25,820	3,816	22,613	4,053

29. An examination of these figures shows that the estimate made by the Government of £50,000 as the probable return from the tax for the nine months ending 31st March, 1931, was fully justified in comparison with the extravagant figures (£97,406 per annum for seven renters only) then submitted

by the renters—the actual return being £47,591. It is also clear that the receipts from the tax have fluctuated equitably in accordance with the renters' receipts from the industry. A comparison of this return with the figures submitted to the Committee of Parliament which heard evidence on the Cinematograph Films Bill, shows that the tax collected in the year ending 31st March, 1933, was £37,033, as compared with £37,250 in 1927, on comparative gross rentals of £273,938 and £284,000. In cross-examination the accountant for the Film Exchanges' Association stated that he had not been instructed to ask for any modification of the present system of taxation.

ORDER OF REFERENCE No. (3):—

Whether the present system of "blind" and "block" booking should be continued, and whether provision should be made for statutory rejection rights, either additional to those at present operating under the Cinematograph Films Act, or alternative to such rights, or whether special rejection rights should be provided with respect to "block" booking, and whether differential rejection rights as between exhibitors should be permitted or prescribed.

30. The evidence tendered by both sides of the industry was to the effect that the system of "block" booking of films, which is general in New Zealand, was unavoidable under the conditions existing. Exhibitors generally were inclined to the view that, subject to an equitable contract and reasonable provisions for the selection of films, the system was to some extent advantageous in that it ensured a certain amount of stability in the business. The "blind" booking of films appears to be a necessary part of the "block" booking system, but the difficulties inherent in it should be lessened by the modification of the present contract recommended under paragraph 16.

31. The evidence given on behalf of the major exhibiting companies (chain-theatre interests) showed that these concerns, owing to their "quantity" buying-power, had no difficulty in obtaining contracts with the renters for selective buying of films to an extent exceeding the statutory rights of rejection given under the Cinematograph Films Act, and in many cases equivalent to a rejection right exceeding 50 per cent. of the renter's service. On behalf of the smaller independent exhibitors the representative of the Exhibitors' Association, after amplifying the position set out in paragraphs 63 to 66 of the Appendix, proposed that, in lieu of the present rejection rights, there should be provided a statutory rejection right in respect of films "block" booked of not less than 25 per cent. of the number of feature pictures acquired or proposed to be acquired by the renter in any year. This proposal was endorsed by all the chain-theatre representatives, with the exception of Amalgamated Theatres, Ltd., the witnesses stating that, although such a right was not necessary for their business, it was realized that the smaller exhibitor was not in such a satisfactory position when making contracts with the renters.

32. The Committee is of opinion that in view of the great variation in box-office returns from first- and second-grade pictures, referred to under "General Observations," and particularly because of the fact that it is the general practice in New Zealand to screen single-feature programmes, the proposed rejection right of 25 per cent. is a reasonable provision, having regard to the "blind" and "block" booking system necessitated by New Zealand conditions. The Committee is satisfied that, in view of the success which has attended the exhibition of British films in this market, the British film industry will not be prejudiced by the provision of this rejection right. It is recommended that the right should apply to all contracts for more than four pictures, and, in order that the reasonable interests of the renters should be conserved, provision be made that the rejection right should be concurrent with and not in addition to any provisions of a contract providing for selection of a limited number of pictures from a service.

ORDER OF REFERENCE No. (4):—

Whether the hiring of films by any exhibitor in respect of any theatre under his control should be restricted to such number of films as is reasonably necessary for the effective operation of such theatre, and whether special provision is desirable for the division of the "service" of individual renters between competitive theatres under equitable conditions.

33. The evidence before the Committee showed that, largely owing to the building of a number of additional theatres during the past two years, there was a definite possibility of individual exhibitors being unable to obtain adequate supplies of film, particularly where an independent exhibitor is in opposition to two chain-theatre interests as at Hamilton and Napier, or where an exhibitor, and particularly a chain-theatre exhibitor, in competition with an independent adopts a double-feature policy and obtains his film under a series of contracts with the principal renters providing for extensive selection rights. Several cases which were considered by the Committee show that some action is necessary to ensure adequate supplies of film being available to all exhibitors.

34. One of the difficulties likely to be experienced, particularly by country-town exhibitors in competitive situations, in obtaining a sufficient number of films to operate their theatres satisfactorily arises from the fact that it is the practice for exhibitors and particularly chain-theatre exhibitors, to defer the final exercise of the selective or rejection rights in contracts until towards the end of the screening period. As the pictures have not been definitely rejected they are not available to the competitive exhibitor, and in some cases will not become available until twelve months or more after the first release. A chain-theatre exhibitor, for instance, will arrange contracts for the exhibition of, say, thirty pictures out of a "service" of fifty in a number of country towns. When a picture is released in the cities he will say to the renter, in effect, "It is doubtful whether this film will be acceptable for the country towns, but, seeing that it may be better than some of the films arriving later in the year, a final decision will be held over in the meantime." This practice is liable to prejudice both the renter

and the competitive exhibitor. (During the Committee's discussions time-limits for exercise of rejection of seven, fourteen, and twenty-one days were considered, and any rejection within a limit of twenty-one days was deemed to be satisfactory.)

35. It has been shown to the satisfaction of the Committee that it is essential for the success of an exhibitor's business that he should screen in his theatre a fair proportion of the better class or "special" pictures, but it is also indicated that many of the films which are rejected under a selective-buying contract can be used with advantage by a competitive exhibitor, particularly in double-feature programmes, should he be forced by circumstances to adopt this expedient. The renter would usually prefer to get even the small revenue obtainable from such screening than to have the films completely rejected for the particular town.

36. Evidence before the Committee shows that the division of the service of an individual renter between competitive exhibitors is not practicable. Experience of a number of cases of what are known as "pick and pick" arrangements between associated exhibitors in which films were selected alternatively have not proved satisfactory. In the past several of the renters have adopted a policy of dividing the "service" into "blocks" each containing "specials" and "programme pictures." Should this practice be developed in the future it may relieve the situation to some extent, but the Committee is unable to recommend any statutory provision on these lines.

37. The Committee is of opinion that, in view of the situation which is arising owing to the limited number of high-class films available and the competitive conditions existing or likely to arise in some towns, exhibitors should be adequately safeguarded against any monopoly of film-supplies or unfair practices which would result to the disadvantage of competitive exhibitors. After consideration of the problem in conjunction with the question of theatre expansion, the Committee recommends that the following provisions be made to meet the position:—

- (1) That it be made an offence for any exhibitor to hire more films than are necessary for the operation of his theatre.
- (2) That rejection rights under the statutory provision recommended in paragraph 32 of this report, or under contracts providing for the selection of a portion only of a renter's service, should be exercised within twenty-one days.
- (3) That any renter having films available—*i.e.*, which are not contracted for with another exhibitor in the same town or situation, or which are rejected by such exhibitor—shall be required to rent such films on request to another exhibitor on the usual terms and conditions.
- (4) That provision be made for the prevention of monopolies on the lines of section 5 of the Commercial Trusts Act, 1910.

ORDER OF REFERENCE No. (5):—

Whether the proposals of the Exhibitors' Association with reference to insurance against loss or damage to films are reasonable as an alternative to the condition insisted upon by the renters under the present contract, and, if so, whether provisions should be made for giving effect to such proposals.

38. The opinion was fairly generally expressed by both exhibitors and renters that this question was largely a domestic matter and could be settled without legislative action. The Committee concurs with this view. The evidence shows that concessions have been made on both sides, and the Renters' and Exhibitors' Association have, at the suggestion of the Committee, agreed to meet with a view to arriving at a satisfactory settlement. Under these circumstances it is not considered necessary to make any recommendation.

ORDER OF REFERENCE No. (6):—

Whether the clause in the contract requiring a minimum charge of 1s. for admission to theatres is reasonable, or whether a modification is desirable in certain cases in the public interest.

39. This clause (Reference No. 18, Warner Bros.' Contract) was introduced into all the American contracts in 1930 at the same time as the cancellation clause (see paragraph 13 above) on the resumption of trading by the renters after the film-hire-tax dispute. It was stated in evidence by Mr. Stewart, for the Film Exchanges' Association, that this was done at the request of exhibitors. The Exhibitors' Association file regarding the matter, which was put in as evidence, shows that if any such request was made by New Zealand exhibitors it was not authorized by the association, which appears to have consistently advocated a reduction of the minimum admission price in special cases. Mr. Stewart also stated that the 1s. minimum was regarded by the renters as a most important safeguard for the business, and that any modification of it would render the whole clause inoperative. It has been the renter's experience in the Auckland suburban area that the only way the clause could be enforced was by a complete stoppage of film-supplies to offending exhibitors. If variations were permitted in special cases, the onus of enforcing the minimum on exhibitors in the district who were not granted the concession would be on the renter, and this would inevitably lead to friction between the parties.

40. Most of the exhibitor witnesses were strongly in favour of some modification of the clause, particularly with reference to the Auckland suburban areas (see paragraphs 60 to 62 of the Appendix). An attempt was made in cross-examination of witnesses to obtain some indication of a method which would be satisfactory for application of reduced minimum to one area only without causing difficulties in respect of contracts generally, and a proposal was submitted by certain exhibiting interests in Auckland that the clause should not apply to films which were (a) released more than twelve months prior to the date of proposed exhibition; (b) sold to the exhibitor on a flat-hire basis; and (c) supplied for exhibition during the day-time or for mid-week evening screening only.

41. The deletion or modification of the clause was strongly opposed by Mr. W. R. Kemball, jun., on behalf of Kemball Theatres, Ltd., and Mr. Beaumont Smith, for Williamson Picture Corp., Ltd., both of whom expressed the opinion that the deletion of the clause would inevitably result in a price war. Mr. Beaumont Smith submitted an alternative proposal that the clause should be retained, but that an arrangement should be made under which registered unemployed and their families should be admitted to all theatres on certain specified days at half minimum rates. It was admitted in cross-examination that there would be difficulty in the application of the system owing to the possible misuse of identification cards, and that it would be difficult to arrange for similar concessions to many other persons in financial circumstances similar to those of the registered unemployed. It also appears to the Committee that the proposal would open the door to general breach of the minimum-price clause by exhibitors, owing to the difficulty of checking whether persons admitted at the lower rate were genuinely entitled to the concession.

42. On behalf of the Auckland suburban exhibitors, Mr. H. Hayward, who was a pioneer of the industry in New Zealand, and who at present operates a small chain of suburban theatres in Auckland, strongly advocated the complete deletion of the clause. He stated that it was a general practice in the Auckland suburbs to run "guest" nights (Appendix, paragraph 61) on one night a week, the necessary films being obtained from non-association renters. Figures were produced for several theatres showing that the number of persons admitted on the "guest night" was greater than the aggregate admissions on the other nights of the week when a 1s. minimum was charged. His general view was that a reduction of the price below 1s. would result, particularly in the cities, in a market being reached which was not at present available to the industry, since many persons apart from the unemployed could not afford regular payments of even 1s., and the tendency was for those people to stay away altogether, and to lose interest in the films.

43. It was stated in evidence that, as far as could be ascertained, Australia and New Zealand were the only countries in which a standard minimum admission charge was provided for in the film contracts, and that this charge was considerably higher than the lowest admission prices in United States of America and Canada (10 cents = 5d.) and in England (3d. plus tax 1d. = 4d.). It was also pointed out that the minimum charge was not a compulsory one, and that many exhibitors, particularly in country towns, where the possible attendance was limited, still charge a minimum of 1s. 6d., as it had been found that a lower charge was not economic.

44. With regard to the question of price-cutting, it was shown in evidence that at the time the clause was introduced differential minimum-price admissions were in operation in city and suburban theatres, the principal city theatres having a minimum of 1s. 6d., and the suburban theatres of 1s. The minimum in the principal theatres was not reduced to 1s. until the effect of the depression and the wages cut had been evidenced in city theatre business. It was also pointed out that no serious price wars had been experienced prior to the insertion of the clause in the contracts. An interesting sidelight on the effects of the depression was given by the evidence with regard to this clause. It was stated that exhibitors had noted that individual patrons who previously patronized the 3s. 3d. and 2s. 9d. seats now patronized the 2s. 2d. and 1s. 6d. seats, and the previous patrons of these latter sections of the theatre are now found in the minimum price 1s. seats. It had also been found necessary to increase the number of seats available at the minimum price to meet the demand, and to reduce the maximum prices in most of the theatres.

45. The Committee is of opinion that the 1s. minimum should not be universally applied. It is recommended that in the standard form of contract to be drawn up in terms of the Committee's recommendation in regard to Order of Reference No. (1), a clause should be inserted providing for a minimum admission charge of 6d. The Committee sees no objection to a higher minimum price being charged for the better-grade pictures (specials, road-shows, or floaters—see Appendix, paragraphs 19 and 27) or for not exceeding 50 per cent. of the films rented to any exhibitor on a percentage basis, provided such differentiation in charges provided in the contract-form is jointly approved by the renters' and exhibitors' organizations. In the event of the parties failing to agree it is recommended that the minimum be reduced to 6d. without qualification.

ORDER OF REFERENCE No. (7) :—

Whether any restriction on the erection or licensing of additional theatres or in those already existing is desirable in the interests of the industry or in the public interest to prevent economic waste.

46. The Committee has approached this problem with a realization that restrictions or control on the commercial side of the industry would not be warranted unless it could be very clearly shown that a condition of competition either had been reached or was likely to be reached such as would have a serious effect on the public interest, the industry, the capital invested therein, and the taxation Departments of State. It would also have to be shown that the consuming public either was not greatly advantaged by the additional competition or was reasonably satisfactorily served in its absence. Alternative or contributory reasons for imposing control would be either that a harmful monopoly existed or that the extension of competition might, by the elimination of weakly units in the industry, tend to create such monopoly. The Committee has taken as a basis for its consideration the principle that monopoly under proper safeguards is not necessarily an evil, but that any restriction or control which might possibly create or in future tend towards a monopoly should be carefully safeguarded to conserve the public interest.

47. The Government has taken restrictive action with respect to a number of industries. Two of these—transport and freezing—were considered by the Committee to be more analogous to the picture-theatre industry than ordinary merchandising businesses, since in each case a service and not goods is sold to the consuming public. It is noted that in the case of the transport industry control was deemed necessary almost entirely to prevent uneconomic competition, while in the case of the freezing industry there was the added factor of possible monopolistic control. In the service industries the expenditure is substantially confined to operating and overhead costs, and these remain practically the same irrespective of whether the service is utilized by the public to the full capacity or to only a fraction of it, and the unutilized service has no value. Such industries normally operate with buildings

and plant of special character which are not easily adaptable for other purposes, so that in the event of failure the realization value of the assets is relatively small. They are in clear contrast with the merchandising industries where the principal cost is the purchase of the goods sold, while the unsold goods have a definite reclamation value, and the premises and plant are usually adaptable for other purposes.

48. With respect to the picture-exhibition industry, it should also be noted that this service is carried on by means of a limited number of films of which a still more limited number are of high exhibition value, and that the quality rather than the number of films screened is the major factor in the success of the theatre business. In view of the limited film supply, the possibility of domination by large interests with extensive buying-power is greater than in most other industries.

49. The evidence before the Committee shows that during the greater part of 1929 and 1930 conditions in the industry were extremely prosperous, largely as a result of the introduction of the sound picture and a practical monopoly by it of the entertainment field. Prices for theatre-seats had been increased, and the general expansion of the business appeared to warrant the building of the additional theatres referred to in paragraph 37 of the Appendix. With the waning of the novelty of the talking-picture and the advent of wages cuts and reduction in income due to the depression, theatre attendances fell away rapidly, and it is estimated that at the end of 1931 the gross theatre receipts had fallen to approximately the same level as in the days of silent films. This is confirmed by the renters' receipts for 1931-32 shown in the return from the Commissioner of Taxes in paragraph 28 above. These receipts were spread over the additional number of theatres with the natural result that business became in a large measure unprofitable under the economic and competitive conditions existing. A merger of the principal theatre-operating companies followed, it being in most cases of a loose and more or less temporary nature (see Appendix, paragraphs 40 to 42), and had for its object firstly a reduction of running-costs and secondly the elimination of competition for the film-supplies available.

50. It was stated in evidence that the result of the cessation of competitive conditions was to make trading profitable in a number of towns where it had previously been carried on at a loss, and in a number of instances (such as Nelson, Timaru, Palmerston North, Masterton, and Invercargill) theatres were either closed down or operated only part-time. It does not appear to the Committee that the consuming public has so far suffered to any extent by the limited reduction in the number of pictures screened. It is clear from the evidence that there are not more than a hundred and fifty to two hundred pictures in all which are of sufficient entertainment-value to attract large audiences, and the number of pictures screened in a town is not necessarily any measure of the value of the entertainment given to the public. If the operator of a theatre could select the best pictures from all the services it would be possible to screen practically all the first-class attractions by a tri-weekly change of programme, which is the usual practice in smaller country towns. It should be noted that the effect of the combination of interests referred to, was to increase the buying-power of the combined organizations so as in large measure to obtain this power of selection.

51. In so far as the merger was intended to reduce costs it was a normal and prudent business procedure, but the danger of such a combination under the limited-film-supply conditions which exist in this industry is that it may result in an abuse of the buying-power so obtained. There is evidence before the Committee that this did in fact occur to some extent. Definite evidence was given that in at least one instance approaches were made to an independent exhibitor by Mr. W. R. Kemball, sen., a member of the combined interests, on lines practically identical with those set out in paragraph 73 of the Appendix. The substance of the allegations made was, at the request of both the witness and the Committee, communicated by counsel to Mr. Kemball, and the Committee also requested him by telegram to attend and give evidence. As the opportunity to give evidence was declined, the Committee has no option but to accept the statement referred to at its face value. Witnesses were also examined with respect to several other cases of alleged intimidation of independent exhibitors, but the evidence was contradictory, and as in most cases the exhibitors concerned have either sold out their businesses to, or become associated with, one or other of the merger interests, it was not to be expected that conclusive evidence would be obtainable.

52. The position preceding the imposition of the Board of Trade (Cinematograph Film) Regulations under which control of theatre licenses was established, is set out in paragraphs 67 to 77 of the Appendix and the Committee heard evidence from most of the interests which either advocated or opposed the regulations at the time. It has carefully studied the regulations themselves, and has perused the Departmental files concerning the making of the regulations, and their subsequent administration. It is worthy of mention that, with the exception of Amalgamated Theatres, Ltd., all the exhibiting interests which formerly opposed the regulations now advocate the adoption of some form of control of licenses to prevent uneconomic competition.

53. The Committee, after considering this evidence and that heard during the inquiry, is of opinion that the Government had ample justification for making regulations under the Board of Trade Act, and, further, that it would have been in the interests both of the exhibition side of the industry and the investing public if the regulations had continued in force. It does not appear to the Committee that theatre-goers have been affected by their operation to any appreciable extent. From the criticism which has been directed to the Government action it is evident that there has been considerable misconception both with respect to the purpose and effect of the regulations. It has apparently been assumed that the regulations would in a considerable measure prohibit theatre-building, but the Departmental files show that of twenty-four applications for licenses made during the period the regulations were in force only two (Morrinsville and Rotorua) were refused. The wording of the regulation is as follows:—

“Whenever the Minister is satisfied—

“(a) That any locality has within it one or more cinematograph theatres where public exhibitions of films are given by an exhibitor or exhibitors licensed under the Cinematograph Films Act, 1928, so as to provide adequately for the normal requirements of the locality, having regard to the quality of film exhibited, the theatre accommodation provided, the prices charged for admission, and any other relevant considerations; and either

“(b) That, in view of the conditions existing in the industry and the limited number of films of reasonable exhibition value obtainable in the market, the opening of any additional cinematograph theatre or theatres in the locality would cause undue hardship to such licensed exhibitor or exhibitors; or

“(c) That the erection of an additional cinematograph theatre or theatres in the locality would be likely to result in an unreasonable economic waste—

“the Minister may direct the officers appointed to receive applications for and to issue such licenses that no exhibitor's license under the Cinematograph Films Act, 1928, shall be issued in respect of any theatre in such locality except the theatre or theatres in respect of which such licenses have been issued prior to the Minister's direction.”

54. When an application for license was received the method of procedure was that inquiries were made by an accountant officer of the Department of Industries and Commerce on the following matters :—

In respect of Existing Theatres :—

- (1) Number of theatres in city, town, or district.
- (2) Population of city, town, or district served by such theatre or theatres.
- (3) Organization of the owner or the licensee of the theatre (whether company, sole trader, &c.), also whether the theatre is controlled by an organization owning or leasing theatres in other districts or centres. Nature of such organization, directors, &c.
- (4) Investigation into financial results. Profit and Loss Accounts and Balance-sheet for last financial period (if of recent date). If not of recent date the information to be specially compiled. In addition it will be necessary to obtain the financial results of, say, past two or three years when more normal conditions prevailed.
- (5) Prices of admission.
- (6) Attendance at each theatre on a weekly basis for the past two years. Seating capacity of each theatre.
- (7) Methods of hiring film—(a) Fixed rate; (b) percentage on box-office receipts; (c) other (in some cases a combination of the above two); (d) names of film exchanges from whom films are hired.
- (8) Number of days in week in which theatre is open for business and number of sessions per day.

In respect of Application for the Issue of a New License :—

- (1) Name and address of applicant.
- (2) Organization of the owner or the proposed licensee of the proposed theatre (whether company, sole trader, &c.), also whether the theatre is controlled by or affiliated with an organization owning or leasing theatres in other districts or centres. Nature of such organization, directors, &c.
- (3) Cost of new buildings, plant, equipment, &c., or cost of renovating existing buildings.
- (4) Seating capacity, proposed number of weekly sessions, and proposed charges for admission.
- (5) Is any lease of this theatre in force or contemplated, and, if so, to whom?
- (6) Whether previous licenses were issued other than those current at the time of the investigation, and, if so, the reason for the lapse or non-renewal.
- (7) Other information which in your opinion would be of assistance to the Department in arriving at a decision.

The investigating officer was instructed to state the facts only, and not to submit any recommendations. The officer's report and a similar report from the Chief Inspector under the Cinematograph Films Act, 1928, was then submitted to Mr. E. Page, S.M., who, as Chairman of the Advisory Committee under the Cinematograph Films Act, had a good general knowledge of the industry. Copies of the reports other than the confidential sections were forwarded by Mr. Page to both the applicant and the interests opposing the license, with a request that they submit any further information they considered proper. The replies were further considered by Mr. Page and a recommendation made to the Minister as to the action to be taken. The files show that this recommendation was followed by the Minister in every instance.

55. The regulations are open to the criticism that the decision with respect to the issue of the license should preferably be left to an independent tribunal rather than to the Minister, but it will be seen that the latter, by administrative action, took the necessary measures to see that the decision which the form of the regulations required him to make, was the result of full consideration of each case by a judicial officer.

56. In preparing this report the Committee has assumed that, since the regulations under the Board of Trade Act were declared *ultra vires*, special legislation would be necessary before any further control can be imposed. The facts disclosed in the inquiry with respect to the economic position created by the erection of a large number of theatres during the last two years, and the applications in hand, have given the Committee some concern, and it is considered desirable in the interests of the investing public to set them out for general information.

57. The development of the Williamson interests which occurred in 1929–31 (see Appendix, paragraphs 35 to 36) is at present being duplicated by the Amalgamated Theatres, Ltd., of Auckland, who early in 1932 commenced an expansion programme having as its object the representation of the company by theatres in the other cities and in most of the large towns. The company is operating under two advantages as compared with the previously existing theatres. In the first place a single-floor (stadium) type of theatre has recently been developed which is much less expensive to erect, and is probably more suitable for mechanical sound-reproduction, than many of the older gallery type of theatres. It is also possible to adapt existing buildings for this type of construction. In the second

place, building-costs have been decreased very greatly owing to the depression. As a result of these factors the company's average rental per theatre will probably be considerably lower than that of the merger interests.

58. It has been stated above that the effect of the depression was to reduce theatre receipts considerably, and this is confirmed by the statement of gross rentals prepared by the Commissioner of Taxes. Information submitted to the Committee indicates that at the present time the renters' share of the gross theatre takings is lower than in 1929-30, but on a conservative estimate will still average at least 25 per cent. of the latter. The following table prepared on this basis shows the estimated theatre takings for the past four years. The renters' receipts for 1931-32 and 1932-33 are the Commissioner's figures, and those for 1933-34 are based on the return for ten months. No definite figures are available for 1930-31, and the estimate shown is based on the film-hire tax return for nine months, together with a consideration of the facts stated in paragraph 107 of the Appendix that for the first six months of 1930 the renters' receipts were approximately £300,000 :—

							Renters' Gross Receipts.	Estimated Gross Theatre Takings.
							£	£
1930-31	..	..	..	..	..	..	500,000	1,750,000
1931-32	..	..	..	..	..	..	321,132	1,284,528
1932-33	..	..	..	..	..	..	282,906	1,131,624
1933-34	..	..	..	..	..	..	272,015	1,088,060

59. The theatre takings for 1929-30 would probably exceed those for 1930-31, and as stated previously the theatre-building programme of 1929-31 referred to above was apparently justified by the prosperity of the industry at the time. It will be seen from paragraph 39 of the Appendix that despite this fact the three principal theatre companies then operating were in financial difficulties when the merger of interests took place. The further decrease in gross theatre receipts during the last two years does not indicate any justification for an extensive building programme.

60. In order to show the expansion of the business during 1932 and 1933, the following statement has been prepared showing towns in respect of which application for additional licenses have been received :—

Amalgamated Theatres, Ltd.—

(²)Dunedin.
(²)Dunedin
(¹)Gisborne.
(¹)Hamilton.
(¹)Hastings.
(⁶)Herne Bay, Auckland.
(²)Invercargill.
(²)Onehunga.
(¹)Palmerston North.
(¹)Napier.
(¹)Wellington.

Merger Interests—

(¹)Hastings.
(²)Hector.
(¹)Lower Hutt.
(¹)Stratford.

Kerridge Interests—

(²)Gisborne.
(⁶)Rotorua.
(²)Tauranga.
(¹)Thames.
(²)Te Aroha.

Independents—

(³)Parnell, Auckland.
(³)Christchurch (Civic).
(³)Greenmeadows.
(³)Orepuki.
(¹)Taradale.
(¹)Tuatapere.

Since January of this year, when the appendix was written, the following applications have been received :—

Amalgamated Theatres, Ltd.—

(⁶)Ashburton.
(⁶)Blenheim.
(⁴)Christchurch.
(⁴)Christchurch.
(⁶)Dannevirke.
(¹)Devonport, Auckland.
(⁴)Dominion Road, Auckland.
(⁶)Greymouth.
(⁶)Hawera.
(⁶)Masterton.
(⁶)Nelson.
(⁴)New Plymouth.
(⁶)Oamaru.
(¹)Te Kuiti.
(⁶)Timaru.
(³)Wairoa.
(¹)Wellington.
(⁶)Westport.

Merger Interests—

(³)Ashburton (His Majesty's).
(³)Auckland (His Majesty's).
(⁶)Auckland, Devonport.
(⁴)Auckland, Dominion Road.
(⁴)Auckland, Great South Road.
(⁴)Auckland, Greenwood's Corner.
(¹)Auckland, Mt. Eden.
(⁶)Auckland, Newmarket.
(⁴)Auckland, Remuera.
(⁶)Berhampore, Wellington.
(⁴)Christchurch.
(⁴)Christchurch.
(⁶)Dunedin.
(⁴)Greymouth.
(⁴)Hawera.
(³)Oamaru (Opera House).
(³)Palmerston North (De Luxe).
(³)Petone (Empire).
(⁴)Riccanton (Christchurch).
(⁴)Rotorua.
(⁶)Napier.
(³)Nelson (Empire).

Merger Interests—continued.

(⁴)New Plymouth.
(³)New Plymouth (Empire).
(⁴)Sydenham (Christchurch).
(⁴)Wellington.
(⁶)Wellington.
(⁶)Westport.
(⁴)Woolston (Christchurch).

Independents—

(⁴)Auckland, Herne Bay.
(⁶)Christchurch.
(⁴)Dunedin.
(³)Glen Eden.
(³) and (⁴)Invercargill.
(⁴)Morrinsville.
(³) and (⁵)Nelson.
(⁴)Oamaru.
(⁶)Ohakune Junction.
(³)Ratana Pah.
(⁵)Ruatoria.
(⁶)Te Kuiti.
(³)Wellington, Rintoul Street (Star).

(¹)New theatre built or building. (²)Existing theatre reconstructed. (³)Existing theatre. (⁴)Application with draft plans. (⁵)Final plans approved. (⁶)Application only for new theatre.

61. It will be seen from the list of theatres in paragraph 43 of the Appendix that the expansion of Amalgamated Theatres' business will mainly affect the Fuller, Fuller-Hayward, Kemball, and Williamson interests, and the above lists contain evidence of a retaliatory building policy on the part of these interests. It is also indicated that both chain-theatre groups and independent exhibitors have forwarded applications for license in advance of completion of arrangements, with the evident object of obtaining authority for the issue of the license prior to the taking of any action which the Committee might recommend in the direction of limitation of licenses.

62. If the question were simply one of one major interest against another, it would probably be safe to leave the trouble to cure itself. This, however, is not the case. With the exception of John Fuller and Sons, Ltd., who own one theatre in each of the main cities, none of the chain-theatre interests own even the major proportion of the theatres which they operate, and the total capital invested by all the chain-theatre interests together represents only a fraction of that involved in the business. The reason for this is explained in paragraph 70 of the Appendix. Most of the theatres are either owned by individuals or small companies, or are erected by companies with small capital and financed by debentures or bank overdraft. The theatres are leased to the operating companies, and the owners have no say on any policy matter, such as the expansion which is now going on, although this may be disastrous to their interests.

63. It appears to the Committee that the result of such an extensive building programme imposed on a market showing falling receipts cannot be successful so far as the industry as a whole is concerned, and one of the following alternatives will probably result :—

- (a) The competition will be carried on until a further merger between the present existing competitive interests takes place. This would probably result in a further cycle of lower percentage returns to the renters owing to absence of competition for film-supplies, possibly followed by the entry of still another competitor into the New Zealand market in opposition to the enlarged merger. The returns to the theatre investor would in any case be lower, and in view of the increased overhead, price concessions to the theatre-going public would be unlikely.
- (b) One or more of the larger exhibiting interests may get into irretrievable financial difficulties. In such case there is a serious possibility that the theatres themselves or the operating business or both may be acquired by overseas interests, with serious repercussions in the industry, as happened in Australia when the Fox Film Corp. acquired the control of Hoyt's theatre circuit.
- (c) That a financial position may arise under which it will not be possible for the industry to pay the interest costs on theatres proved by experience not to be required. In such case the individual investors will probably be heavy losers, since experience has shown that it is very difficult to adapt theatres for other purposes owing to their specialized type of construction.

64. The Committee has dealt at some length with this question because it was considered that investors should have some warning of the conditions existing in an industry which is, generally speaking, little understood by the public. It is also desired to call attention to the fact that if the recommendations of the Committee under Order of Reference No. (4) are given effect to, there will not be the same interest or inducement for the secondary concerns to branch out into competition with the major theatre interests in order to obtain film-supplies, since they should receive a fair measure of protection by reason of the provisions recommended. The Committee also desires to point out that the reduction of the minimum price of admission to theatres recommended under Order of Reference No. (6) may have a very definite effect on the competitive situation.

65. While the Committee is doubtful whether the position may not have got out of control, it recommends that in the amending legislation proposed in this report there should be included provision to enable the Government to impose control of licensing of theatres should it be found that conditions existing at any time render this advisable. It is further recommended that this provision in addition to specifying the conditions set out in the Board of Trade (Cinematograph Film) Regulations should also provide—

- (a) For the exercise of the control on the basis adopted under the Board of Trade (Cinematograph Film) regulations :
- (b) For reasonable protection to be accorded both owners and lessees of theatres in areas where licenses are refused :
- (c) That the licensing authority should have the power to require a licensee in any situation where a license has been refused to maintain reasonable conditions in the public interest particularly with respect to the class of films exhibited and the prices of admission (see paragraphs 39 to 45 of this report) :
- (d) That the decision with respect to the issue of the license should be made by a Magistrate, assisted by an assessor representing the applicant, and one representing the interests opposing the application, and that on refusal of a license a fresh application should not be considered within one year :
- (e) That the costs of the deciding authority should in the case of a successful application be borne by the applicant, and in the case of an unsuccessful one, be equally divided between the applicant and the owners of existing theatres in the area.

ORDER OF REFERENCE No. (8):—

Whether any amendments are desirable in the present provisions of the Cinematograph Films Act or Regulations.

66. *Censorship.*—Representations were made by representatives of the headmasters of the New Zealand secondary schools and allied organizations, evidence being given by Mr. Noel Gibson, Secretary of the Auckland Committee, on behalf of the deputation. Lengthy written evidence was also submitted by Mrs. Marion C. Algic. The substance of the case presented was that many films were at present approved which in the opinion of the deputation should have been either rejected or amended. It was stated that from inquiries made the deputation was of opinion that the trouble was very largely due to the present constitution of the Appeal Board, and a suggestion was made that the latter be reconstituted with a Stipendiary Magistrate as Chairman, and two members consisting of an educationist of experience, and one other person nominated by the Chief Justice. The deputation also called attention to what were considered defects in the censorship of posters, and to the failure, which was admitted to be only an occasional one, of exhibitors to notify the nature of the Censor's certificate in newspaper advertising.

67. After hearing the evidence from the Censor of Films and considering statements and reports of inquiries into the effect of films on juveniles, prepared in England, the Committee is of opinion that the representations have been made without due appreciation of the difficulties of censorship. The Committee is of opinion that censorship by a single Censor as in New Zealand is preferable to the operation of a Censorship Board. It is noted that under the arrangement at present existing there is an Assistant Censor in constant touch with the work, this officer acting on one day per week as responsible censor, and on a second day as associate. This ensures continuity of policy. The Censor indicates in his certificate the type of picture—whether suitable for adult audiences only or for universal exhibition—and the regulations require the exhibitor to publish the nature of the certificate in every newspaper advertisement. The question then becomes one of parental control. The Committee is of opinion that the censorship of films is at present carried out in a very satisfactory manner. As a matter of interest it is noted that the evidence given by exhibitors shows that as a general rule the pictures which have the best box-office results are those of a clean and wholesome type.

68. With regard to the censorship of posters, the Committee was shown samples of posters and press advertising matter which had been rejected by the Censor, and is satisfied that this section of the work has also been satisfactorily carried out. With respect to the Censorship Appeal Board, the Committee does not propose to make any recommendation as to the constitution of the Board, but is of opinion that the appointment of members should be made for a definite period only, so that the question of personnel will automatically come up for review from time to time.

69. *Film Societies.*—Representations were made to the Committee by the Film Societies of New Zealand, evidence being given by Mr. James Tucker, Chairman of the Management Committee of the Wellington Film Society, and Professor T. A. Hunter, President of the Society. It was represented to the Committee that film societies were composed of persons interested in the artistic, cultural, and technical aspects of film-production rather than with the entertainment-value of the picture. The societies were hampered in their operations owing to the fact that a considerable proportion of the films screened were specially imported under a circuit system operating with the other film societies of the Empire. In the event of rejection of a film by the Censor, the societies would be put to very considerable expense, to meet which they had no finance available. It was represented that at the time the Cinematograph Films Act, 1928, was framed the Act did not contemplate the formation of these societies. It asked that the Act should be amended to permit of the exhibition, to approved film societies only, of films which have not been approved by the Censor. The witnesses suggested that the Minister in Charge should have power to exempt a film society from the censorship provisions of the Cinematograph Films Act, by the issue of special licenses renewable annually, if the Minister is satisfied—

- (1) That the society making the application is representative of educational and repertory, literary, cultural, and scientific sections of the community making application :
- (2) That such society is incorporated under the Incorporated Societies Act, and that it undertakes at least six two-hour exhibitions per annum :
- (3) That the films exhibited by such society will be chosen from those that have passed the London County Council either for film society or general exhibition.

70. The Committee is of opinion that there is no reasonable objection to members of a film society, constituted as proposed, attending the exhibition of films which might not be suitable for general audiences as a public entertainment. It is recommended that provision be made as desired by the film societies subject to the further provision that membership of the society and attendance at its film exhibitions be limited to persons over the age of eighteen years. It is also recommended that arrangements should be made that the Censor should examine all films screened by the film societies and report thereon to the Minister.

ORDER OF REFERENCE No. (9):—

Whether any provision is desirable for setting up a Board or Committee for internal control of the industry, and the settlement of difficulties which may arise as between renter and exhibitor, also the constitution of such Board and whether Government representation is desirable.

71. The Committee is of opinion that if a suitable arbitration clause is inserted in the film-renting contracts as recommended under Order of Reference No. (1) there would be no necessity for the setting-up of a Board or Committee for internal control of the industry. It is recommended that the Advisory Committee authorized in section 41 of the Cinematograph Films Act, 1928, be reconstituted on the lines of that previously existing, and that all legislation proposed in terms of this report be submitted to that Committee for consideration and report to the Minister.

SUMMARY OF RECOMMENDATIONS.

72. The following is a summary of the recommendations of the Committee :—

- (1) That it be made a condition of the issue of a renter's license under the Cinematograph Films Act, 1928, that the licensee shall use for his business only such standard form of contract as may be approved by the Minister, such approval to be given in any case for a period of not more than two years.
- (2) That no film-renting contract shall be approved by the Minister which provides for a higher minimum charge than 6d. for admission to a picture-theatre, except under the conditions recommended in paragraph 45 of this memorandum, and that before approval of any contract-form by the Minister consideration shall be given to a report of the Advisory Committee under the Cinematograph Films Act, 1928, with respect to such contract-form, and to the references in paragraphs 12 to 23 of this report.
- (3) That consideration be given by the Government to the amendment of section 40 of the Cinematograph Films Act, 1928, by the deletion of the words "not less than".
- (4) That section 39 of the Cinematograph Films Act, 1928, and section 50 of the Finance Act, 1930, be repealed and that in lieu thereof statutory provision be made for a right of rejection by the exhibitor of 25 per cent. of all films "block booked"—a "block" to be defined as not less than four films which are the subject-matter of one or more contracts between a renter and an exhibitor, entered into at the same time, or in respect of films acquired by the renter in any year or film-renting season, with the proviso that such statutory right of rejection shall be included in and not be additional to any rights of rejection provided in the written terms of the contract or contracts.
- (5) That statutory provision be made for the prevention of monopoly of film-supplies as recommended in paragraph 37 of this report.
- (6) That provision be made for the control of the issue of licenses for picture-theatres, subject to the recommendations contained in paragraph 65 of this report.
- (7) That the Cinematograph Films Act, 1928, be amended to permit of the exhibition by film societies of films which have not been approved by the Censor, subject to the conditions recommended in paragraph 70 of this report.
- (8) That the technical details of legislation recommended in this report be submitted to an Advisory Committee appointed under section 41 of the Cinematograph Films Act, 1928, for consideration and report to the Minister.

THANKS.

73. The Committee wishes to record its very great appreciation of the assistance rendered to it in the course of its work by its Chairman, Mr. A. Harris, whose tact, ability, and helpfulness greatly facilitated the work of the Committee.

It also desires to express its sincere thanks to the departmental officers attached to the Committee, Messrs. R. Girling-Butcher and F. Johnson, for valuable assistance rendered in connection with the inquiry. The memorandum prepared by Mr. Girling-Butcher and circulated amongst the members prior to sittings of the Committee was most helpful, and showed a wide knowledge of both the technical and business sides of the industry. To both those officers the thanks of the Committee is specially due.

The Committee also desires to thank Mr. R. E. Kemp, Secretary to the Committee. His duties have been of an exacting and arduous nature, carried out in an efficient and praiseworthy manner.

Counsel and representatives of the trade interests and witnesses have been uniformly helpful, thus adding materially to the harmonious relationship existing throughout the inquiry. To those also the thanks of the Committee are recorded.

23rd April, 1934.

(Signed) ALEXR. HARRIS (Chairman).

A. E. ANSELL.

P. A. DE LA PERRELLE.

P. McSKIMMING.

C. A. WILKINSON.

ALEC. D. McLEOD.

JOHN G. COBBE.

H. HOLLAND.

D. G. SULLIVAN.

JOHN A. LEE.

APPENDIX.

MEMORANDUM EXPLAINING THE OPERATION OF THE FILM INDUSTRY AND THE NATURE AND EFFECT OF THE CONTROLLING LEGISLATION.

Office of the Chief Inspector under the Cinematograph Films Act, 24th January, 1934.

1. This industry operates on somewhat unusual lines not directly comparable with those of most other businesses, and in order to get a clear understanding of the position it is necessary to know something of the inter-relation of the three sections of the industry—the producer who makes the film, the renter who distributes it, and the exhibitor who screens it to the public in the theatre. In this memorandum an attempt has been made to set out as concisely as possible the functions of these sections, and also to explain the principal provisions of the Cinematograph Films Act under which the industry operates. In view of the proposed inquiry into the industry, special reference has been made to the matters which are likely to come up for consideration.

A. THE PRODUCER.

War-time Development of Film-production.

2. Before the war most of the pictures shown in New Zealand were produced in Great Britain and on the Continent, although even in 1913 and 1914 the Americans were making rapid strides in the world markets. During the war years production practically ceased in other countries, and the American producers assisted in the early stages by the highly skilled technicians set free by the closing of the Continental studios, had a complete monopoly of the film-production industry.

3. This monopoly was strengthened by the change which was taking place in the industry itself. By the end of the war the short 1,000 ft. to 3,000 ft. pictures which formed the programme in the early years had given place to the "feature," or long-story picture, which now formed the main portion of every programme—the short pictures being only regarded as "supports" of comparatively little exhibition value. The buoyant revenues of the war period enabled the American producers to build up their capital and establish their industry on a scale previously undreamt of. Large salaries were paid to authors, directors, and actors, and enormous sums spent on both the production side (in the setting, dresses, &c.) and on advertising.

Control of Theatres.

4. The strength of the American producers' position was still further increased by the developments which took place on the exhibition side of the industry in America. The surplus profits of the war years were used through subsidiary companies in building or buying up control of all the principal theatres in "key" cities in America and Canada, until by 1919 the American major producing companies controlled not only the production, but the renting and exhibition of films as well throughout America.

5. This policy was gradually being extended to other countries and it is not to be wondered at that during the immediate post-war years the British and Continental film producers made little progress. They were faced with the problem of re-entering a business which had developed in technique to such an extent as to be practically a new industry. The American market, which was by itself sufficient to pay the American producers' costs, was closed to them, and the American control of many foreign theatres meant that even in their national market their operations were restricted.

Legislation.

6. This position was recognized with some concern by the British and Continental Governments. It was realized that in addition to the fact that the American control meant that the trade was a one-sided one, it was desirable on general grounds, and apart from purely financial considerations, to encourage a national film industry. Legislation to encourage local film-production was passed in several continental countries, and the matter was considered at the 1926 Imperial Conference at which the quota principle was approved. The British Cinematograph Films Act, which was passed in 1927, provides that the renter shall "acquire" for purposes of renting and the exhibitor shall exhibit, a proportion of British films increasing from 5 per cent to 20 per cent. over a period of years. The corresponding New Zealand Act, which was passed in 1928, will be considered later in this memorandum.

"Talking" Pictures.

7. The immediate effect of the British Act was to give a very considerable impetus to British film-production, but to what extent it would have been permanently effective cannot now be determined, as the whole position in the production field was completely altered by the introduction of the "sound" (talking) picture in 1928. This class of picture and the necessary reproduction equipment was perfected in America, and that country naturally received the benefit of the high rentals obtainable in foreign countries while "sound" was a novelty. The sound picture has the disadvantage as compared with the silent film of an appeal limited to a great extent to peoples speaking one language, and to a lesser extent one dialect of the language. The speech of the early American "talkies," for instance, was so definitely American in intonation and character that after the novelty had worn off these films met with adverse comment from British audiences.

Effect on British Industry.

8. There were therefore several factors now working to assist British production. Firstly, the quota legislation was in force; secondly, the public preferred English speech; and, thirdly, it was possible to produce acceptable sound pictures at a cost lower than the American product and within the means of the larger British producing companies. The result of the operation of these influences is illustrated by the position in New Zealand where the proportion of British films receiving general "release" has risen from about 5 per cent. in 1928, to an estimated proportion of 36 per cent. for 1934 (see paragraph 17).

Present-day American Production.

9. Despite the advance of the British producer in recent years both with respect to the number and exhibition value of the pictures made, the American producer has been and still is an essential if not the all-important factor in the industry in British countries. About 75 to 80 per cent. of American films are made by one or other of what are known as the seven "major" producers—viz., Paramount (late Famous Players-Lasky), Fox, Metro-Goldwyn-Mayer, Warner Bros.-First National, Universal, R.K.O., and United Artists. These companies each produce on the average about forty-five feature films every year, and, in addition, the news gazettes, comedies, cartoons, and other short films which make up the balance of the ordinary theatre programme.

10. Their films are distributed or "rented" in America and most other countries by subsidiary companies which are in effect branches of the producing concerns (see corresponding renters in paragraph 17); and, in addition, most of them control through other subsidiary companies chains of theatres in America and other countries. The pictures made by the minor American producers (the leading company—Columbia—is rapidly approaching the status of a "major" producer) are mostly distributed in the markets outside the United States of America by independent renting companies with local capital (in New Zealand, Greater Australasian Films and Celebrity Films), and in a few cases the major producing companies buy the foreign rights of individual pictures and distribute them under their own trade-mark.

British Film Production.

11. In Great Britain most of the pictures produced are made by companies independent of the American producers. The two largest concerns are British International Pictures (Elstree), and Gaumont-Gainsborough (Shepherds Bush and Islington). Both are affiliated with extensive chains of theatres in Britain (British International Pictures with Associated British Cinemas, and Gaumont-Gainsborough with the Gaumont Theatres), and both produce sufficient films to constitute what is known as a "service"—i.e., sufficient film to supply weekly screenings for an exhibitor over the major part of the year.

12. In addition to these two principal producers, there are a number of smaller companies which operate film studios, including British and Dominions (Boreham Wood), Associated Talking Pictures (Ealing), Twickenham Films (Middlesex), Warner Bros.-First National (Teddington), British Instructional (Welwyn), British Lion (Beaconsfield), Nettlefolds (Walton-on-Thames), and Sound City (Shepperton). All the above firms produce feature pictures of average or better quality, and, in addition, there are several producing companies such as London Film Productions, Sterling, Windsor, Welsh-Pearson, Ideal, and Pro Patria, which produce pictures in one or other of the studios mentioned.

"Quota" Films.

13. In addition to the feature pictures produced by the companies referred to above there are also produced in Britain a considerable number of what are known in the trade as "quota" pictures. As stated above, the British Act requires all renters to "acquire" in each year a definite proportion of British films, and in order to provide nominal compliance with this obligation many of the American renters make arrangements with the smaller British companies to make the cheapest films which can be produced, the usual basis of cost being in the vicinity of £1 per foot. These films have naturally very little exhibition value even in Britain, where there are large industrial centres where certain types of cheap comedy film have an appeal, and where double-feature programmes are usually screened and it is possible for a good feature film to "carry" with it one of considerably less value. Many of these films are not even released, but kept on the renters' shelves, and they are quite unsuitable for the New Zealand market, where single-feature programmes are mostly shown and mixed audiences are the rule.

Present Position with respect to British Act.

14. The reasons for this American action are, of course, in the main economic, in that it pays the American companies to obtain the maximum revenue possible from their home productions rather than to purchase high-class British films, but it is probably not taken without some realization of the tendency for crude pictures of this type to discredit British production generally. It was foreseen when the Act was under consideration that some such result was possible, but it was considered that an artificial stimulus was necessary for the reinstatement of the British production industry. It would appear from the trade press that it is the considered opinion of the major portion of all sections of the British industry that, despite such anomalies created by the "quota" requirements of the Act, the latter have been effective for the main purpose, and the continuance of the Act is still desirable, although it must be admitted that there has been some agitation for its amendment, mainly with the object of eliminating the poor-class "quota" films referred to in the preceding paragraph.

British Films in New Zealand.

15. Probably not more than two-thirds of the pictures produced in Britain are imported into New Zealand, and most of them are distributed or rented by companies having Australian or New Zealand capital. The principal exception is the Gaumont-Gainsborough service, whose pictures have been distributed in the past by British Dominion Films, Ltd., but for 1934 will be controlled by the Australian subsidiary of the Fox Co. This latter company has an extensive interest in the Gaumont chain of theatres in Britain, and the local distribution is part of an arrangement which provides for the reciprocal release of the British pictures in America. British International Pictures are distributed locally together with the productions of three of the smaller producers, by British Empire Films, Ltd., and most of the better-class productions of the other small producing companies are combined into a "service" by British Dominion Films, Ltd. (at present operating through Greater Australasian Films). Sound City films are distributed by Australia and New Zealand Pictures, and a few other British films, including some of the "quota" pictures, referred to above, by the American-owned renting companies.

Effect of Depression on Producers.

16. The British producers have on the whole weathered the world depression very satisfactorily, but the result in America has been in most cases to dissipate the bulk of the enormous paper profits made in the post-war years and during the "talkie" boom period. A number of the producing companies have been in liquidation, and most of them appear to be more or less in financial difficulties. The reduced audiences in America consequent on the depression have made the theatre chains largely unprofitable, and at the present time the whole of the American industry is in a semi-chaotic condition. Despite this fact, a reasonably high standard is being maintained in the quality of the pictures produced, and although a proportion of the British films are comparable with the best productions of any country, the technique and artistry of American pictures is generally considered to be on the whole superior to the average British film. The latter has, however, a special appeal to British audiences owing to its national spirit and associations, and is particularly successful in New Zealand.

B. THE RENTER.

Definition of Renter.

17. The renter is the intermediate link in the chain between the producer and the exhibitor. He is generally known in the trade as "the distributor" (see contract form attached), and his business is known as a "film exchange" (the trade association is called "The Film Exchanges' Association of New Zealand"). The following is a list of renting companies licensed under the Cinematograph Films Act, showing the number of British and foreign "quota" or "feature" films (i.e., long-story films exceeding 3,000 ft. and usually from 6,000 ft. to 9,000 ft. which form the principal part of the ordinary theatre programme) which were approved by the Censor during 1933, and also the number which each proposes to import (or in the language of the Act "acquire"), during the year ending 31st December, 1934. The first seven firms are owned and controlled by the corresponding American producers and the last four are companies with local capital.

Renter.	Quota Films passed by Censor during 1933.		Estimate of Quota Films to be imported during 1934.	
	British.	Foreign.	British.	Foreign.
Metro-Goldwyn-Mayer (N.Z.), Ltd. .. ..	..	43	..	40
Paramount Film Service (N.Z.), Ltd.	15	52	13	60
Fox Film Corporation (Australasia), Ltd. ..	15	48	62	50
Universal Film Manufacturing Co. (Australasia), Ltd. ..	4	32	4	36
United Artists (Australasia), Ltd.	7	10	6	21
Warner Bros.-First National Pictures (New South Wales) ..	..	45	7	36
R.K.O. Radio Pictures (Australasia), Ltd.	10	53	12	53
Celebrity Pictures Pty., Ltd. .. ..	..	16	5	25
Greater Australasian Films, Ltd.	45	39	30	36
British Empire Films, Ltd.	7	1	40	..
Australia and New Zealand Pictures, Ltd. ..	15	..	26	..
	118	339	205	357

Relations of Renter with Producer.

18. The function of the renter is practically that of agent for the producer. He almost invariably works under a contract providing for his retention as payment for his services of a percentage of the gross amount received from exhibitors for rental of the films. His percentage varies from 25 to 50 per cent., depending on the terms of the contract. In some cases it is provided that the producer pays for the film print costs (1d. to 1½d. per foot for black-and-white prints, and higher prices for coloured) and also any Customs and landing charges. In other cases these are paid by the local renting company and the percentage adjusted accordingly. In some cases the percentage retained varies with the different classes of films (specials, road-shows, &c., for which see paragraph 19).

Film Renting Season : Classification of Films.

19. The film renting or "booking" season for each year's supply usually extends from August to December of the previous year, although there is a tendency for this period to be extended. The renter supplies the exhibitor with a description of his "service" (i.e., the "feature" pictures which the producer or producers he represents propose to make during the coming year), setting out the type of story, the principal actors, the directors, the name if this has been decided on, the probable expenditure on the picture, and various other particulars. As is to be expected, the pictures made by any producer vary considerably in box-office value. Three grades are generally recognized in the trade—(a) the "programme feature," which forms the bulk of the supply or "service"; (b) the "special," which is regarded, either as result of experience on exhibition in other countries or from the renter's knowledge of the market, as being more likely to attract the public; and (c) the super-special or "road-show" (name derived from that applied to touring theatrical companies) which is the pick of the films the renter has to offer. Most pictures which are shown for more than one week in the principal city theatres are either "specials" or "road-shows." (The term "floater" is sometimes used for "road-shows," but it is more correctly applied to the pictures referred to in paragraph 27 below.)

"Block Booking."

20. It is the renter's business to get the maximum possible rental for his films. As will be seen above, he has from thirty to a hundred films to sell, and he knows, as does the exhibitor, that many of his films will not be very successful at the box office. (An estimate based on discussion with some of the leading exhibitors indicates that in the average "service" 10 per cent. of the films will be highly profitable, 15 per cent. profitable, 35 per cent. will on the average cover expenses, and on the remaining 40 per cent. there will be a definite loss). He therefore insists wherever possible that the exhibitor purchase or rent the good with the bad and either take the whole "service" or nothing. This is known as "block booking" and is general in the trade, the only variation being that some of the renters divide their "service" up into two or more blocks of seldom less than thirteen films, each containing "specials" and "programme features."

21. The principal reasons advanced by the renter for insisting on "block booking" are, firstly, that it enables him to arrange ahead the dates of screening of his pictures by the different exhibitors who have rented them, so that there will be a minimum of idle time for each picture; secondly, that it is possible to arrange for "circuits" so that the film travels from one exhibitor to another in sequence and it is not necessary to return it to the exchange after each screening; and, thirdly, that it enables his principal (the producer) to forecast more accurately his probable revenue for the coming year, and so arrange finance for the year's production.

22. From the exhibitors' point of view, the "Circuit" system saves a certain amount of freight charges, and the "block booking" arrangement has the advantage that it ensures continuity of film-supply (subject to the condition placed in the film contracts after the film-hire-tax "boycott" which provides that the renter may close up his business should the present or future taxation make this unprofitable, of which fact the renter is to be sole judge). The principal objection raised is that the "block" usually contains an undue proportion of films which, either from general lack of entertainment value or the unsuitability of the theme of the picture for New Zealand audiences (such, for instance, as "gangster" pictures, or those based on American politics, games, or University life) are unprofitable from the box-office angle. It is this objection which has led to the agitation for additional rejection rights referred to below.

"Spot Booking."

23. A few exhibitors located near the distributing centres are able to make arrangements for what is called "spot booking." In this case the exhibitor does not buy a large "block," but books one or more pictures a few weeks ahead from such films as happen to be idle on the dates when he requires them. He usually pays somewhat higher rates, but can generally secure a better average of pictures than by "block booking." It is doubtful if this system would be generally applicable under New Zealand conditions.

"Blind Booking."

24. At the time when the renting arrangements are made, particularly for the city and large town theatres, few, if any, of the films "sold" or rented are in the country, and most of them are not even made. The exhibitor therefore rents or "buys" on the faith of the representations made with respect to his "service" by the renter, and his own knowledge of the appeal which the class of pictures described will make to his theatre patrons. This is known as "blind booking" and is made necessary by the system of "block booking" enforced by the renter. It should be noted that the exhibitor is assisted to some extent in deciding which service or services to hire by his past experience with the different producer's films, and the information with respect to the production industry contained in the trade press. It will be evident, however, that the buying arrangements for film are based on very insecure foundations, and it is not to be wondered at if disputes subsequently arise between renter and exhibitor.

Financial Arrangements for Renting.

25. As a rule, the films are "sold" (rented) to the exhibitor for the larger theatres on a percentage basis, and the percentage generally varies with the class of film. A typical arrangement would be that the renter receives 20 per cent. of the gross theatre takings for "programme features," 25 per cent. for "specials" and 25 to 35 per cent. for "road shows." There is sometimes an arrangement that in the case of the two latter classes grossing more than an agreed minimum the excess is split 50/50 between renter and exhibitor.

26. A recent development of the percentage booking arrangement is what is known as the "barometer" system. Under this system the percentage paid to the renter depends not on the type of film, but on the actual box-office receipts at the theatre. Percentages from 10 to 50 per cent. are paid according as the gross receipts for the period reach certain agreed limits. In some cases, particularly in the smaller towns, a "flat" rental of so much per night or period is agreed on, and the exhibitor takes the risk of the picture's success or failure. This arrangement is also common where two feature pictures are shown on the one programme.

27. The usual arrangement is that with all "programme features" and most "specials" the renter supplies the exhibitor without charge with the "supports" or short pictures which go to make up the theatre programme. Certain News Gazettes and special short pictures are not included, and the exhibitor has to pay extra hire at flat rates for these. A special arrangement is made in the case of certain films known in the trade as "floaters." These are usually particularly good "road-show" pictures and are not included in the "block" booking arrangement (see paragraph 20), but are the subject of special contract. The picture "Cavalcade" is a typical example of this class. "Floaters" are frequently sold without supports, and the exhibitor makes arrangements to rent these separately.

Renting Contracts.

28. All film rented (or in the trade term "sold") is made the subject of a contract signed by both renter and exhibitor. It will be seen from the figures in paragraph 17 that the American renters still supply 70 per cent. of the films screened in New Zealand, and as there are not sufficient British pictures available to supply exhibitors' requirements, the American renters are to a considerable extent able to dictate their own terms. The Trade Association (see paragraph 17) is controlled by the American interests, and the principal provisions of the contracts, which are to a great extent standardized, are framed by this organization. The contract itself is definitely one-sided. It gives the renter relief to meet the difficulties inherent in the supply of the same film to a number of exhibitors in succession, but binds the exhibitor hard and fast despite the fact that he has also corresponding difficulties.

29. The contract is a source of very considerable friction in the trade, and, as is usual with most one-sided contracts, it is very seldom honoured to the full by either party. It is usually signed by the exhibitor with the knowledge that it is trade practice for variations to be made to meet the convenience of both parties. So long as the pictures supplied are reasonably satisfactory from the box-office angle, and both renter and exhibitor are receiving a reasonable return from the business, no difficulty occurs, but in the event of any dispute the contract becomes a very powerful weapon in the hands of the renter, since practically all of the penalty clauses react to his advantage. Very few cases dealing with film-hire go into Court, as the exhibitor is aware from the cases which have been taken that the contract is fully enforceable, and he usually attempts to compromise the difficulty.

30. It is of considerable importance to the success of individual pictures and of the renter's "service" generally that the films shall obtain what is known as a "good release" (pictures are said to be "released" when they are screened in the principal or first-run theatres in the cities), since not only is a large revenue obtainable by the renter from the exhibition in these theatres, but the film gets very valuable advertising. It will be evident, for instance, that a picture screened in Wellington at the Regent, De Luxe, or St. James Theatres, will obtain better revenue and publicity than if shown at, say, the Queen's Theatre.

31. Only a small proportion of the films available can be given a release in the better-class first-run theatres, since each film is screened for one week or more, and as the exhibitors who control them also control theatres in the principal country towns (see list in paragraph 43), they have a good bargaining-power with the renters, and can usually obtain not only better financial terms than the independent exhibitor, but also the right to reject a considerable proportion of the renter's "block" of films. In the case of some "services" they may even restrict their purchase to a small proportion of the renter's "service."

32. In the same way a chain exhibitor who is the sole operator in a country town will usually use his bargaining-power to take the best pictures from each "service" for that town rather than buy the whole or major part of a service from an individual renter. It is the independent exhibitor who is most affected both by the block booking system and the contract restrictions, and detailed consideration of some of his difficulties is given below.

Renters and Exhibition.

33. In paragraph 4 above it is noted that a number of the American companies have obtained control of theatres in other countries. This is the case in Australia where one of the principal companies (Hoyts) operating theatres in every State is controlled by American renting interests, but, as far as can be ascertained, neither producers nor renters have any financial interests in the exhibition side of the business in New Zealand, other than the leasing of one theatre in Christchurch by British Dominion Films, Ltd.

C. THE EXHIBITOR.

Development of the Exhibition Business.

34. As the name denotes, the exhibitor is the person or firm who exhibits or screens the film in the theatre. The present system of film distribution and exhibition in New Zealand is largely a post-war development. In the early days of the industry practically all the films exhibited were imported and distributed by a New Zealand company (Picture Supplies, Ltd.), which was associated with and controlled by the Fuller-Hayward interests, who also controlled most of the picture-theatres in the cities and larger towns. When the American renters established distributing organizations in this country Picture Supplies, Ltd., was split up into renting and exhibiting companies (Australasian Films—now Greater Australasian Films, Ltd.—and Fuller-Hayward Theatre Corporation) and when the Cinematograph Films Act was passed in 1928 the latter operated the only important chain of theatres, and owned or controlled about sixty-four theatres.

35. The advent of the talking picture greatly altered the whole business of public entertainment in New Zealand. The flesh-and-blood performances with their high personnel and production costs could no longer compete with the talking-screen, which was able to give a comparable entertainment at much lower prices. The firms previously engaged in the former business, Fullers (vaudeville) and Williamsons (legitimate), determined to exploit the new medium. They either adapted their existing theatres for the purpose, or built new ones, and in less than twelve months were active and important factors in the industry. The Fuller interests did not form a separate group, but acted in co-operation with their previously existing interests in the Fuller-Hayward Corporation. A third interest which developed rapidly during this period, mainly in the southern portion of the North Island, was that organized by Mr. W. R. Kemball, who was the first exhibitor to screen talking-pictures in New Zealand, and to produce a satisfactory locally made sound-reproduction equipment.

36. The original ascendancy of the Fuller-Hayward group on the exhibition side of the industry was due to the fact that they entered the business on a combined distributor-exhibitor basis, but the system of chain control of theatres has become a general and definite development in the trade during the last few years. Attached to this memorandum are lists showing the controlling interests and association of all theatres operated by the

principal chain theatre concerns, and also of the independent theatres. When the depression first seriously affected the business towards the end of 1931 the position was that the Fuller-Hayward interests had lost their controlling position. In the Wellington District the Kemball interests were well established and were operating more or less in conjunction with Fuller-Hayward. In all the cities and many of the large towns Williamsons Films, Ltd., was operating in opposition, and in Auckland Amalgamated Theatres, Ltd., controlled a small opposition chain, consisting mostly of suburban theatres.

Effect of Talking-picture "Boom."

37. This may be taken as the end of the "boom" period, during which six legitimate theatres had been converted for sound pictures, and a considerable number of new theatres were built, including theatres at Invercargill, Dunedin (2), Timaru, Christchurch (2), Wellington, Masterton, Palmerston North, Wanganui, Auckland (first-run) (2), Whangarei (2), Gisborne, Tauranga, Paeroa, Matamata, Rotorua (2), Te Awamutu, Te Aroha, also several suburban theatres in Auckland and Wellington.

38. The effect of the renters' "boycott" of New Zealand during the controversy with the Government over the film-hire tax in 1930 (see paragraphs 106 to 117) was in some ways advantageous to the exhibitors, particularly the larger concerns. The withholding of film from the market for some months enabled the old contracts to be cleaned up, and when the "boycott" was lifted all renters were anxious to dispose of the next season's film, and contracts were made at considerably lower prices than were previously in operation.

39. This factor helped the exhibitors to some extent during the early stages of the depression, but, later on, the overbuilding which had occurred began to show its effect, and Williamsons Films, Ltd., went into liquidation, and the assets were taken over by the Williamson Picture Corp., Ltd. The Fuller-Hayward Co. also got into financial difficulties, and the concern is at present operated by the trustees for the debenture-holders, and Kemball Theatres, Ltd., has arranged with the preference share and debenture holders for a reduction in interest-rates.

The "Combine."

40. There is at the present time an arrangement existing between the Fuller-Hayward, Kemball, and Williamson organizations in most places where they operate, consisting either of a combined exhibiting company, an arrangement for pooling the returns from all theatres with allocation to the theatre-proprietors on an agreed percentage basis, or a buying arrangement under which competition for the renters' supplies is eliminated. The three companies have been referred to recently as the "combine," and their interests are shown together in the summary at the end of the list of theatres.

41. The arrangement is largely the result of the difficult trading conditions of the past two years, and the effect of the combination, though, comparatively speaking, a loose one, has been to increase the buying-power of these organizations. It had its effect both on the renting interests, as there was no competition in the price paid for film in the cities and larger towns, and also on the independent exhibitors, in that the "combine" could bring pressure to bear on the renters so that the best films were reserved for their theatres in towns where they were competing with independents.

42. The largest chain of independent theatres (Amalgamated Theatres) in order to hold its position, was to some extent forced into a policy of expansion, and for self-evident reasons this was encouraged by the renters. Amalgamated Theatres have now either established themselves or are building theatres in all the cities except Christchurch, and in most of the larger towns. The exhibition business in Christchurch is practically controlled by Christchurch Cinemas, Ltd., which operates as an independent unit, and as far as can be ascertained the renters are reasonably satisfied with the arrangements for the distribution of their film in this city.

Chain Theatre Exhibitors.

43. The affiliations of the principal chain-theatre companies at present operating are shown in the lists attached to this memorandum. Owing to the inter-relation between the different companies, it is difficult to determine the true position exactly, but the lists show fairly accurately the association of the interests for film-buying purposes. It will be noted that although aligned in two camps, the chain-theatre concerns have obtained practically complete control of the first-run city theatres and also of the theatres in the large towns. The following statement, showing the control of theatres in towns and cities having a population of five thousand or more, indicates that only four out of eighty theatres now remain entirely independent.

Town.	Number of Theatres.	Owned or controlled by Fuller-Hayward, Kemball, or Williamson.	Amalgamated Theatres.	Independent.
Auckland (first-run)	8	4	2	2 (film purchased by Amalgamated).
Whangarei	2	1	1	..
Rotorua	2	..	..	2 (film purchased by Kerridge).
Gisborne	4	3	1	..
Hamilton	5	3	1	1 ..
Napier	3	1	1	1 ..
Hastings	5	3	2	..
New Plymouth	3	1	..	2 (film purchased by Kemball-Williamson).
Wanganui (first-run)	3	2	1	..
Palmerston North	4	3	1	..
Masterton	2	2	..	..
Wellington (first-run)	9	8	1	..
Nelson	2	2	..	..
Blenheim	2	..	..	2 ..
Greymouth	1	1	..	..
Christchurch (first-run)	10	9	..	1 (operated by renter).
Ashburton	1	1	..	..
Timaru	3	3	..	..
Oamaru	1	1	..	..
Dunedin (first-run)	7	4	2	1 (pooled, Fuller-Hayward-Williamson).
Invercargill	3	2	1	..
	80	54	14	12

44. Chain theatres are also in competition with independents in the suburbs of Auckland and Wellington, and at Stratford, Tauranga, and Te Aroha. It will be apparent from the references elsewhere in this report that the proprietors of these independent theatres are in a very difficult position with regard to the purchase of film, particularly at Hamilton

and Napier, where both the principal chain interests are, or will in the near future be, represented. The latter are able to bring pressure to bear on the renter by refusing to rent films for the city and large-town theatres unless given the privilege of selecting the pictures they desire for towns where they compete with independents. They cannot, however, utilize the full output of all the renters, and will therefore bargain for large rights of rejection, or the selection of a few only of the best pictures in the "service."

45. The only offset which the independent exhibitor can make to these proposals is that he will offer to purchase and screen the full "service" of an individual renter. He knows that this is certain to include some pictures of poor quality, and, unlike the major exhibitor, his rejection rights are limited to those specified in the Cinematograph Films Act (see below).

46. It has been suggested that this position might be overcome by some provision on the lines of the Motion Picture Code recently issued in the United States of America under the National Recovery Act. This provides, *inter alia*, for the division of a renter's "service" between two exhibitors on equitable terms, and that no exhibitor shall be permitted to purchase more film than he reasonably requires for the operation of his theatre.

The Independent Exhibitor.

47. The lists attached show that the independent exhibitors operate the great majority of the theatres in the smaller towns, and a description of the conditions existing will be of interest. The revenue obtainable by the renter from these exhibitors is comparatively small, and, owing to the scattered nature of the towns, there is some difficulty in arranging regular delivery of films, unless a circuit system is established to some extent. The renters usually insist on the exhibitor buying their whole "service," and even the fact that the exhibitor may have the only theatre in the town does not make the renter competition strong enough to enable the exhibitor to purchase a portion only of each "service," as is done by the chain exhibitors. (Note.—One or two of the renters appear to make a practice of giving larger rejection rights, but the above statement applies in most cases. Where the small-town exhibitor has only a limited number of screening-dates available he will occasionally secure a contract for a few selected pictures.)

48. It is therefore customary for this class of exhibitor to buy one or more renters' "services" as a basis for his programmes (depending on number of changes weekly) and to add such "specials" or "road-show" pictures as he can secure from the other renters. (It is very general practice for the renters to insist that a certain number of "programme features" must be taken with these better-class pictures, or, in other words, they will only rent them on condition that a small "block" is taken.) There is a certain amount of pressure from the theatre patrons for the exhibitor to screen the more successful of the season's films, and it should also be noted that the exhibitor usually obtains good net revenue from these films, which he hopes will offset his losses on poor pictures and compensate for films which he may have to pay for under his contract without screening.

49. As a result of these factors, there is a strong tendency for the exhibitor to "overbuy." When it comes to the end of the year he finds that he has not screened a number of pictures for which he is liable to pay under his contracts, and the usual compromise that is made is that the renter cancels the old contract on condition that the exhibitor buys the "service" for the ensuing year. This may be held to be the result of bad business methods on the part of the exhibitor, and to some extent this is the case. He is, however, largely the victim of the conditions existing in the industry. It would also appear from statements made by independent exhibitors that part of the trouble is due to the "high-pressure salesmanship" adopted, and that representations are frequently made by the renters' representatives as an inducement to the exhibitor to sign the contract, but the conditions promised are not included in the latter, which usually contains an express exclusion of such representations, and the exhibitor therefore has no redress.

Proposed Standardization of Renting Contract.

50. It would be misrepresenting the position to give the impression that the exhibitors' difficulties were entirely due to the contracts or other conditions imposed by the renters, and particularly the American renters. As a matter of fact, the conditions imposed by the British renters are similar in many respects, and most of the contentious clauses in the contracts have probably been inserted in consequence of individual cases of the renters' experience with careless, unbusinesslike, or unscrupulous exhibitors.

51. On the other hand, a number of instances have come under notice where the conditions of contract have been varied by renters to the exhibitor's advantage. From the circumstances of these cases, however, there are indications that such action was the result of the realization by the renter of the impossibility of securing compliance with the contract by the exhibitor owing to his financial position.

52. It will be evident that the policy of including in contracts a number of provisions which can be used for purposes other than those for which they were originally intended is bound to cause irritation. The "showman" temperament must also be taken into consideration. Many of the theatre-proprietors have been connected with the stage in some capacity during their career, mainly on the entertainment side, and their outlook is not always that of the ordinary business man. The "blind booking" and "block booking" conditions frequently result in misjudgment of the market by the exhibitor in that the "services" he buys will prove less profitable than anticipated, and some exhibitors will no doubt attempt to obtain relief from unsatisfactory arrangements by any means possible.

53. At least one of the terms of the contract (clause 21 of Warner Bros.' contract-form attached) may be deemed to be against public interest. This provides that if by the reason of the burden of any existing or future taxation, charges, arbitration awards, &c., or by reason of any legislation, statutory orders, or regulations, it should at any time be in the opinion of the distributor (renter) no longer commercially profitable to carry on his business, of which the distributor himself is to be the sole judge, without his decision being subject to review by any Court or tribunal, he may terminate the contract on giving the exhibitor thirty days' notice.

54. This clause was not in the contract prior to the conflict between the Government and the renters on the question of the film-hire tax in 1930. On that occasion the renters withheld film-supplies, but the effect of this action was largely nullified by the fact that most exhibitors had contracts providing for supply of films for at least six months, which was a sufficient period to enable an agreement to be reached, and no theatres were closed up owing to shortage of film.

55. The threat of concerted action by the renters to cancel all contracts, and thus leave the exhibitor without sufficient films to carry on, would form a powerful weapon in the event of any future dispute with the Government, and the experience of 1930 shows that concerted action of this sort is a definite possibility. The clause is accompanied by one which is normal in this class of agreement (clause 20 of Warner Bros.' contract-form attached), providing that any additional taxation imposed during the currency of the agreement may be distributed *pro rata* between the exhibitors having contracts with the renter, so that the clause in question does not appear necessary for ordinary trade purposes.

56. The trade papers indicate that exhibitor feeling in Britain, Australia, and New Zealand is strongly in favour of the standardization of the contractual relations between the renter and exhibitor on more equitable lines, and there is every indication that this would ultimately be in the interests of both parties.

Insurance of Films.

57. An instance of concerted action of the renters with reference to the provisions of the contract, in which the question at issue was one of general policy rather than the effect or intention of the clause of the contract immediately under consideration, occurred recently in connection with the question of film-insurance. All contracts provide that the exhibitor shall insure the renter's film while in his possession or in transport to him, and most of them provide that the company with whom the film is insured shall either be approved or nominated by the renter.

58. For some years past the insurance has been arranged by a Board, on which the renters and exhibitors had equal representation, by means of a block policy taken out with a recognized insurance company, and under the agreement the members of the Exhibitors' Association paid lower premiums than exhibitors who were not members. On the termination of the agreement respecting this Board the Exhibitors' Association attempted to establish a mutual film insurance company to undertake the insurance, with the evident intention of the ultimate inclusion of the insurance payment in the subscription to the Association.

59. The renters declined to accept this proposal, or an alternative block policy with a recognized insurance company nominated by the exhibitors, but proposed the formation of a mutual company on similar lines to the exhibitors' proposal, but operated by the joint Board of renters and exhibitors. The dispute resulted in the temporary stoppage of film-supplies by the renters, and a compromise under which the previously existing conditions are continued in the meantime. It is understood that this question will be brought up for consideration if any public inquiry is made into the industry.

Minimum Charges for Admission to Theatres.

60. Another matter which will probably be brought up for consideration, should an inquiry eventuate, is that of minimum charges for theatre admission. The American renting companies all include in their contracts a condition that a minimum charge of 1s. shall be made for adults at every exhibition of any film which is the subject of the contract. The question is largely confined to Auckland, where there are large suburbs with mostly working-class populations, for whom the local picture-theatre forms the principal evening amusement. Owing to the depression, a fair proportion of the breadwinners are on relief work, and this had the natural effect of reducing the attendance at suburban theatres.

61. To meet the position most of the exhibitors reduced the admission charge for the mid-week performances to 6d., or introduced what were known as "guest nights," where two persons were admitted for one minimum charge of 1s. This was objected to by the renters, and an attempt was made to enforce the conditions of the contract. The reduced prices have since been restricted (with a few exceptions which are at present the subject of action by the renters concerned) to nights on which film was supplied by some of the locally owned renting companies, principally British films. It is stated that the lower admission charges were beneficial to the exhibitor, as the total receipts were considerably higher, and they have undoubtedly resulted in a larger number of people participating in a healthy amusement, which is probably desirable under present conditions.

62. It is questionable, however, whether an all-round minimum charge of less than 1s. would be economic in New Zealand. In Australia the same question has been raised, and the majority of the exhibitors favoured the retention of the 1s. minimum. A referendum of New Zealand exhibitors would probably have the same result, but there is some reason to think that it would be an advantage to both renter and exhibitor to permit a reduction in certain districts such as those mentioned, where special conditions exist, at any rate so long as the present depression lasts. It is understood that the question is controlled by the Motion Picture Distributors' Association in Sydney, which has given a definite ruling that no films may be rented by the American companies, except under the minimum-price condition.

Proposed Rejection-rights for "Block" Booking.

63. Experience during recent years has shown that the conditions in the exhibition side of the industry have been greatly altered by the introduction of the talking-picture, and theatres have a much less regular patronage than in the day of the silent film. To use a trade expression, the public "shop" for their pictures, and it is essential for success that every theatre should show a fair percentage of high-quality films.

64. There is only a limited supply of these films on the market, although there are plenty of "programme pictures," and it is the measure of control over the supply which the exhibitor can exercise that ensures the success of his business, rather than the factors which would be effective in ordinary businesses, such as lower prices of admission, greater comfort or beauty of the theatre, or better advertising. It is true that showmanship, or, as it is known in the trade, "exploitation," of the picture, will produce good results, but no advertising will consistently draw patronage to a succession of poor pictures.

65. Under the conditions outlined in paragraphs 44 to 49 it will be evident that the independent exhibitor would normally be required to screen a larger proportion of "programme pictures" than his competitor the chain exhibitor. The only relief he can obtain from the "blind" and "block" booking conditions is contained in the rejection right given by the Cinematograph Films Act. This permits the rejection of only 5 per cent., or, say, two pictures out of a "service" of forty-five, and the right only applies when the pictures are not named or described. Experience indicates that in such a "service" there will probably be at least a dozen on which the exhibitor will make little or no profit, and a further eighteen on which he will show a loss.

66. It is this position which has caused the recent agitation by the exhibitors for the statutory provision of a rejection right of 25 per cent. of all films "block" booked. The rejection rights in respect of British "quota" have been of some assistance to this class of exhibitor during the past few years, but it will be noted from the figures in paragraph 17 that most of the renters will be able to supply in 1934 the full "quota" requirements of British films, and the "quota" rejection right will in these cases be eliminated.

Proposed Restrictions on Theatre Licensing.

67. In paragraph 39 mention is made of the effect on several of the major exhibiting companies of the extensive theatre-building operations (with consequent overseating of towns) which followed the initial success of the talking-picture. It will be noted from the attached lists that a considerable amount of theatre-building is proceeding at present, particularly by Amalgamated Theatres, and to some extent by the Kembell and Williamson companies, who have also recently extended their interests to theatres previously under independent control.

68. Representations were made to the Government about two years ago that the methods adopted by some of the major exhibiting companies in extending their theatre-chains were such as to cause hardship to the independent exhibitor and an economic loss to the country—in short, that these methods were unfair and unreasonable, and would result not in ordinary business competition, but in the eventual "monopoly" of the exhibition side of the industry by the major companies, at least to the extent that the independent exhibitor operating a single theatre would be eliminated from all but the smaller towns.

69. Regulations were made under the Board of Trade Act, providing that no license should be issued under the Cinematograph Films Act for any new theatre, save with the approval of the Minister of Industries and Commerce. After operating for about twelve months these regulations were held by the Court of Appeal to be *ultra vires* of the Act, and theatre-building has since continued without restriction.

70. The picture exhibition business, like most entertainment projects, is definitely speculative in character, but this fact is not generally recognized by the investing public. For a period of years it will happen that some exhibiting companies will show very satisfactory results where competition is absent or is not excessive. It is therefore comparatively easy to raise money locally for a new theatre, particularly if arrangements can be made for one of the large exhibitor interests to contract for a lease of the building for a period of years, and at a rental which shows a good return on the capital invested. The new theatre is built, competitive buying in the limited film market follows (with advantage to the renters), and it is soon found that the result is a loss to both new and old exhibitors.

71. This loss continues until either one goes out of business or a pooling arrangement is made and probably one of the theatres closed, with the rental overhead still remaining and the profits spread over a larger capital. There is hardly a town of any size in New Zealand in which some variation of the above has not occurred. Typical instances which come to mind are—

Ashburton	Greymouth	Oamaru	Tauranga
Blenheim	Levin	Onehunga	Te Kuiti
Dannevirke	Masterton	Opotiki	Timaru
Feilding	Matamata	Petone	Waimate
Foxton	Morrinsville	Palmerston North	Waihi
Gisborne	Nelson	Pukekohe	Waitara
Gore	Motueka	Rotorua	Westport
Greytown	New Plymouth	Taihape	Whangarei.

72. The possibilities of the situation can probably best be studied by a consideration of similar representations made by the Canadian exhibitors, which resulted in the holding of a Royal Commission. The Commissioner reported that one of the major American producing interests (Paramount) had established what amounted to a stranglehold on the exhibition side of the business in Canada. The methods adopted, briefly stated, were that the firm concerned would announce its intention to enter the exhibition field in a district then served by an independent exhibitor or exhibitors, and in most cases would at small cost obtain an option on a suitable site for a theatre.

73. This fact would be brought under the notice of the independent exhibitor, and either directly or indirectly negotiations would be made for the acquisition of an interest in the independent's business. The considerations advanced were that the Paramount subsidiary, by its position in the industry, was enabled to control not only the product of its principals, but a considerable proportion of that of the other major producing companies, and was therefore in a position to have at its disposal for competitive exhibition such a proportion of the total first-rate films available that the independent exhibitor would not be able to offer serious competition. The proposal made to the independent was that Paramount and the independent should form an exhibiting company with nominal capital, each holding 50 per cent. of the shares—Paramount shares to be represented by the film-supply and the independent exhibitor's by his exhibition business.

74. In many cases this method was effective in forcing the exhibitor to enter an arrangement which gave Paramount 50 per cent. of the profits of the business with practically no financial outlay. Where the exhibitor refused to make this arrangement a proposal was submitted to local investors on the lines of that set out in paragraph 70, and in view of the constantly increasing importance of the Paramount organization in the industry it formed a very attractive investment. The new theatre would be built, and in due course the independent exhibitor would be forced out of business. As a result of the Commission, an action was taken against the Paramount Co. by the Government, but the Court held that the evidence did not establish a "monopoly" within the meaning of the Canadian legislation, and the case was dismissed.

75. It is understood that the representations to the Government affirmed that a system was operating in New Zealand which in many respects paralleled that outlined above, but operated by major exhibitors and not by renters. This was denied by the chain-theatre interests concerned.

76. There are definite indications that an arrangement exists between the management of the theatre interests referred to above as the "combine" to prevent the inter-chain competition in the secondary towns which has proved disastrous in a number of instances during the past few years. This is no doubt in accordance with ordinary business practice, but it will be noted that it tends to make any competition between these interests and an independent exhibitor much more effective.

77. During the discussions when the regulations were under consideration the point was made that it is in the best interests of the country that the independent exhibitor should be maintained as a factor in the industry. It has been noted above that there is some difficulty in the successful management of large theatre chains, mainly because in course of time these tend to develop excessive overhead charges, and it was the failure of one of the principal exhibiting concerns in Australia during the present depression which enabled the American interests to obtain control of a large proportion of the principal theatres. It is possible that further aggregation of exhibitor interests in New Zealand into a few hands might sooner or later result in a similar position arising in this country.

Sound-picture-reproduction Apparatus.

78. Another important factor which has seriously affected the industry during the depression and which also has a bearing on the situation where unnecessary theatre-building occurs, owing to the additional overhead involved, is the cost of sound-reproduction. The equipment required for silent pictures was comparatively simple. It consisted of two projection machines, which cost about £200 each, it could be fitted into a comparatively small projection-room, and the projection cost was therefore only a small percentage of the theatre-running expenses.

79. The sound-picture was developed on a commercial basis by a subsidiary of the American Western Electric Co., and when the pictures were put on the market this company was practically the only supplier of reproduction equipment. It had also supplied to the producers the plant with which the pictures were made, and its contracts with the latter provided that the pictures should not be reproduced except on Western Electric equipment or on equipment of equal reproductive efficiency, of which fact it (Western Electric Co.) was in effect to be the judge.

80. It must be admitted that it was essential for the success of the talking-picture that the reproduction in the theatre should be of as high a standard as possible, and that many of the early attempts to produce locally made equipment were anything but satisfactory. The exhibitors also were naturally anxious to take advantage of the novelty value of the talking-picture. These facts, coupled with the pressure exerted by the American renting companies, forced most of the principal exhibitors to install Western Electric equipment, and within twelve months from the introduction of sound films into New Zealand installations were made in nearly a hundred theatres.

81. It is generally acknowledged that the Western Electric plant is an excellent one, but the terms dictated by the American company were a severe tax on the exhibitor even in the prosperous times. The company would not sell the equipment, but only lease it for a period of ten years. The exhibitor was required to pay either on installation or spread over a period of two years plus interest a sum depending on the size of the theatre, but ranging from £2,000 to £5,000, and, in addition, a rental or service charge of £5 to £7 per week. This charge did not include the cost of projection apparatus; and all replacements of valves, &c., were made at a price stated to be considerably higher than similar units manufactured by other firms.

82. The high cost of sound-reproduction equipment was one of the factors in the financial difficulties experienced by many of the exhibitors during the depression. In a number of cases it became impossible to continue the payments to Western Electric, and rather than remove the equipment the company usually compromised, either by reducing the rate of payment or extending the term. Probably as a result of present conditions and in view of competition with other equipments the company has recently issued a modified system of charging, under which payments cover both leasing and service charges. At the present time the charge for new installations for dual projection machines is £6 16s. 6d. per week in the case of theatres seating up to 1,000 and £8 16s. 6d. per week in the case of larger theatres. An additional charge is made to cover the cost of transport and theatre-wiring, and replacements are charged for in the usual way. Most of the theatre-proprietors who installed the apparatus in the early days of the sound-picture have now completed the initial payment, and their costs are limited to a service charge of £3 to £5 10s. per week, plus, of course, replacements.

83. There are now several locally made equipments of excellent quality on the market which can be purchased outright at prices varying from £100 to £150 for a small country hall to £1,100 for the largest theatre. A number of exhibitors

who had completed the installation payments to the Western Electric Co. have since arranged to replace the latter company's equipment with one or other of these plants, so as to save the service charges and the higher replacement costs.

84. A short description of the sound-reproduction equipment will be of interest. The same type of projection machines as were used for silent pictures are still required, but certain modifications are necessary to allow for sound-reproduction. At first the pictures were about equally divided between the sound-on-disk and sound-on-film principles, but the latter is now universally used. In the former the film was run through the machine in synchronization with an electric gramophone equipment, and the sound was reproduced from a modification of the ordinary gramophone disk.

85. The operation of the sound-on-film system depends on the fact that minute currents are generated in a photo-electric cell when a beam of light of varying intensity impinges on it. The film has on it alongside the picture a "sound-track," and after the picture passes through the projection apparatus this sound-track is brought between the beam of light and the photo-electric cell. The sound track is varied in intensity or in width of light area (there are two alternative systems having the same effect), and currents are produced which, when amplified by valves similar to those used in a wireless set, operate a loud-speaker situated behind the screen and reproduce the sounds (speech, music, &c.), which were made during the production and photographed on the sound-track by a process operating in the reverse manner to that described.

D. CONTROL OF THE INDUSTRY.

86. This office has been connected with the film industry for the past ten years, and during that time changes both on the renting and exhibition sides of the industry have been so frequent that a memorandum of this type-written at any stage would have been out of date in two or three years. The kaleidoscopic nature of the industry must be taken into consideration when any suggestions are made for legislative control.

87. In America there has been for a number of years past a system operating which it is understood was inaugurated when the Motion Picture Producers' and Distributors' Association was placed under the control of Mr. Will Hays. This provides for a certain measure of control over the relations between the distributor (renter) and the exhibitor, and it is understood that arrangements have been in force for arbitration on matters in dispute. This principle would appear to have been considerably extended by the provisions of the "Code" issued under the National Recovery Act.

88. It is suggested that some similar form of internal control of the industry would, if it could be arranged, be more satisfactory than definite legislative provision. Even matters such as rejection rights would probably be best controlled under such a system. If, however, legislation were decided upon, the details should be provided by regulation so that the provisions could be changed as might be necessary to meet the changing conditions of the industry.

89. An inquiry is at present being held in New South Wales on similar lines to that proposed in New Zealand, and in the course of this the representative of one of the large exhibiting companies suggested to the Commissioner the appointment of a permanent Board to regulate the industry under the headings set out below. The conditions existing in New South Wales are similar to those in New Zealand in most respects, and the suggestion might well be taken as a basis for consideration at the New Zealand inquiry:—

- "To consider additional licenses for theatres.
- "To arbitrate on trade disputes.
- "To regulate protection.
- "To define rejection rights in contracts.
- "To decide (if any) quotas on (Australian) British films.
- "To determine terms and conditions of film contracts.
- "To rectify any undesirable features of the industry affecting public policy."

90. The extent to which legislative control should be imposed on any industry is a matter on which there exist great differences of opinion. It has been recognized, however, that the film industry, owing to the power of the film as a propaganda agent and its possible effect on public morals, should be under a certain measure of control, which is exemplified by the British quota and censorship legislation. The business side of the industry also is at present subject to the restrictions contained in sections 37 to 39 of the Cinematograph Films Act (see paras. 103 to 105). Most of the matters on which representations have been received could be dealt with by an extension of these provisions.

91. The whole question is one of Government policy, but it may possibly be considered that this industry warrants a greater measure of control than most other businesses, firstly, because the unusual lines on which the industry functions and the fact that there is only a limited supply of films of high exhibition value tend to encourage the adoption of questionable trade practices; and, secondly, because the supply of films is in the main controlled by powerful foreign interests which, irrespective of their competition for business in the local market, largely operate as a unit on policy matters.

E. CINEMATOGRAPH FILMS ACT, 1928.

The following are the principal provisions of the Act.

PART I.—CENSORSHIP OF FILMS AND POSTERS.

92. This Part of the Act repeals the Cinematograph Films Censorship Act of 1916 and the Amendment Act of 1926 (which referred to the censorship of posters and other advertising matter but which was never brought into operation), and re-enacts their provisions with some slight modifications. This Part of the Act is mainly empowering, and the machinery provisions are contained in regulations.

93. The Censor is required to examine all films, but only such posters as are supplied to exhibitors by renters. "Poster" is defined to include most of the "press-sheets," which contain suggestions for advertising and are usually supplied by renters with each picture. It was decided to exclude from the censorship requirements the occasional posters made locally by the exhibitors, since, apart from the considerable expense involved in submission to Wellington, these posters are usually prepared at such short notice that the delay involved would practically prohibit their use. Probably 95 per cent. of all posters are supplied by the renters, and the great bulk of newspaper and other publicity matter used by exhibitors is taken from the renter's press-sheet. The submission of these press-sheets to the Censor does not involve any considerable trouble to the renter, and it was considered that their examination, while not a full censorship, would form a valuable check on film-advertising.

94. The principles on which the censorship is carried out are left to the unfettered discretion of the Censor, the only direction being that contained in section 5 (4) of the Act, which reads—

"The approval of the Censor shall not be given with respect to any film or to any part of a film which in his opinion depicts any matter that is contrary to public order or decency or the exhibition of which would for any other reason be undesirable in the public interest."

95. The forms of certificate of approval prescribed are similar to those used by the British Board of Film Censors. Two certificates are mainly used. "U," "approved for general exhibition," and "A," "approved but recommended more especially for adult audiences." The regulations provide that the renter must attach as an integral part of the film, and the exhibitor must exhibit on the screen, a photographic reproduction of the Censor's certificate.

96. Exhibitors are also required to include a notification of the Censor's decision—*i.e.*, whether approved for universal exhibition or recommended for adult audiences—in any newspaper advertisement regarding the picture, and also to provide notices to the same effect in the theatre lobby, at the place where tickets are sold. There is no restriction on the admission of children to "A" Certificate pictures. A third certificate, which is very seldom used, restricts the exhibition to certain specified classes of persons.

97. Provision is made in the regulations for an appeal from the Censor's decision to a Board of three persons appointed by the Minister. There is no instruction to this effect in the regulations, but the practice has been to appoint one member nominated by the film industry and one by social organizations. For the third member some suitable person is selected to act as chairman. The appellant is required to deposit a fee to cover the cost of the appeal, but this is returned if his appeal is upheld.

PART II.—REGISTRATION.

98. This Part provides for the registration of all films before exhibition. This is necessary for the effective operation of the "quota" provisions of the Act. The Censor is also the registrar, and the forms have been arranged so that the butt of the Censor's certificate becomes the register, and no additional work is involved.

PART III.—STORAGE, TRANSPORT, AND PROJECTION OF FILMS.

99. This Part provides for the making of regulations controlling the industry in the interests of public safety. The regulations previously in force under the Explosive and Dangerous Goods Amendment Act, 1920, are repealed, and the Inspectors under that Act are given similar powers under the Cinematograph Films Act. The necessary regulations, which are a modification of those previously in force, have since been made.

PART IV.—QUOTA OF BRITISH FILMS.

100. The world position in the film industry leading up to the introduction of the quota legislation has been explained in paragraphs 2 to 5 above. The early post-war efforts of the British film-producers had been far from successful, mainly owing to the lack of the capital necessary for the production of films on the scale which had been set by the Americans. Film-production is recognized as being a speculative industry, and there was little hope that British investors would provide the large sums required for the reconstruction of the industry so long as the conditions then existing continued. The commercial aspect of the situation was not the only or even the principal consideration. A film industry under American dominance to the extent then existing would place before the British public largely or mainly American scenes, American life and customs, and American ideals. Even though a proportion of the American films might have British settings, there are certain phases of national life and character which cannot be adequately reproduced by foreigners, and it was the desire to have expression given to the national outlook which largely influenced the decision.

101. The New Zealand Act follows the general lines of the British Cinematograph Films Act, but differs from it in several important provisions affecting the British "quota."

(1) The Act applies only to "long" or "feature" films, and the quota is determined by the number and not by the footage of British and foreign films. It was thought that the tendency would be for British short films to be used in unit programmes with British features, and this has proved to be the case in practice. The elimination of the length factor has greatly simplified the quota calculation.

(2) Provision was made that the Minister might exempt renters from their liability to acquire British films if the exhibitors were not thereby prejudiced in obtaining the necessary British films to comply with the quota requirements.

When the Act was passed the principal British producers were represented in New Zealand by renting companies with local capital not connected with the American interests. It was considered that if this arrangement continued it would be more satisfactory than the distribution of the British films amongst the American renters, whose principal interest would be the success of the American product. Provision was made (see para. 105 below) for special rejection rights in the case of "block" booking where British films were not supplied.

(3) The section of the Act—32—providing for the exhibitors' quota was not made mandatory. When the Act was introduced the exhibitors offered a "gentleman's agreement" that they would, so long as films of reasonable exhibition-value were available, screen a percentage of British films exceeding that prescribed by the Act. Provision was therefore made that the section should not be operative unless brought into force by Order in Council. The agreement has been faithfully kept by the exhibitors, and inquiries made recently showed that only in a few isolated cases had the proportion of British pictures been less than 10 per cent., while the average was nearly 20 per cent. Several instances occurred in the cities where a number of theatres are under one control where individual theatres had exhibited less than the required percentage, but this resulted from the exhibitor's policy of screening British pictures in the better-class theatres, or in theatres reserved for British films.

102. The arrangement outlined above is a very flexible one, and has operated satisfactorily in practice. Although there is at present no legal obligation on the exhibitor, and the renter is exempted from his obligations where this is desired, the system results in the exhibition of considerably more than the prescribed percentage of British films without any hardship or friction. Only such British films as are likely to be successful are imported, and most of these are screened in the better-class theatres, so that the maximum of revenue is obtained for the British industry. It should also be noted that the Act can be brought into full operation at any time should the conditions change so as to warrant this action. Both exhibitor and renter are required to keep records which enable the Inspectors to ascertain the position at any time, and up to the present it has been found a sufficient corrective to call official attention to any cases where the spirit of the Act is not being complied with.

PART V.—RESTRICTIONS WITH RESPECT TO FILM CONTRACTS.

103. The British Act provided that "blind booking" (see para. 24) should be illegal, and restricted "block booking" (see para. 20) to the extent that contracts might not be made for screening films at a date later than six months from the date of the contract. The purpose of these provisions was to prevent the making of long-term contracts which would prevent or render difficult the screening of British films by the exhibitor. The conditions existing in New Zealand, where we have a very scattered territory served mainly from one distributing-centre (Wellington), made it very doubtful whether similar provisions would be workable.

104. The exhibitor represented that fairly long-term contracts were desirable because they ensured continuity of supply, while the renters pointed out that such contracts could be arranged so that the films were distributed on "circuit," and the freight costs to the exhibitor (who pays all transport charges) kept to the minimum. It was considered advisable, however, to place some limitation on film contracts, and the Act provides that, except in special cases where completion within eighteen months is provided for, the supply shall commence not later than nine months after the contract is signed, and shall not extend over a period exceeding twelve months.

105. This Part of the Act also gives exhibitors two rights of rejection. The first of these is in relief of "blind booking," and enables the exhibitor to reject up to 5 per cent. of the films contracted for, where the films are not named or adequately described. The second rejection right applies to all long-term contracts (covering a period of supply exceeding twenty weeks) which do not provide for the supply of the proportion of British films prescribed for the year to which the contract applies. This provision is complementary to the section—29 (3)—which permits the Minister to exempt any renter from the obligation to "acquire" British films. The effect is that the renter is not obliged to obtain and rent British films, but, if he does not, the exhibitor with whom he makes a contract may reject a percentage of foreign films contracted for equal to the British quota percentage for the year.

F. FILM TAXATION.

(FINANCE ACT, 1930, SECTIONS 41 TO 49.)

106. It has been noted above that the major American producing companies distribute their films in New Zealand through subsidiary companies, and, further, that these renting companies receive a percentage of the gross rentals derived from exhibitors as payment for their services in distributing the film. This percentage is a variable one, and it will be clear that arrangements could be made so that the New Zealand renting company did not disclose the profits earned by American films in the New Zealand markets. An inquiry made when the Act was passed showed that this practice was probably operating, since most renters had disclosed very little profit, and several had shown a consistent loss throughout the period of their operations. The Act therefore provided (see section 40) that not less than 12½ per cent. of the gross film rentals received from the exhibitors should be regarded as income for the purpose of taxation.

107. In 1930, when the present depression began to have its effect, it was decided to increase taxation—amongst others that on the film industry, which was at that time at its peak of prosperity owing to the popularity of the talking-picture, which had just been introduced—the American renters' receipts from exhibitors for the first six months of that year being nearly £300,000. The only taxation then imposed other than income-tax was a Customs duty of 1d. per foot on foreign film only, and owing to the lesser number of films imported the revenue from this source had fallen by about one-third as compared with previous years, when "silent" film only was imported.

108. The revenue aimed at represented a little more than three times the amount produced by the footage duty and at first sight it would appear that the simplest method of obtaining this revenue would have been to increase the Customs duty to 3d. or 3½d. per foot. There were two objections to this. In the first place, a footage duty taxes equally the successful film, which brings in large returns to the renter, and the film which is wholly or comparatively a failure from the box-office point of view. If fully operative, an increase of 200 per cent. in the duty would have imposed a serious burden on some of the smaller renters who had few highly successful films, and it would probably have had the effect of considerably reducing the quantity of film imported—to the detriment of the New Zealand exhibitor.

109. In the second place, the experience of the Australian authorities showed that a high footage duty did not necessarily result in a great increase in Customs revenue. The duty in Australia was raised first to 3d. and then to 4d. per foot. To counter this increase the renters imported only one positive print of each picture of a special type, known as a "duping" print, and from this any additional prints required were made in Australia at a cost of about 1½d. per foot. It was therefore evident that any duty higher than 2d. per foot could be largely avoided by duplicating the films locally.

110. The imposition of an *ad valorem* Customs duty was therefore considered as an alternative. The difficulty here was to establish some satisfactory basis on which to value the film. As explained in paragraphs 18 and 25 to 32 above, the film-renter, who corresponds with the ordinary importing merchant or wholesaler, does not, like the latter, pay a set amount for the goods (films) he imports, but a percentage of the rentals he receives from the exhibitors. The latter in his turn pays a percentage of what he receives from the public, so that the amount to be paid to the overseas producer for any film cannot be determined until the film has completed all screenings in New Zealand, which may take as long as two years after importation.

111. On the other hand, production costs could not be used as a basis, since these have no definite relationship to value. Two films with the same "star" actors and approximately the same cost of production may produce revenue in the proportion of ten or more to one. The New Zealand renter, moreover, is not informed of these costs, and, even if he were, the difficulty would still arise as to what proportion of the production costs should be allocated to the New Zealand market. In some cases the production costs cannot be determined until the film has completed its world exhibition, as royalties on the gross takings are payable to authors, &c.

112. The only possible method of arranging an *ad valorem* duty therefore appeared to be that the importer (renter) should be required to declare an empirical value for each film on importation, and to pay duty on this value. It would, of course, be necessary for him to keep a separate set of books based on this value so as to determine the profit and loss for income-taxation purposes, but it would still be possible for him to arrange to undervalue or overvalue the film on importation so as to pay income-tax or Customs duty, whichever were the lower. The principal objection, however, to this method was that the renters had already cleared from bond most of the film required for the financial year, and it would not be possible to obtain the required revenue under this system.

113. A system of taxation was therefore devised which, as far as is known, is not operative in any other country. This is known as the film-hire tax. The tax is based on the net rentals received by the renter—i.e., the gross rentals paid by the exhibitor less all expenses of distribution of the film in New Zealand, including the 12½ per cent. of the gross rentals, which is regarded (see para. 106 above) as the income of the local renting company for taxation purposes. The renter is required to make returns and to pay the tax monthly, but it is provided that these returns may be approximate figures only, accurate returns being required only at such periods as the Commissioner of Taxes may determine. The tax is a preferential one, the rate being 25 per cent. of the net revenue derived from foreign films and 10 per cent. of that from British films.

114. The advantages of this system of taxation were—firstly, that it was levied directly in proportion to the net receipts from, and therefore the value of, film; secondly, that it did not restrict the importation of film in any way; thirdly, that it was only payable after the moneys were received by the renter, and thereby reduced the capital required for the operation of the business; and, fourthly, that it came into immediate operation, and the Government derived revenue from the films already imported, which would otherwise have escaped taxation.

115. When the tax was imposed the American renters protested vigorously. The Renters' Association even went so far as to declare what was in effect a "boycott" of New Zealand, all supplies of films to the New Zealand exhibitors being stopped except those which had already been contracted for. It was claimed that the tax would produce very much greater revenue than the Government estimate, and that the method of taxation was unworkable under the renters' methods of trading. The Renters' Association stated that new contracts would not be made unless the tax was removed, and the Association also pressed strongly for an inquiry into the general question of film-taxation.

116. The Government declined to remove the tax, but, in view of the representations made and the impossibility of determining accurately what revenue a new tax such as this would produce, agreed to hold an inquiry, and in the meantime to remove the 1d. per foot Customs duty which was still in operation. The Committee of Inquiry was appointed at the end of 1930 and submitted to the renters a statement of the information which would be required as a preliminary to the formal hearing. It was stated by the renters that most of this information could be collected within a short time, but there were very great delays in forwarding the details specified, and the matter has been tacitly allowed to drop.

117. As far as can be ascertained, the tax has neither caused any dislocation in the business nor has it proved as onerous from the financial point of view as was suggested when the protests were made. The revenue actually collected in the year in which the tax was imposed was slightly under the Government estimate, and, owing to the reduced theatre takings due to the present financial conditions, the returns were again considerably lower during the past financial year. It should be noted that the tax is strictly *ad valorem* on the payments made by the renter to the producer, but, being based on the net revenue and not on the actual amounts paid, a 25-per-cent. tax is equivalent to a 33⅓-per-cent. Customs duty.

R. GIRLING-BUTCHER,
Chief Inspector under Cinematograph Films Act.

LIST OF THEATRES, SHOWING CONTROLLING INTERESTS AND ASSOCIATIONS.

Theatre.	Town.	Seating-capacity.	Theatre.	Town.	Seating-capacity.
(1) AMALGAMATED THEATRES, LTD.					
Roxy	Auckland ..	623	State	Wellington ..	1,000
Tivoli	Auckland ..	990	Civic	Invercargill ..	1,300
Empress	Newton, Auckland	900	Plaza	Wanganui ..	639
West End	Ponsonby, Auckland	700	State	Palmerston North..	850
De Luxe	Mount Albert, Auckland	400	Town Hall.. ..	Cambridge ..	735
Alexandra	Green Lane, Auckland	550	Empire	Dargaville ..	770
Crystal Palace ..	Mount Eden, Auckland	1,175	King's	Gisborne ..	728 <i>a</i>
Regent	Epsom, Auckland ..	914	State	Hamilton ..	800 <i>a</i>
Adelphi	West Lynn, Auckland	660	Arcadia	Hastings ..	700
State	Onehunga, Auckland	800	State	Hastings ..	800 <i>a</i>
King's	Northcote, Auckland	250	State	Napier ..	760 <i>a</i>
Edendale Cinema ..	Sandringham, Auckland	1,000	King's	Thames ..	800
Plaza	Dunedin ..	900 <i>a</i>	Regent	Whangarei ..	650
Grand	Dunedin ..	820	Plaza	Auckland ..	1,095 <i>b</i>
			Rialto	Newmarket, Auckland	1,500 <i>b</i>
			Strand	Auckland ..	1,490 <i>c</i>
			Civic	Auckland ..	3,500 <i>c</i>
(2) FULLER-HAYWARD THEATRE CORP., LTD.					
Majestic	Auckland ..	2,000 <i>d</i>	Princess	Hokitika ..	750 <i>b</i>
St. James	Auckland ..	2,100 <i>d</i>	Opera House ..	Greymouth ..	800 <i>b</i>
Prince Edward ..	Auckland ..	1,650 <i>d</i>	Town Hall.. ..	Greymouth ..	750 <i>e</i>
Victoria	Devonport, Auckland	760	Miners' Hall ..	Blackball ..	550 <i>b</i>
St. James	Dunedin ..	1,148 <i>d</i>	Miners' Hall ..	Dennistown ..	500 <i>b</i>
Strand	Dunedin ..	774 <i>d</i>	Tivoli	Feilding ..	750 <i>b</i>
King Edward ..	Dunedin ..	836	Regent	Morrinsville ..	480 <i>b</i>
St. James	Wellington ..	1,950	Majestic	Timaru ..	1,000 <i>b, d</i>
Majestic	Invercargill ..	1,050 <i>d</i>	Royal	Timaru ..	1,215 <i>b, d</i>
Majestic	Wanganui ..	1,331 <i>d</i>	Miners' Hall ..	Waiuta ..	300 <i>b</i>
Majestic	Ashburton ..	837	Public Hall ..	Wallsend..	350 <i>b</i>
His Majesty's ..	Ashburton ..	800 <i>f</i>	Palace	Petone ..	950 <i>f</i>
Majestic	Oamaru ..	750	Grand	Petone ..	850 <i>f</i>
Town Hall.. ..	Oamaru ..	800 <i>f</i>	Empire	Petone ..	800 <i>e, f</i>
Majestic	Taihape ..	500	Kosy	Palmerston North..	900 <i>b, f</i>
Town Hall.. ..	Taihape ..	600 <i>f</i>	Palace	Palmerston North..	850 <i>b, f</i>
Arcadia	Waimate ..	550	Regent	Palmerston North..	1,600 <i>b, f</i>
Britannia	Ponsonby, Auckland	728 <i>b</i>	Regent	Nelson ..	650 <i>f</i>
Strand	Onchunga, Auckland	900 <i>b</i>	Majestic	Nelson ..	1,220 <i>f</i>
Forresters' Hall ..	Onehunga, Auckland	600 <i>b, e</i>	Majestic	Wellington ..	2,350 <i>g</i>
Royal	Hamilton ..	1,125 <i>b</i>	De Luxe	Dannevirke ..	844 <i>g</i>
Strand	Hamilton ..	1,150 <i>b</i>	Plaza	Napier ..	1,250 <i>g</i>
Roxy	Hamilton ..	700 <i>b</i>			
(3) J. C. WILLIAMSON PICTURE CORP.					
Regent	Auckland ..	1,400 <i>h</i>	Opera House ..	Wellington ..	1,625 <i>i</i>
National	Auckland ..	1,450 <i>h</i>	Kinema	Kilbirnie ..	1,030
Plaza	Christchurch ..	626 <i>i</i>	Regent	Timaru ..	800 <i>h</i>
Royal	Christchurch ..	1,403 <i>i</i>	Plaza	Whangarei ..	840
Octagon	Dunedin ..	1,210 <i>h</i>	Regent	Invercargill ..	1,050 <i>h</i>
Regent	Dunedin ..	1,800 <i>h</i>	Regent	Wanganui ..	1,100 <i>h</i>
Regent	Wellington ..	1,700 <i>i</i>	Civic	Marton ..	650
(4) WILLIAMSON PICTURE CORP. AND KEMBALL THEATRES, LTD.					
Regent	Masterton ..	1,100	Everybody's ..	New Plymouth ..	768 <i>b</i>
Cosy de Luxe ..	Masterton ..	700	Regent	New Plymouth ..	410 <i>b</i>
Opera House ..	New Plymouth ..	1,275 <i>b</i>	Regent	Hastings ..	762 <i>a</i>
Plaza	Stratford..	700 <i>a</i>	Cosy de Luxe ..	Hastings ..	930 <i>b</i>
Opera House ..	Hawera ..	800 <i>b</i>	De Luxe	Lower Hutt ..	950
Grand	Hawera ..	500 <i>b</i>			
(5) KEMBALL THEATRES, LTD.					
De Luxe	Wellington ..	1,850 <i>h</i>	Crown	Eastbourne ..	300 <i>b</i>
Paramount	Wellington ..	1,500 <i>h</i>	Town Hall.. ..	Greytown ..	450 <i>b</i>
King's	Wellington ..	1,450 <i>h</i>	Municipal	Hastings ..	1,275 <i>b</i>
Queen's	Wellington ..	1,000 <i>h</i>	Cosy	Otaki ..	400 <i>b</i>
Britannia	Wellington ..	500	Cosy	Woodville ..	350 <i>b</i>
Princess	Wellington ..	525	Seaside Pictures ..	Lyall Bay, Wellington	400 <i>b</i>
Artercraft	Wellington ..	725	Empire	Island Bay, Wellington	480 <i>c</i>
King's	Pahiatua..	500	Regal	Karori, Wellington	548 <i>c</i>
Tivoli	Carterton ..	875 <i>b</i>			
Cosy	Featherston ..	450 <i>b</i>			
(6) CHRISTCHURCH CINEMAS, LTD.					
(Fuller-Hayward have large interest.)					
Crystal Palace ..	Christchurch ..	1,026 <i>i</i>	Majestic	Christchurch ..	1,800 <i>i</i>
Everybody's ..	Christchurch ..	1,020 <i>i</i>	Grand	Christchurch ..	1,020 <i>i</i>
Liberty	Christchurch ..	1,400 <i>i</i>	St. James	Christchurch ..	1,302 <i>i</i>
Regent	Christchurch ..	1,500 <i>i</i>			

(a) In course of erection.

(b) Associated with local interests.

(c) Arrangement for purchase of film.

(d) Pooled with

Williamson Picture Corp.

(e) Theatre closed.

(f) Associated with Kemball Theatres and Williamson Picture Corp.

(g) Asso-

ciated with Kemball Theatres.

(h) Pooled with Fuller-Hayward.

(i) Buying arrangement to prevent competition.

LIST OF THEATRES, SHOWING CONTROLLING INTERESTS AND ASSOCIATIONS—continued.

Theatre.	Town.	Seating-capacity.	Theatre.	Town.	Seating-capacity.
(7) R. J. KERRIDGE, GISBORNE.					
Lyric	Auckland ..	1,484	Grand	Rotorua ..	500 <i>b</i>
Regent	Levin	950	De Luxe	Opotiki ..	700 <i>b</i>
Regent	Te Aroha ..	700	Regent	Opotiki ..	600 <i>b, c</i>
Regent	Thames .. .	800	Regent	Tauranga ..	650 <i>b</i>
Majestic .. .	Gisborne ..	996 <i>h</i>	Town Hall ..	Tauranga ..	590 <i>b</i>
Regent	Gisborne ..	1,000 <i>h</i>	Gaiety	Wairoa ..	750 <i>b</i>
Opera House ..	Gisborne ..	970 <i>h, e</i>	De Luxe	Wairoa ..	700 <i>b, c</i>
Majestic .. .	Rotorua ..	800 <i>b</i>	Grand	Whakatane ..	500 <i>b</i>
(8) INDEPENDENT THEATRES.					
(In towns exceeding 1,000 in population.)					
London	Queen Street, Auckland ..	550	Princess	Gore	800 <i>e</i>
Capitol	Dominion Road, Auckland ..	985	Civic	Hamilton ..	800
Empire	Dominion Road, Auckland ..	850	Lyric	Helensville ..	350
Royal	Kingsland, Auckland ..	650	Criterion	Hikurangi ..	650
Peerless	St. Heliers, Auckland ..	500	Monterey	Howick ..	350
Delta	New Lynn, Auckland ..	600	Town Hall ..	Huntly ..	500
Southern Cross ..	Ellerslie, Auckland ..	450	Town Hall ..	Inglewood ..	500
Picturedrome ..	Milford, Auckland ..	500	Grand	Kaipoi ..	350
Ambassador ..	Point Chevalier, Auckland ..	300	Club Hall ..	Kaitangata ..	300
Hall	Te Papapa, Auckland ..	200	Gaiety	Kaikohe ..	350
Town Hall ..	Henderson, Auckland ..	550	Regent	Kaikohe ..	400 <i>e</i>
Paramount ..	Parnell, Auckland ..	420	Harbour Lights ..	Lyttelton ..	625
Arcadia	Auckland ..	900	Town Hall ..	Martinborough ..	400
Tudor	Remuera, Auckland ..	1,000	Regent	Matamata ..	800
Palladium ..	Takapuna, Auckland ..	650	Hall	Manurewa ..	300
Town Hall ..	Avondale, Auckland ..	700	Coronation Hall ..	Milton ..	480
Foresters' Hall ..	Birkenhead, Auckland ..	450	Majestic	Motueka ..	525
Cinema	Grey Lynn, Auckland ..	1,000	Regent	Mataura ..	450
Civic	Christchurch ..	1,350	Horticultural Hall ..	Mataura ..	350
Navy League Hall ..	Christchurch ..	150	Gaiety	Napier ..	1,000
King's	Sydenham, Christchurch ..	680	Town Hall ..	Ngaruawahia ..	600
Joyland	New Brighton, Christchurch ..	500	Patriotic	Ohakune ..	300
Premier	New Brighton, Christchurch ..	500	Majestic	Ohakune ..	400
Memorial Hall ..	Papanui, Christchurch ..	500	Hall	Opunake ..	300
Town Hall ..	Sumner, Christchurch ..	320	Gaiety	Otahuhu ..	600
Empire	Dunedin ..	2,516 <i>h</i>	Orpheus	Otahuhu ..	500
Laurier	Port Chalmers, Dunedin ..	350	Aurora	Paeroa ..	500
Coronation Hall ..	Mosgiel, Dunedin ..	800	Central	Papatoetoe ..	540
Shortt's	Wellington ..	630	Star	Papakura ..	400
Our	Newtown, Wellington ..	749	Town Hall ..	Patea ..	350
Capitol	Miramar, Wellington ..	800	Albert Hall ..	Pictou ..	500
Fulford's Hall ..	Brooklyn, Wellington ..	280	Straud	Pukekohe ..	500
Public Hall ..	Khandallah, Wellington ..	500	Town Hall ..	Queenstown ..	200
Town Hall ..	Ngaio, Wellington ..	300	Royal	Raetihi ..	400
Empress	Johnsonville, Wellington ..	350	Princess	Reefton ..	450
King George ..	Lower Hutt, Wellington ..	1,200	Town Hall ..	Rangiora ..	600
Prince Edward ..	Lower Hutt, Wellington ..	600	Empire	Riverton ..	450
Britannia	Balelutha ..	500	Miners' Hall ..	Runanga ..	400
Palace	Blenheim ..	700	Renown	Shannon ..	300
His Majesty's ..	Blenheim ..	1,075	King's	Stratford ..	800
Municipal	Bluff ..	388	Town Hall ..	Taradale ..	400
Public Hall ..	Eketahuna ..	480	King's	Taumarunui ..	600
Town Hall ..	Eltham ..	700	Civic	Tauranga ..	500 <i>a</i>
Town Hall ..	Foxton ..	550	Majestic	Te Aroha ..	700
Municipal ..	Geraldine ..	450	Empire	Te Awamutu ..	550
Regent	Gore ..	900	Regent	Te Awamutu ..	800
			Empress	Te Kuiti ..	300
			Capitol	Te Puke ..	300
			Dominion	Temuka ..	500
			Cosy	Upper Hutt ..	400
			Majestic	Upper Hutt ..	450
			Academy	Waihi ..	500
			Municipal	Waipawa ..	700
			Municipal	Waipukurau ..	600
			Royal	Waitara ..	550
			Duchess	Aramoho, Wanganui ..	750
			Globe	Gonville, Wanganui ..	350
			Y.M.C.A. Hall ..	Wanganui ..	150
			Royal	Winton ..	730
			Victoria	Westport ..	750
			Royal	Westport ..	600 <i>e</i>

(a) In course of erection. (b) Associated with local interests. (c) Arrangement for purchase of film. (d) Pooled with Williamson Picture Corp. (e) Theatre closed. (f) Associated with Kembal Theatres and Williamson Picture Corp. (g) Associated with Kembal Theatres. (h) Pooled with Fuller-Hayward. (i) Buying arrangement to prevent competition.

(9) INDEPENDENT THEATRES.

(In townships having less than 1,000 population.)

Akaroa.	Alexandra.	Arapuni.	Arrowtown.
Awanui.	Brown's Bay.	Bulls (2).	Cheviot.
Coromandel.	Clive.	Culverden.	Darfield.
Fernhill.	Granity.	Greenmeadows.	Hanmer Springs.
Haumoana.	Herekino.	Hornby.	Hunterville.
Kaeo.	Kaikoura.	Kaitia.	Kaka Point.
Kaponga.	Karamea.	Katikati.	Kawhia.
Kerepehi.	Kohukohu.	Little River.	Lumsden.
Manunui.	Mayfield.	Mercer.	Methven.
Millerton.	Mohaka.	Murchison.	Nightcaps.
Norsewood.	Nuhaka.	Ohaeawai.	Ohai.
Ohaupo.	Ohura.	Okaihau.	Opoutama.
Orepuki.	Otautau.	Oteramika.	Otorohanga.
Owaka.	Oxford.	Palmerston.	Porirua.
Pleasant Point.	Pongaroa.	Porangahau.	Portland.
Pukemiro.	Putaruru.	Raglan.	Rakaia.
Ratana.	Rawenc.	Roxburgh.	Ruatoria.
Ruawai.	Russell.	Southbridge.	Stockton.
Takaka (2).	Takapau.	Te Araroa.	Te Karaka.
Te Kauwhata.	Te Kopuru.	Tikitiki.	Tirau.
Tokomaru Bay.	Tolaga Bay.	Trentham.	Tuakau.
Tuatapero (2).	Turakina.	Turua.	Urenui.
Waharoa.	Waiau.	Waikaremoana.	Waikari.
Waipu.	Waitaki Hydro.	Waitotara.	Waiuku.
Warkworth.	Waverley.	West Shore.	Whatatutu.
Whitianga.	Kawakawa.		

(10) SMALL TOWNSHIPS.

(Visited occasionally by circuit exhibitors with movable projection equipment.)

Ahipara.	Albury.	Apiti.	Athol.
Auroa.	Balfour.	Becks.	Belfast.
Brightwater.	Broadwood.	Canvastown.	Cave.
Chertsey.	Clyde.	Cromwell.	Cust.
Dipton.	Donnelly's Crossing.	Dunsandel.	Duntroon.
Edendale.	Fairlie.	Falls Dam.	Fortrose.
Glenavy.	Glenham.	Glentunnel.	Gorge Road.
Halcombe.	Halswell.	Hampden.	Harihari.
Havelock.	Hedgehope.	Herbert.	Heriot.
Hikutiaia.	Hororata.	Horotiu.	Houhora.
Kaihu.	Kaukapakapa.	Kimbolton.	Kokatahi.
Kumara.	Kurow.	Lauder.	Lawrence.
Leeston.	Mahakipawa.	Mabeno.	Maketu.
Manaia.	Mangamuka.	Mangatawhiri.	Mangateparu.
Mangaweka.	Mangonui.	Matakana.	Matata.
Mataura Island.	Maungaturoto.	Middlemarch.	Miller's Flat.
Mocraki.	Moerewa.	Mossburn.	Mount Somers.
Naseby.	Ngatea.	Ohingaiti.	Okaiawa.
Okato.	Omakau.	Ongaonga.	Ophir.
Opononi.	Orini.	Oruru.	Otane.
Packakariki.	Paparoa.	Paraparaumu.	Paraparaumu Beach.
Patetonga.	Pirongia.	Port Albert.	Pukchua.
Pungarehu.	Puriri.	Rahotu.	Rai Valley.
Ranfurly.	Rangiotu.	Rangiwahia.	Rata.
Renwick.	Richmond.	Riversdale.	Rongotea.
Ross.	Ruatapu.	Ruatoki.	Saies.
Seaward Downs.	Seddon.	Sheffield.	Silverdale.
Staveley.	Tahuna.	Tancatua.	Tangiteroria.
Tangowahine.	Tapanui.	Taupiri.	Taupo.
Tauranga (The Mount).	Tauwhare.	Te Hoc.	Te Teko.
Tikokino.	Tokarahi.	Tokonui.	Tomarata.
Waiharara.	Waihi Beach.	Waikaia.	Waikaka.
Waikino.	Waikouaiti.	Waimahaka.	Waimana.
Waitahuna.	Waitakaruru.	Waitati.	Waiterimu.
Waitoa.	Wakefield.	Walton.	Ward.
Warea.	Wellsford.	Wyndham.	Woodend.

SUMMARY.

Group.	Number of Theatres.	Seating-capacity.
(1) Amalgamated Theatres, Ltd.	27	21,214
Amalgamated Theatres, Ltd., and Local Interests	2	2,595
Amalgamated Theatres, Ltd. (Buying Arrangements)	2	4,990
	31	28,799
(2) Fuller-Hayward Theatre Corp.	17	18,436
Fuller-Hayward Theatre Corp. and Local Interests	17	12,648
Fuller-Hayward Theatre Corp., Kemball, and J. C. Williamson	8	7,820
Fuller-Hayward Theatre Corp. and Kemball	3	4,444
(3) J. C. Williamson Picture Corp.	14	16,684
(4) J. C. Williamson Picture Corp. and Kemball Theatres	11	8,895
(5) Kemball Theatres, Ltd.	8	8,050
Kemball Theatres, Ltd., and Local Interests	8	4,500
Kemball Theatres, Ltd. (Buying Arrangement)	2	1,028
(6) Christchurch Cinemas, Ltd. (Fuller-Hayward have large interests)	7	9,068
(6A) R. J. Kerridge and Fuller-Hayward	3	2,966
	98	94,539
(7) R. J. Kerridge, Gisborne	4	3,934
R. J. Kerridge, Gisborne, and Local Interests	9	5,790
	13	9,724
(8) Independent Theatres (in towns exceeding 1,000 in population)	107	60,633
(9) Independent Theatres (in townships having less than 1,000 population)	105	Average 150
		15,750
(10) Small townships visited by circuit exhibitors	144	Average 100
		14,400
Total	498	223,845

WARNER BROS. FIRST NATIONAL PICTURES LTD.

AGREEMENT L

CONTRACT No.

AGREEMENT made this day of One thousand nine hundred and between WARNER BROS. FIRST NATIONAL PICTURES LIMITED a Company duly incorporated and carrying on business at in the State of and elsewhere (hereinafter called the "Distributor") of the one part and of in the said State of an Exhibitor operating the Theatre at in the said State (hereinafter called the "Exhibitor") of the other part WITNESSETH that in consideration of the mutual agreements herein contained and of the payments herein provided for the parties hereto agree as follows :

1. The Distributor agrees to hire and the Exhibitor to accept on hire and to screen but only at the abovenamed Theatre one (1) print of each motion picture film specified or otherwise described hereunder.
2. The words "motion picture film" or "film" as used in this Agreement are intended to cover both silent and sound films and in the case of the latter shall also be deemed to include all discs records and/or other devices which may be necessary to reproduce sound (including music and/or words) in synchronisation with such motion picture films.
3. Each motion picture film contracted for exhibition in this Agreement shall be exhibited for the number of consecutive days and/or on the dates specified in the particulars hereunder and the Exhibitor shall pay therefor the rental as set forth in said particulars.
4. This Agreement shall be deemed to have been made at the office of the Distributor at and shall be governed by the law of the State in which the said office is situated or by the law of New Zealand if deemed to be made in New Zealand.
5. It is hereby agreed and declared that this Agreement shall operate for the supply of the undermentioned number and classifications of films regardless of origin for a period of successive weeks from the day of One thousand nine hundred and and shall not except at Distributor's option include any of next season's films as determined by Distributor irrespective of the dates of release of such films.
6. The number and rental classification of films selected by the Distributor to be supplied to and screened by the Exhibitor in the customary and usual manner during the period aforesaid under this Agreement are and the terms and conditions applying thereto shall be :—

Particulars.

Films Selected by Distributor.	No. of Films to be used each week.	No. of Days' Screening.	Guaranteed Rental.	Percentage of Box Office Receipts.	Days of each Week and/or Dates of Screening.

6A. It is further agreed that the classifications or groupings of films herein are for classification purposes only and do not determine the box office value of the respective films; Further this Agreement does not include such Floater Films as shall be determined by Distributor unless specified herein.

7. The Exhibitor shall charge admission fees in accordance with the following prices set forth :

	Stalls.	Dress Circle.	Stalls.	Dress Circle.
	Matinees.		Evenings.	
Mondays to Fridays.				
Saturdays & Holidays.				

On all dates on which any of the said films are due to be screened.

8. It is hereby agreed and declared that at the option of the Distributor no film need be supplied by virtue hereof unless and until such film has a first run or pre-release presentation in each or all of the capital cities, unless such film is specifically contracted for for first-run or pre-release presentation.

9. The Exhibitor undertakes that the reproducing equipment used by him in connection with any sound films supplied or to be supplied hereunder will operate properly reliably and efficiently so as to reproduce sound from such films or discs and/or other devices with adequate volume and quality equal to that obtained by the use of the equipment supplied by the Electrical Research Products Incorporated (Western Electric System) and to the entire satisfaction of the Distributor but in any event no public screening of the Distributor's sound films shall be given until the Exhibitor has first received the approval of the Distributor as to the fulfilment of this condition and for this purpose the Distributor's representative shall have the right to make an inspection of and to test such equipment prior to the first screening under this Agreement taking place and thereafter from time to time as may be deemed necessary or expedient by such representative. The Exhibitor will maintain and keep the projection machines and all other apparatus and the appurtenances thereto used by him in connection with the films in a good proper and substantial state of repair order and condition and will at all times allow free and uninterrupted access for the Distributor and/or the person or persons appointed by the Distributor for that purpose to enter into and upon every part of the said Theatre including the projection room programme assembling and rewinding room or rooms used in connection therewith to ascertain if the various Acts by-laws and regulations relating to Picture Theatres are being fully complied with by the Exhibitor and also to view and examine the state and condition of the said projection machines and other apparatus and appurtenances and if after any such view or examination the Distributor or the aforesaid duly appointed person or persons shall serve upon the Exhibitor or leave for him at or upon the said Theatre notice in writing requiring the Exhibitor within a time specified in such notice to carry out the provisions of the said Acts by-laws and/or regulations and/or to repair and/or amend such defects or wants of reparation as upon such view or examination shall be found existing in the said machines and/or apparatus or appurtenances and/or to replace or reinstate therein or thereto any part or parts thereof which shall be worn or missing and/or to provide and install any additional projection machine or apparatus which may be reasonably required by the Distributor for the protection of its property then the Exhibitor shall within such prescribed time and at his own cost and expense in all things so observe perform carry out repair amend replace reinstate provide and install the same in a proper and workmanlike manner and to the entire satisfaction of the Distributor or the person or persons appointed by the Distributor for that purpose.

10. The Exhibitor agrees that where copyright musical compositions are recorded on any films and/or discs and/or other devices to reproduce sound furnished hereunder he will have a then effective license from the Musical Copyright Owners' Association the Australasian Performing Right Association Limited and/or any other association body or individual who may hold or control the legal ownership and/or the right of public performance of the musical compositions publicly to perform by means of such films and/or discs and/or other devices the copyright musical compositions owned or controlled by such association body or individual and the Exhibitor will indemnify the Distributor against all actions damages costs fees claims and demands arising by reason of any breach of this clause. The Exhibitor shall also be liable to repay to the Distributor a due proportion of all fees payable by the Distributor in respect of the copyright of any musical or other work included in any of the films and/or discs and/or other devices covered by this Agreement and in the event of any dispute or difference arising as to the proportion payable hereunder by the Exhibitor such proportion shall be fixed by the Distributor's Auditors whose decision shall be final and binding on both parties.

11. The Exhibitor agrees to replace with black spacing film all film deleted from the positive print of any film supplied hereunder upon which the sound record is not recorded on the film and to advise the Distributor in writing of any such replacements and deletions which may be made.

12. The Exhibitor agrees that he will not dupe copy or duplicate or permit or allow the duping copying or duplicating of the prints or parts of prints of the films and/or of the discs and/or other devices supplied by the Distributor by virtue thereof.

13. This Agreement conveys no right to the Exhibitor to reproduce from the films and/or sound records supplied by the Distributor by virtue hereof in any other manner or at any other time or place than as specified herein or in connection with the screening of any other motion picture or other screening or entertainment and the broadcasting of or from any such films and/or sound records is expressly prohibited.

14. The Distributor shall supply advance lists or other written notice prior to the date of screening by the Exhibitor covering the films contracted for in this Agreement and the said Exhibitor agrees to accept such Advance lists or other written notice and to screen only at the abovenamed Theatre the films supplied on the respective dates specified on such advance lists or other written notice.

15. The rental for the screening of each film contracted for under this Agreement together with the cartage freight and all other charges shall be paid by the Exhibitor to the Distributor at the office of the Distributor (where this Agreement is deemed to have been made pursuant to Clause 4 hereof) or such other place as the Distributor may require in cash before delivery or at the option of the Distributor within seven (7) days after the first authorised screening date of each film supplied or agreed to be supplied hereunder notwithstanding that no demand for payment shall have been made by the Distributor provided that the Distributor shall have the right in case the Exhibitor may make default under this or any other Agreement between the parties hereto without prejudice to any other right or rights on the part of the Distributor by virtue hereof to require the Exhibitor to make good such default before delivery of any further films hereunder. Provided however that in any case where the rental for the screening of a film is or is to be computed upon the Gross Receipts and/or Operating Expenses of the said Theatre the Exhibitor shall in respect of each day of the authorised days for the screening of the film pay to the Distributor in manner herein provided the rental computed as aforesaid as well as all moneys which may be due and owing to the Distributor for freight cartage and other charges provided also that in any case where the rental is computed in the manner lastly above mentioned the Exhibitor will prior to each authorized day for the screening of the film if so requested by the Distributor deposit with the Distributor in cash or otherwise to the satisfaction of the Distributor a sum of money representing the estimated rental value of the film to be screened such estimated rental to be determined by the Distributor. All moneys so deposited by the Exhibitor may at the option of the Distributor be applied by the Distributor in or towards satisfaction of the rental and other moneys due and payable to the Distributor for the film to be so screened and any surplus remaining after payment of any further moneys owing to the Distributor shall be refunded to the Exhibitor without unreasonable delay provided that if the said deposit prove insufficient to liquidate the liability of the Exhibitor in respect of such film rental and/or other moneys due then the balance due by the Exhibitor shall be paid by the Exhibitor to the Distributor on the day authorised for the presentation of the film. In the event of no deposit being required by Distributor the proportion of each day's gross receipts and/or operating expenses due to Distributor for film rental shall be the property of Distributor immediately it is received by Exhibitor and Exhibitor shall hold same in trust until paid to Distributor.

16. If this Agreement calls for payment to the Distributor computed upon the Gross Receipts and/or Operating Expenses of the said Theatre the Exhibitor shall furnish to the Distributor daily a correct itemised statement of such Gross Receipts and/or Operating Expenses during the screening of the Distributor's film and the duly appointed representative of the Distributor shall have access at all reasonable times to the Box Office and to any part of the Theatre and may inspect all books leases agreements contracts vouchers and records of every kind and nature and may verify the details of all expenditure affecting the said payments as and when demanded and the Exhibitor will not refuse such access and/or inspection.

17. The obligation of the Exhibitor shall be to screen each film contracted for hereunder on its due date or dates. If the Exhibitor neglects or refuses to so screen any film under this Agreement or otherwise fails to accept and screen any film which he ought in terms of this Agreement to screen the Distributor may without prejudice to its rights to insist on the due screening of all films contracted for treat such film as having been actually screened and (a) if the said film be on a flat rental basis the Exhibitor shall pay to the Distributor forthwith the rental as provided for under this Agreement (b) if the rental of any such film is to be computed either in whole or in part upon a percentage of the Gross Admission Receipts and/or Operating Expenses of the said Theatre it is agreed that if the Exhibitor fails or refuses to screen any such film as provided in this Agreement or commences screening any such film but fails to screen it for the full number of days specified in this Agreement the Distributor (without prejudice to any other rights it may have hereunder) shall be entitled to insist that such percentage shall be calculated upon the average daily Gross Receipts and/or Operating Expenses of the said Theatre on the corresponding days of the week during any period satisfactory to the Distributor prior to the date or dates when such film should have been so screened and the amount so calculated shall be deemed to be the rental payable in respect of such film and the Exhibitor agrees to furnish to the Distributor on demand full particulars of the Gross Admission Receipts and/or Operating Expenses of the said Theatre for any period referred to above to enable such percentage to be ascertained and agrees to pay upon demand to the Distributor the amount so ascertained and the Exhibitor further agrees that for the purpose of this clause the duly appointed representative of the Distributor shall have the same right of access and inspection as provided for in Clause 16 hereof.

18. The Exhibitor agrees that admission to the said Theatre during the exhibition of the films contracted for herein or any of them shall only be upon payment of not less than one shilling (1/-) plus any Federal State or Municipal tax or imposition now or hereafter to be imposed or charged for admission to picture theatres for each adult (children half price) at each performance. This provision shall be deemed to be an essential part of this Agreement. Wherever the word "Children" appears in this Agreement it shall mean persons under the age of fourteen years.

19. The Exhibitor agrees that the rental for each film payable hereunder shall not be reduced or the payment thereof postponed or otherwise affected by reason of the within specified Theatre being closed for any cause or reason whatsoever other than a failure on the part of the Distributor to supply.

20. Should any Customs or Excise duty or any tax charge or imposition whatsoever have been or be at any time after the thirty-first day of July One thousand nine hundred and thirty levied or imposed or made

payable by the Distributor by virtue of any legislation passed or to be passed after the said thirty-first day of July One thousand nine hundred and thirty by the Parliament of either the Commonwealth of Australia or of the State in which the Exhibitor's said Theatre is situated in respect of the importation delivery lease hire exhibition or use of the films owned or distributed by the Distributor and/or sound records and/or advertising materials and/or accessories or receipts or profits of its business as Distributor of films and/or sound records and/or advertising material and/or accessories or any part of such receipts or profits or otherwise in respect of its business or any part thereof in addition to or in excess of those already levied or imposed upon or payable by the Distributor by virtue of legislation passed by both or either of the said Parliaments prior to the said thirty-first day of July One thousand nine hundred and thirty or if any export or excise duty or charge has been or shall after the said thirty-first day of July One thousand nine hundred and thirty be imposed by the Legislature or other competent authority of the country of origin additional to or in excess of those then payable in respect of films and/or sound records and/or advertising material and/or accessories imported by the Distributor then in each and every such case such new or additional duties taxes charges or impositions shall be paid proportionately by such Exhibitors who having or having had agreements with the Distributor leased hired exhibited used or had delivered to them the films and/or sound records and/or advertising material and/or accessories or any one or more of them or who paid or are liable to pay the moneys or contribute to or are liable to contribute to the receipts or profits or any part of such receipts or profits on or in respect of which such duties taxes charges or impositions have or shall have been imposed and the proportionate amount so referable to the Exhibitor shall unless mutually agreed upon be determined by the Auditor or Auditors for the time being of the Distributor and shall on demand be payable by the Exhibitor to the Distributor as additional consideration. Provided that if by reason of the act of any competent Legislature this clause as applied to any specific duty tax charge or imposition be or be rendered illegal or invalid it is expressly agreed and declared that such illegality or invalidity shall extend only to the application hereof to such duty tax charge or imposition and this clause shall be read as if such duty tax charge or imposition were expressly excepted from the duties taxes charges or impositions a proportionate part whereof the Exhibitor has hereby agreed to pay to the Distributor.

21. If by reason of the burden of any existing or future duties taxes charges or impositions or the award of any industrial arbitration or conciliation court tribunal board or committee or by reason of any legislation or statutory ordinance rule or regulation it should at any time hereafter be in the opinion of the Distributor no longer commercially profitable to carry on its business as a Distributor of films and/or sound records and/or advertising materials and/or accessories either in whole or in part or to perform this Agreement (of which matters the Distributor shall be the sole judge without its decision being subject to review by any court or tribunal) the Distributor may at its option terminate this Agreement on giving thirty days' notice of its intention so to do to the Exhibitor without incurring any liability whatsoever to the Exhibitor by reason of such determination. Such determination shall be without prejudice—

- (a) To the right of the Distributor to recover from the Exhibitor all moneys due and payable by the Exhibitor to the Distributor up to the date of such determination and
- (b) To the right of the Distributor to recover from the Exhibitor damages for any breach of this Agreement committed by the Exhibitor up to the date of such determination and
- (c) To all causes of action which shall have accrued to the Distributor prior to or on the date of such determination.

22. The Distributor agrees to deliver one print only of each film to the Exhibitor who agrees to accept the same and the Exhibitor acknowledges that all film delivered in conformity with this clause shall be deemed to be duly delivered immediately it is handed to him or his representatives or forwarded or consigned to him in the manner hereinafter provided that is to say:

- (a) In the case of City and Suburban Theatres delivery shall be made at the office of the Distributor to the Exhibitor or to some person or persons purporting to represent the Exhibitor. All film so delivered shall unless otherwise instructed by the Distributor be returned to the office of the Distributor not later than 10 o'clock in the forenoon of the day next after the last authorised screening date of each film.
- (b) In the case of Theatres other than city and suburban the film addressed to the Exhibitor at the said Theatre shall be forwarded or consigned to him either by the Distributor or by some other person or persons at the direction of the Distributor and either by rail steamer or other means of carriage conveyance or transport as the Distributor may decide. The Exhibitor shall immediately after his last authorised screening date thereof forward or consign the film together with all accessories supplied for temporary use to the branch of the Distributor indicated by the Distributor or to any person or persons at any place named by the Distributor and for that purpose will engage use or hire such means of carriage conveyance or transport as the Distributor shall direct. All such consignments by the Exhibitor shall be borne to the respective destinations as directed by the Distributor properly and distinctly labelled and addressed so as to be reasonably legible in order to expedite despatch. The Exhibitor shall upon any breach of this clause and without prejudice to any other power conferred in this Agreement upon the Distributor be liable for and shall pay any necessary expense or loss of revenue incurred by the Distributor by reason of such breach in the delivery to a subsequent Exhibitor of the film supplied hereunder.

Provided always and it is hereby expressly agreed and declared that notwithstanding anything in this Agreement to the contrary contained or implied the Distributor shall not be liable in any way to the Exhibitor for any failure or delay in making delivery of any film resulting from any cause not within the control of the Distributor.

23. It is expressly agreed and declared by and between the parties hereto that this Agreement is made upon the express condition that if any moneys payable or to be paid hereunder or any part of such moneys shall not be paid at the time or times hereinbefore stipulated for payment thereof (whether legally demanded or not) or in case the Exhibitor shall make default in or neglect or fail to observe perform or fulfil any of the terms conditions agreements and stipulations contained or implied in this Agreement or in any other agreement or agreements between the parties hereto and which on the part of the Exhibitor are or ought to be observed performed or fulfilled then and in any or either of such cases it shall be lawful for the Distributor immediately or at any time thereafter without further notice or demand to suspend further deliveries of the films and/or other goods and/or accessories contracted for either in this or any other agreement or agreements between the parties hereto until all moneys due and unpaid shall have been paid and/or until any and every breach or default in any of the terms conditions agreements and stipulations on the part of the Exhibitor to be observed or performed is made good by the Exhibitor to the satisfaction of the Distributor or the Distributor at its option may cancel this Agreement and/or all other agreements between the parties hereto and in the event of suspension of deliveries or cancellation the Exhibitor shall be obliged to pay to the Distributor on demand the hire of each film which would but for such suspension of deliveries or cancellation have remained to be delivered under this Agreement without being liable to any claim or action for any loss or damage which the Exhibitor may sustain by reason of such suspension or cancellation. Provided always that any such suspension of delivery shall not release the Exhibitor from his obligation to carry out the terms of this Agreement or of any other agreement or agreements between the parties hereto. Provided further that such

suspension or cancellation of this Agreement or any other agreement or agreements between the parties hereto shall be without prejudice to the rights of the Distributor in addition to such suspension or cancellation and concurrently therewith the Distributor may take action at law or in equity for the recovery of the moneys so unpaid and/or for any damages sustained by the Distributor or to enforce any of the rights and remedies of the Distributor against the Exhibitor by reason of the non-performance by the Exhibitor of the terms of this Agreement or any other agreement or agreements between the parties hereto or any of such terms.

24. The Exhibitor shall not retain any film delivered hereunder beyond the authorised screening dates thereof respectively specified in the particulars or advance list or other written notice and the Exhibitor shall not screen or permit the screening or use of any of the films hereunder at any time or place other than the authorised screening dates and places except as specifically authorised in writing by the Distributor. Upon any breach of this clause the Distributor may at its option and without prejudice to any other right or remedy of the Distributor forthwith terminate this Agreement and the Exhibitor shall nevertheless upon demand pay to the Distributor a rental equivalent to that chargeable by the Distributor for an authorised screening thereof for each and every day of such unauthorised screening or retention.

25. Should the Distributor for any cause beyond its control be unable to deliver any of the films contracted for hereunder then the Distributor shall upon notifying the Exhibitor thereof have the right to select and supply some other films in lieu thereof and no objection shall be taken by the Exhibitor thereto providing that such substitute films shall not have been previously used by the Exhibitor and should the Distributor not exercise the said right of substitution then the Distributor shall credit the amounts (if any) paid for the films not supplied and the Distributor shall not be liable in any way for such non-delivery.

26. Notwithstanding anything contained in Clause 25 hereof the Exhibitor agrees not to screen on dates specified in the particulars or the advance list or other written notice for the screening of films to be supplied hereunder any film in lieu thereof except such films as shall be supplied by the Distributor.

27. The Exhibitor agrees to use the words "A Warner Bros. and Vitaphone Talking Picture" or "A First National and Vitaphone Talking Picture" whichever shall apply in every form of advertising and publicity of all films to be supplied hereunder and 5% of advertising space shall be at all times given to the Distributor's trade mark.

28. All advertising by the Exhibitor shall be subject to the approval of the Distributor and no films supplied hereunder shall be advertised in such manner as to make it appear that such film is supporting the films to be screened and supplied by any other person and Exhibitor agrees not to advertise in any way any attractions being screened or to be screened more extensively at any time than he does the Distributor's film then screening or to be screened and further agrees to fully advertise each of Distributor's films and to give the Distributor's film top position in all advertisements.

28A. Unless this Agreement expressly provides for the "first run" in the City Town or Locality wherein the theatre herein specified is located the Exhibitor agrees not to advertise any of the films herein provided for by means of lithograph slides trailers lobby displays newspaper announcements advertising or otherwise prior to, and until after the completion of the screening of such film by any other Exhibitor having the right of the prior run thereof in said City Town or Locality.

29. The Exhibitor shall acquire from the Distributor only, at the Distributor's current prices all lithographs posters photographs slides blocks lobby displays and all advertising accessories and shall post and distribute same. And the Exhibitor agrees not to lease sell rent loan or give away any of the advertising accessories purchased or leased from the Distributor. In the event of any breach of this clause by the Exhibitor the right and title to all advertising accessories purchased or leased from the Distributor shall immediately revert to the Distributor who may take possession of same wherever found.

30. The Exhibitor shall avoid advertising and/or publicity of a nature which may cause action to be taken by the Censorship or any Government authority and in the event of any fine or penalty being imposed by reason of such advertising and/or publicity such fine or penalty and all costs shall be paid in full by the Exhibitor who shall indemnify the Distributor in respect thereof.

31. The Exhibitor agrees to exhibit and use the films delivered hereunder without alteration or cutting with all titles subtitles leaders and trailers as supplied by the Distributor.

32. All films and/or other goods and/or accessories delivered to the Exhibitor shall be deemed to be in the possession of and at the risk of the Exhibitor from the time when such films and/or other goods and/or accessories are delivered to the representative of the Exhibitor or delivered at the office of or placed on board any conveyance for transmission to the Exhibitor until such films and/or other goods and/or accessories are delivered back to the office of the Distributor or to a place named by the Distributor and the Exhibitor hereby acknowledges liability to the Distributor for all loss or damage occasioned to the films and/or other goods and/or accessories from any cause whatsoever whilst in his possession or custody and agrees to pay to the Distributor by way of compensation the sum of ninepence (9d.) per lineal foot for every lineal foot of black and white film and fifteen pence (1/3) per lineal foot for every foot of technicolor or other colored film lost destroyed stolen or damaged and the value of such discs and/or other devices and/or other goods and/or accessories as determined by the Distributor. The Exhibitor further agrees and declares that nothing elsewhere in this Agreement expressed or implied shall relieve or absolve him from his liability abovementioned. Such payment however shall not transfer any title to or any interest in such film and/or other goods and/or accessories to the Exhibitor or any other party or release the Exhibitor from liability arising out of any other breach of this Agreement. The Exhibitor shall immediately notify the Distributor by telephone or urgent telegram of the loss theft destruction of or injury to any film and/or other goods and/or accessories supplied by virtue of this Agreement. If any films and/or other goods and/or accessories shall be received by the Exhibitor in a damaged or partially destroyed condition such films and/or other goods and/or accessories shall be deemed to have been so damaged or destroyed whilst in the possession of the Exhibitor unless the latter on the day of receipt of such films and/or other goods and/or accessories shall have telephoned or telegraphed the Distributor that such films and/or other goods and/or accessories have been received by the Exhibitor in a damaged or partially destroyed condition and setting forth fully the nature of such destruction or damage. The Exhibitor shall unless otherwise instructed by the Distributor return to the Distributor all discs and/or other devices if any which have been delivered to the Exhibitor hereunder and all parts thereof if damaged or broken immediately following the last screening of the film with which such discs and/or other devices have been used.

33. In the event of the suspension of delivery to the Exhibitor of any films and/or other goods and/or accessories by reason of the breach by the Exhibitor of any of the provisions of this Agreement or by reason of the cancellation by the Distributor thereof all films and/or other goods and/or accessories the property of the Distributor actually in the possession or under the control of the Exhibitor or on consignment to him at the time of such suspension or cancellation shall immediately at the request of the Distributor be forwarded or consigned or delivered by the Exhibitor at his own cost and expense in all things and in the manner prescribed in this Agreement to the branch of the Distributor indicated by the Distributor or to any person or persons named by the Distributor and the Exhibitor hereby authorises the Distributor and/or the person or persons appointed by the Distributor for that purpose at the option of the Distributor to enter upon and into the said Theatre and every part thereof respectively and the appurtenances thereto and to seize and repossess the films and/or other goods as well as all accessories supplied for temporary use without being answerable or liable to the Exhibitor for any loss or damage occasioned to him by reason of such seizure and repossession and if upon receipt by the Exhibitor of the aforesaid notice of suspension or cancellation and the request to consign or despatch the film and/or other goods and/or accessories as aforesaid the Exhibitor shall fail to do so or if

he shall otherwise unlawfully retain possession of the films and/or other goods and/or accessories supplied for temporary use the Exhibitor shall without prejudice to the other powers herein conferred upon the Distributor be liable for and shall pay to the Distributor the full value of such films and/or other goods and/or accessories and the sum of not less than ten pounds (£10) for each day on which the films and/or other goods and/or accessories supplied for temporary use shall be unlawfully detained by him.

34. The Exhibitor shall prior to delivery thereof insure and during the continuance of this Agreement keep insured all films to be delivered to him pursuant to the within Agreement such insurance to be effected with the Company or Association specified by the Distributor who shall have the sole right to specify the risks to be covered by the policy of insurance. The premium for such insurance shall be paid by the Exhibitor to the said specified Company or Association within one week after the due date thereof and in the event of default hereunder the Distributor shall have the right if it thinks fit to pay such premium and to recover the amount thereof from the Exhibitor. Notwithstanding anything herein contained or implied to the contrary the Exhibitor shall maintain an insurance policy of not less than (£600) six hundred pounds covering the whole programme to be screened by him at each performance. If the Exhibitor is supplied with film from the Victorian Branch of Distributor then the Exhibitor agrees that if upon the signing of this Agreement there is already in existence an insurance policy on films with some Insurance Company other than that specified by the Distributor he will upon the expiration of such policy of insurance effect a new insurance through The Film Protection Association of Victoria Ltd. with the Insurance Company specified by the Distributor and will continue to insure through such Association and with such Company in accordance with the terms of this Agreement and with no other Company or Association.

35. The Distributor reserves the right to switch each and every film supplied hereunder (switch means the supply of the same print of the film to other exhibitors on the same date) as it may think fit and the Exhibitor agrees to return each and every film at the hours fixed by the Distributor for delivery to any other exhibitor or exhibitors for return in due course. The Exhibitor shall pay all costs of switching.

36. The Exhibitor agrees to pay all freight and other costs and charges of whatsoever nature and kind in respect of the delivery to him of the films and/or other goods and/or accessories used in connection therewith including advertising matter and also in respect of the return thereof to the Distributor as directed and/or in forwarding or consigning the same to the person or persons named by the Distributor as aforesaid.

37. The Exhibitor will as the same are applicable to motion picture theatres and/or the control care and use of film and according to their true intended meaning at all times fully and effectually comply with all Acts of Parliament both Federal and State and the amendments thereto and rules and regulations thereunder and any amendments thereof as well as with all by-laws of any Local Government Municipal or other authority having power in that behalf for the locality or district wherein the films to be supplied under this Agreement are to be used.

38. The person who signs this Agreement on behalf of the Exhibitor expressly represents and warrants that he has full and complete authority to bind the Exhibitor to the terms of this Agreement and delivery of the said films and/or other goods and/or accessories to the Exhibitor by the Distributor is made relying fully upon this warranty.

39. This Agreement shall be deemed an application for a contract only and shall not be binding on the Distributor until accepted in writing on its behalf by its authorised officer and no alterations hereof shall be valid unless evidenced in writing signed by one of such persons. The delivery of advertising accessories or of any film and/or discs and/or other devices or the forwarding of advance lists or other written notices or the acceptance of advance payments by the Distributor shall not be deemed to be an acceptance by the Distributor of this Agreement in lieu of the method hereinbefore stated.

40. This Agreement is declared to be personal in respect of the Exhibitor and may not be assigned or transferred to any other person without the written consent of the Distributor which consent if given shall not be effective until such time as such person shall have agreed with the Distributor to carry out the covenants and provisions of this Contract on the part of the Exhibitor to be performed and notwithstanding such consent the Exhibitor shall remain responsible to the Distributor in the event of any default being made by such person under such Agreement.

41. This Agreement constitutes the entire contract between the parties hereto and no oral representations or alleged agreements with respect to the subject matter hereof shall be binding on the parties hereto and nothing contained in any advertisements, newspaper journal or other publication of any description whatsoever or in any other form of announcement shall be deemed to have any bearing upon or relation to this Agreement.

42. Any waiver by the Distributor of any of the rights of the Distributor in respect of any breach of this Agreement shall apply only to the particular waiver to which it relates and shall not permit or be deemed to permit any similar breach at any time and shall be entirely without prejudice to the rights of the Distributor in case of any further breach by the Exhibitor of the terms provisions or conditions of this Agreement.

43. It is expressly agreed that this Agreement in no way constitutes a partnership between the parties hereto.

44. All Stamp Duty if any payable in respect of this Agreement shall be paid by the Exhibitor and the Distributor has the right at any time to stamp this Agreement and to charge the Exhibitor with the amount of Stamp Duty payable thereon and the Exhibitor agrees to pay the same upon demand.

45. Distributor's right to approve or reject this application or any other application signed by the Exhibitor at the same time or any other time is not dependent upon the approval or rejection by the Distributor of such other application or this application.

46. In the event of any other Agreement or Agreements being entered into between the parties hereto at the same time as or during the currency of this Agreement then this Agreement and the said other Agreement or Agreements shall be construed and performed separately and independently of each other.

47. No credit shall be allowed by the Distributor to the Exhibitor by reason of the closing of the said Theatre either on account of holidays or by Government Proclamation or the Act of any Authority either Municipal Local or otherwise.

48. In case the Distributor shall be delayed in or prevented from the performance of this Agreement with respect to any of the films herein specified by reason of Censor rulings, uncleared Australian and/or New Zealand rights late arrival of steamships change of policy of the Distributor change of release date change of the Distributor's yearly season change of title or story or the failure or delay of any prior Exhibitor in returning any films to the Distributor or in forwarding any films to a subsequent Exhibitor or for any reason whatsoever then all claims and/or causes of action for damages therefor or arising therefrom are hereby expressly waived by the Exhibitor. The Distributor however shall have the right at its option of substituting film in lieu of that so censored or not delivered through any of the above causes and the Exhibitor shall screen and/or pay for the full number of films specified herein provided that same are made available by the Distributor. It is expressly agreed that the Distributor at its option shall not be obliged to supply any film under this Agreement which is rejected by the Censor in New Zealand.

49. The Distributor may at its option terminate this Agreement without incurring any liability and without releasing the Exhibitor from damages suffered by the Distributor by reason of the Exhibitor's breach of this Agreement upon the failure or default of the Exhibitor to perform and carry out any of the terms conditions and covenants of this Agreement or upon the bankruptcy or insolvency of the Exhibitor or the appointment of a receiver or liquidator for him.

50. In consideration of the sum of 1/- paid by the Distributor to the Exhibitor the receipt of which sum is hereby acknowledged by the Exhibitor it is agreed that this application is not subject to cancellation or withdrawal or any variation by the Exhibitor during the period of sixty days from date hereof and then only if the Distributor has failed to accept and approve and so advises the Exhibitor.

51. The Distributor may at its option supply either black and white or technicolor prints of any films under this Agreement.

52. For the purposes of this Agreement a day's screening shall be deemed to include all screenings each day inclusive of all matinees and special performances.

53. It is agreed that the Distributor may at its election deliver to the Exhibitor hereunder either motion pictures recorded on film and records of sound recorded on other substance or both photographed and the sound recorded on the film or in any other manner which may be reproduced upon reproducing apparatus which complies with the specifications of the Distributor.

54. It is understood and agreed that this Agreement does not oblige the Distributor to supply any films wider than thirty-five millimeters.

55. It is agreed that if the Exhibitor fails to screen any films in accordance with this Agreement the Exhibitor waives all rights to protection in respect of such films.

56. The Distributor reserves the right to change the title of any film to be supplied hereunder.

57. The Distributor has the right to pre-release any films contracted for in this Agreement and the Exhibitor agrees to accept and screen any films so pre-released during the week that such films become available to said Exhibitor.

58. The Exhibitor agrees that there shall be no free passes accepted or free admissions granted to said Theatre for the screening of any films on percentage terms under this Agreement.

59. The Distributor makes no warranty that the use of sound records or any other contrivance supplied hereunder for use on the Exhibitor's equipment does not violate patent rights.

60. All notices required to be given to the Exhibitor under this Agreement shall be sufficiently served if sent by post to the address of the Exhibitor last known to the Distributor and any notice so sent shall be deemed to have been received by the Exhibitor in the ordinary course of post.

61. In the event of abovementioned Theatre being destroyed or damaged by fire, Act of God or by any other means whatsoever the Distributor shall have the option of cancelling the unscreened portion of this Agreement.

62. For New Zealand purposes Clause 20 hereof shall not apply and the word "New Zealand" appearing in the last line of Clause 48 shall read "Australia."

63. It is agreed that in the event of the first city release of the above films being later than the date on which the above commencing date is based such commencing date shall be put forward the equivalent number of weeks that such first city release is delayed. In case it is necessary in order to secure city release to grant a longer first run protection period than that afforded in respect of last season's films it is agreed that the commencing date under this Agreement shall be further extended by such additional protection period but whenever the Distributor classifies and releases any of its films as Floaters and/or Specials the Exhibitor agrees to accept in respect of such Floaters and/or Specials the chart positions nominated by the Distributor therefor. Nothing contained herein shall be construed as obliging the Distributor to release the films contracted for herein to any Theatre other than that contracted for herein. Should the Distributor for any of the reasons referred to in Clause 48 hereof be prevented from delivering any film on its due date the Exhibitor agrees to screen all such film when made available to him by the Distributor and the period of this Agreement shall be extended accordingly.

64. Any typewritten or written clauses or alterations which have been inserted in or added to this Agreement shall be construed to be in addition to and not in diminution of or in substitution for any of the printed clauses hereof nor shall they be construed so as to in any way cancel, alter or revoke any one or more of such printed clauses except where they expressly purport so to do.

65. In this Agreement words importing the singular number only, include the plural number and vice versa. Words importing the masculine gender only, include the feminine gender. Words importing persons include partnerships syndicates associations corporations companies unincorporated or incorporated as well as individuals. Gross Receipts means total receipts exclusive of moneys received by the Exhibitor as and for any entertainment tax or taxes.

It is agreed that this Agreement is also subject to and embodies all terms and conditions as stated on the front and back hereof.

In witness whereof the Exhibitor has executed this application the day and year first above written and upon the acceptance thereon in writing by the Distributor in the space provided therefor below this application shall be deemed an Agreement between the Distributor and the Exhibitor and shall constitute the hiring to the Exhibitor of the said films and/or Vitaphone synchronised scores and/or talking sequences and/or singing features and/or sound effects hereinbefore set forth in accordance with the terms and conditions in this application set forth.

Signed by the Exhibitor

in the presence of—

WARNER BROS. FIRST NATIONAL PICTURES
LIMITED hereby accepts this application on
the day of 193 .

By , Authorised Officer.

Approximate Cost of Paper—Preparation, not given; printing (1,000 copies). £48.

By Authority: G. H. LONBY, Government Printer, Wellington—1934.

Price 1s.]

