

(2542.) WELLINGTON PERFORMING MUSICIANS.—AWARD.

In the Court of Arbitration of New Zealand, Wellington Industrial District.—In the matter of the Industrial Conciliation and Arbitration Act, 1908, and its amendments; and in the matter of an industrial dispute between the Wellington Performing Musicians' Industrial Union of Workers (hereinafter called "the union") and the undermentioned persons, firms, and companies (hereinafter called "the employers") :—

Burlington Tea-rooms, Lambton Quay, Wellington.  
Burlington Tea-rooms, Willis Street, Wellington.  
Daffodil Assembly, Alexandra Hall, Wellington.  
Druids' Lodge Assembly, Druids' Hall, Wellington.  
Fire Brigade Dance Assembly, Kilbirnie, Wellington.  
Fuller and Sons, Lambton Quay, Wellington.  
Gallate Bros., Willis Street, Wellington.  
Godber, James, Cuba Street, Wellington.  
Hayward's Picture Enterprises (Limited), Wellington.  
Kirkcaldie and Stains (Limited), Lambton Quay, Wellington.  
Linley and Donovan, Dixon Street, Wellington.  
Mascotte Picture Company, Petone.  
MacMahon and Donnelly, Manners Street, Wellington.  
Matson, H., Kilbirnie, Wellington.  
Opera House Company, Wellington.  
Palace Picture Company, Petone.  
Shortt, W. F., Willis Street, Wellington.  
Wellington Boxing Association, Wellington.  
Wellesley Club, Wellington.  
Wellington Musical Union, Wellington.  
Wellington Racing Club, Wellington.  
Wellington Rowing Club Dance Assembly, Wellington.  
West's Pictures (Limited), Dixon Street, Wellington.  
Williamson, J. C. (Limited), Wellington.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the matter of the above-mentioned dispute, and having heard the union by its representatives duly appointed, and having also heard such of the employers

as were represented either in person or by their representatives duly appointed, and having also heard the witnesses called and examined and cross-examined by and on behalf of the said parties respectively, doth hereby order and award:—

That, as between the union and the members thereof and the employers and each and every of them, the terms, conditions, and provisions set out in the schedule hereto and of this award shall be binding upon the union and upon every member thereof and upon the employers and upon each and every of them, and that the said terms, conditions, and provisions shall be deemed to be and they are hereby incorporated in and declared to form part of this award; and, further, that the union and every member thereof and the employers and each and every of them shall respectively do, observe, and perform every matter and thing by this award and by the said terms, conditions, and provisions respectively required to be done, observed, and performed, and shall not do anything in contravention of this award or of the said terms, conditions, and provisions, but shall in all respects abide by and perform the same. And the Court doth hereby further award, order, and declare that any breach of the said terms, conditions, and provisions set out in the schedule hereto shall constitute a breach of this award, and that the sum of £100 shall be the maximum penalty payable by any party or person in respect thereof. And the Court doth further order that this award shall take effect from the 1st day of July, 1912, and shall continue in force until the 1st day of July, 1914.

In witness whereof the seal of the Court of Arbitration hath hereto been put and affixed, and the Judge of the Court hath hereunto set his hand, this 27th day of June, 1912.

W. A. SIM, Judge.

#### SCHEDULE.

##### *Workers affected by Award.*

1. This award shall only apply to musicians employed to play musical instruments at skating-rinks and public dancing assemblies, in refreshment-rooms and in connection with dramatic performances, variety and picture entertainments, and performances by operatic or comedy companies, also performances by professional orchestras.

##### *Wages.*

2. Except when otherwise provided herein, each performer shall be paid at the rate of not less than £3 per week for six performances.

##### *Matinees.*

3. (a.) For general theatrical performances all matinees are to be paid at the rate of 10s. to each performer for each performance.

(b.) For any other class of performance other than that above specified, where more than one matinee is given during the week, each performer is to be paid at the rate of 10s. for each matinee after the first.

*Rehearsals.*

4. (a.) Except where otherwise specified, rehearsals shall not exceed seven hours during each week, and shall be given without charge. The number of hours may be divided and extended over the week at the employer's option.

(b.) Fifteen minutes shall, if desired, be given by performers without charge at the conclusion of the ordinary time fixed for rehearsal.

(c.) Any time occupied in rehearsing in excess of that fixed as above shall be paid at ordinary overtime rates.

(d.) Rehearsals on Christmas Day or Good Friday shall be paid for at double rates.

(e.) Performances on these days shall be paid for at ordinary rates.

*Casual Performers.*

5. (a.) Each casual performer shall be paid not less than 12s. for each performance. No substitute shall be deemed a casual performer.

(b.) A performer shall be deemed to be employed as a casual if his engagement is for a period of less than six performances.

*Continuous Picture Entertainments.*

6. (a.) Hours: Day performance, from 11 a.m. to 5.30 p.m.; evening performance, from 6.30 p.m. to 11 p.m.

(b.) Wages: Day performers, £3 per week; evening performers, £3 per week.

(c.) Rehearsals for this class of entertainment shall not exceed one hour per week.

*Overtime Rates.*

7. Where any work is performed in excess of the hours fixed in this agreement, it shall be paid for at the rate of 2s. 6d. per hour.

*Dances, Balls, &c.*

8. Performers engaged in the above shall be paid as follows: From 8 p.m. to 11 p.m., 12s. 6d. each performer; from 8 p.m. to 12 midnight, 15s. each performer. Performers engaged after midnight shall be paid at the rate of 5s. per hour for each performer.

*Refreshment-rooms.*

9. Performers engaged in the above shall be paid 2s. 6d. per hour.

10. Any performer who at the date of coming into operation of this award is paid in excess of the rates specified in the award shall not have such rates interfered with.

*Concerts, Oratorios, Amateur Operatic or Musical Performances,  
Benefit Entertainments.*

11. The terms and conditions of this award shall not apply to any person taking part in the above-mentioned class of entertainment, and the practice as to the conditions of employment in vogue prior to the date of this award shall continue.

*Preference.*

12. (a.) Employers are at liberty to engage any person whether such person is a member of the union or otherwise.

(b.) If a non-member is engaged, such person shall be requested by the secretary of the union to join the union within seven days from the date of engagement, and should such person fail to comply with the request within seven days after its receipt then such person shall be liable as for a breach of this award.

(c.) Provided that the rules of the union shall permit any person of good character to become a member of the union without ballot or other election, and upon payment of an entrance fee not exceeding 5s. and subsequent contributions not to exceed 6d. per week.

(d.) An employer shall not under any circumstances be liable for a breach of this clause.

*Scope of Award.*

13. This award shall be limited in its operation to an area within a radius of five miles from the Chief Post-office, Wellington.

*Exemptions.*

14. This award shall not apply to musicians travelling with any company while performing in Wellington.

*Term of Award.*

15. This award shall come into force on the 1st day of July, 1912, and shall continue in force until the 1st day of July, 1914.

In witness whereof the seal of the Court of Arbitration hath hereunto been put and affixed, and the Judge of the said Court hath hereto set his hand, this 27th day of June, 1912.

W. A. SIM, Judge.

MEMORANDUM.

The provisions contained in the foregoing award, except those in clauses 8, 9, and 12, were agreed on by the parties to the dispute when the matter was before the Council of Conciliation, and were embodied in the recommendation of the Council. When the matter came before the Court the union did not object to the provisions contained in clauses 8, 9, and 12; it asked the Court, however, to alter the provisions of clause 6, and to fix at a higher

rate the wages for continuous picture entertainments. In other words, the union attempted to repudiate the agreement made by its duly appointed representative with the other parties to the dispute, and, while keeping whatever the employers had agreed to concede, sought to obtain something more. That clearly it cannot be allowed to do, and the award has been made in terms of the recommendation. It may be that the performers at continuous picture entertainments are entitled to some consideration by reason of the fact that they work longer hours than performers at the ordinary picture-shows; but, in view of the agreement made by the union, the matter is not really open for consideration now.

There is an important distinction between an agreement such as that in the present case, made by the parties to a dispute or by their duly authorized representatives, and the recommendation of a Council of Conciliation. Such an agreement, in the absence of any special circumstances, ought to be treated as binding on the parties. A recommendation, on the other hand, is not binding on any of the parties unless they agree to accept it. The assessors are not in any sense the agents of the parties. They have power only to endeavour to bring the parties to an agreement, and, failing that, to make a recommendation for the settlement of the dispute, which the parties are free to accept or not as they please. It appeared to be desirable to point out this distinction, as there appears to be considerable misunderstanding on the subject.

W. A. SIM, Judge.