(11057.) NORTHERN (FEMALES ONLY), WELLINGTON, CANTERBURY, AND OTAGO AND SOUTHLAND CLOTHING TRADES EMPLOYEES; NORTHERN (FEMALE), WELLINGTON, CANTERBURY, AND OTAGO AND SOUTHLAND SHIRT, WHITE, AND SILK WORKERS; NORTHERN, WELLINGTON, CANTERBURY, AND OTAGO AND SOUTHLAND DRESSMAKERS AND MILLINERS; CANTERBURY TAILORS AND TAILORESSES; WESTLAND INDUSTRIAL DISTRICT TAILORS AND TAILORESSES; AND OTAGO AND SOUTHLAND SHOP-TAILORESSES.—AMENDMENT OF AWARDS.

In the Court of Arbitration of New Zealand.—In the matter of the Industrial Conciliation and Arbitration Amendment Act, 1936; and in the matter of applications to amend the Northern (Females only), Wellington, Canterbury, and Otago and Southland Clothing Trades Employees' award, dated the 7th day of March, 1935, and recorded in Book of Awards, Vol. XXXV, p. 98; Northern (Female) Wellington, Canterbury, and Otago and Southland Shirt, White, and Silk Workers' award, dated the 10th day of April, 1935, and recorded in Book of Awards, Vol. XXXV, p. 461; Northern, Wellington, Canterbury, and Otago and Southland Dressmakers and Milliners' award, dated the 13th day of June, 1935, and recorded in Book of Awards, Vol. XXXV, p. 670; Canterbury Tailors and Tailoresses' award, dated the 30th day of November, 1926, and recorded in Book of Awards, Vol. XXVI, p. 1290; Westland Industrial District Tailors and Tailoresses' award, dated the 29th day of April, 1921, and recorded in Book of Awards, Vol. XXII, p. 696; and Otago and Southland Shop Tailoresses' award, dated the 9th day of March, 1921, and recorded in Book of Awards, Vol. XXII, p. 455. Mr. *J. Roberts* for workers; Mr. *T. O. Bishop* for employers.

JUDGMENT OF THE COURT, DELIVERED BY PAGE, J.

THESE are applications made under section 21 of the Industrial Conciliation and Arbitration Amendment Act, 1936, for a

reduction to 40 hours per week of the working hours fixed by the six awards above enumerated relating to the clothing trades—namely, the manufacture of men's and boy's clothing, the shirt, white, and silk industry, and the dressmaking and millinery industry.

There are nine corresponding applications under the Factories Act by the factory occupiers (approximately 525 in number) governed by such awards. All the awards but one at present provide for a working-week of 44 hours.

The substantial question to be decided is whether it has been shown that it would be impracticable to carry on efficiently the industry (or, as the case may be, the work of the factory) if the working-hours were fixed at 40 per week.

Two grounds are stated in the employers' application to extend the hours to 44 per week, namely:—

(1) "An acute shortage of labour," and

(2) "Indent orders placed in the early months of the year (January to March) have to be supplied between August and December, and manufacturers would suffer heavy losses if compelled to reduce hours of labour before present orders have been filled."

It is stated that approximately 74 per cent. of the various classes of clothing and shirt, white, and silk wear covered by this industry and sold in the shops throughout New Zealand is of New Zealand manufacture. All the factories as to which evidence was given before the Court are working at their utmost capacity and have difficulty in coping with the orders flowing in. All of them could and would employ more hands if they could get them, but there appears to be a shortage of skilled factory labour.

With regard to the second ground stated in the application, the evidence is that it is the practice of the large clothing-factories to book orders during January, February, and March for delivery during the months of August to December following, and it is claimed that, as the prices quoted for these goods were based on the wages prevailing under the old awards and on the working of a 44 hour week, and that, as the new Factories Act has increased these wages and reduced the working-hours, a loss must be sustained on these orders. For this reason it is urged that the employers should not be restricted to a 40-hour week until these orders have been filled.

The employers state that they are not opposed to a 40-hour week provided that it does not commence until 1st January, 1937.

Beyond a calculation showing the percentage by which labour costs will be increased by this legislation, the Court was

not informed as to the extent of the loss which, it is contended, will be suffered in executing the orders above referred to, nor as to whether such loss will have any real or appreciable effect upon the year's operations in the industry. No evidence was tendered as to the earnings in the industry or the financial ability of the industry to meet a shorter working-week for the period from 1st September, 1936, to 31st December, 1936.

In the absence of any such information, it is, we think, a reasonable inference from the evidence before the Court that this industry, working as it is to full capacity, is in a bouyant position.

The question of the ability of the industry to operate profitably on a 40-hour working-week is, in the opinion of the Court, the crucial test in deciding applications of the present type.

It is stated that some factories in this industry are already working a 40-hour week, and that quite a number are working a 41- to 42½-hour week respectively, and that a substantial number are working a 5-day week.

The onus of proof of the impracticability of working a 40-hour week rests on the employers.

Upon a careful consideration of the whole matter, we are of opinion that it has not been shown that it would be impracticable to carry on efficiently the industry (or the work of any of the factories in question) on a 40-hour week.

An order must, therefore, be made under section 21, amending the above awards by fixing at 40 the hours (exclusive of overtime) to be worked in any week by any worker bound by any of such awards.

The question arising under section 22 of the Industrial Conciliation and Arbitration Amendment Act, 1936, regarding the elimination of work on a Saturday in this industry, will be dealt with in a subsequent memorandum.

Rates of pay prevailing on 1st September, 1936, will be adjusted in accordance with subsection (3) of section 21 of the Industrial Conciliation and Arbitration Amendment Act, 1936, so that the ordinary rates of weekly wages of any worker shall not be reduced by reason of the reduction made in the number of working-hours.

The order will take effect on 1st September, 1936.

Dated this 8th day of July, 1936.

[L.S.] E. PAGE, Judge.