

(11086.) NORTHERN, TARANAKI, WELLINGTON, CANTERBURY,
AND OTAGO AND SOUTHLAND STOREMEN AND PACKERS.—
APPLICATION FOR AMENDMENT OF AWARD.

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 an application to amend the Northern, Taranaki, Wellington, Canterbury, and Otago and Southland Storemen and Packers' award, dated the 23rd day of December, 1935, and recorded in Book of Awards, Vol. XXXV, p. 1504. Mr. W. *Herbert* for the workers; Mr. W. E. *Anderson* for the employers.

JUDGMENT OF THE COURT, DELIVERED BY PAGE, J.

THIS is an application 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 above-mentioned award relating to storemen and packers.

The statute requires the hours of work to be fixed at 40 per week unless, in the opinion of the Court, it would be impracticable to carry on efficiently the industry if the hours of work were thus limited.

The onus of proof of impracticability lies on the employer.

The Court is divided on this case, and the following judgment represents the view of the majority of the Court.

The workers covered by the above award constitute a large body spread over substantially every trading and manufacturing industry in New Zealand.

They are the storemen and packers who are employed by all the larger firms (other than retailers) throughout the country.

There are about 770 employers who are parties to this award, and they include all classes of manufacturers, all classes of wholesalers, warehousemen, indentors, importers, and traders in every range of goods, local bodies, Harbour Boards, newspaper offices, transport offices, and employers engaged in a wide range of other activities.

Each of these many employers has at least one storeman or packer.

The activities of storemen and packers over this wide field can hardly be regarded as an industry of itself, but each individual storeman or packer rather belongs to and forms part of the manufacturing or trading or other industry to which he is attached. Thus, the duties of a storeman or packer in, say, a clothing-factory would have little in common with those in, say, a wholesale fruit-market.

These workers have asked for a general order reducing all their hours to 40 per week, and giving them a full day off on Saturday, irrespective of the hours that may be worked in the respective industries in which they are employed.

In view of the wide range and diverse working-conditions of the employers involved in these proceedings, the cases were, in the course of argument, divided into groups, one of the largest of the groups being that of wholesale importing firms. This includes iron-merchants, soft-goods merchants and indentors, and importers of all other merchandise.

It is shown that the large majority of these importing houses work 44 hours per week, including 4 hours on Saturdays.

Packing is an important ingredient in the working of all these houses. It is the last operation prior to the despatch of the goods. Orders, as a rule, must be packed and despatched promptly.

Saturday is shown to be, in most houses, a day of great activity.

Travellers are in from their country circuits to report and to select goods for their various customers.

Frequently coastal shipping and other forms of transport leave the centre on a Saturday, and unless the connection is caught and the goods are despatched considerable delay and inconvenience and loss may ensue.

For storemen and packers to be away from duty on such a busy morning as Saturday is obviously quite unworkable.

It has been suggested that, although the industry to which they are attached may work a 44-hour week, storemen and packers might be given a 40-hour week and still work on Saturday, the reduction in hours being achieved by allowing them to arrive a little late in the mornings or get away a little early in the evenings on the remaining days of the week.

Such a practice would, in our opinion, prove impracticable.

For storemen and packers to be off duty when evening consignments have to be despatched, or morning packing and other duties incidental to their office have to be attended to, would not promote the efficient working of these industries.

We think that the reasonable and practicable view to take regarding storemen and packers is to say that, speaking generally, their fortunes must follow those of the industry or house to which they belong.

If that industry or house should be one to which a 40-hour week, with no Saturday work, has been applied by the Legislature or by this Court, the storemen and packers will have the benefit of those hours.

If, however, the industry or house is one to which a 44-hour week, including Saturday work, applies, storemen and packers in that industry will naturally require to work those hours.

An order will be made fixing at 44 the hours of work (exclusive of overtime) to be worked by storemen and packers covered by the above award, with a proviso that in cases where the hours of work fixed by the Legislature or ordered by the Court are less than 44 in respect of the industry of the house to which the storeman or packer belongs, then such storeman or packer shall have the benefit of such reduced hours.

Work on Saturdays will be permitted.

The order will come into force on 1st September, 1936, and will continue in force until 1st September, 1937.

Mr. Monteith's dissenting opinion is attached.

Dated this 30th day of July, 1936.

[L.S.]

E. PAGE, Judge.

MR. MONTEITH'S DISSENTING OPINION.

I am in agreement with the decision in so far as manufacturing and carrying firms are concerned. In connection

with the ordinary wholesale merchants, I see no reason why they cannot work their storemen and packers a 40-hour week on the same principle as is to-day in existence in the fruit-markets, which open from 5 a.m. to 5 p.m., and bring some men on early and some late. Those first on are first off. This principle can easily be applied to storemen and packers, particularly as the hours in the retail trades have been reduced by the Shops and Offices Amendment Act, 1936, to 44, and the only reason advanced for extended hours was that warehouses require to be open (except on the late night) the same hours as retail shops.