FACTORIES AMENDMENT ACT, 1936.—APPLICATION BY **BROWN AND STEWART, LTD.,** AND **COLLINS BROS., AND CO., LTD.,** FOR EXTENSION OF WORKING-HOURS.

In the Court of Arbitration of New Zealand, Northern Industrial District.—In the matter of the Factories Amendment Act, 1936; and in the matter of an application under section 3 of the said Act on behalf of Brown and Stewart, Ltd., Manufacturing Stationers, Swanson Street, Auckland, and Collins Bros., and Co., Ltd., Manufacturing Stationers, Wyndham Street, Auckland, for an extension of the hours fixed by that section. Mr. *E. W. Clarkson* for the employers; Mr. *B. Martin* for the workers.

JUDGMENT OF THE COURT, DELIVERED BY O'REGAN, J.

THIS is an application under section 3, subsection (5), of the Factories Amendment Act, 1936, to increase the working-hours of females as set out in the application.

For the employers it was contended that the right conferred on an employer by section 3 (5) is a continuing right which may be exercised at any time; that on satisfying the Court that it is impracticable to carry on the work of the factory efficiently, the Court may grant the order asked for, and that such an order would be in effect an exemption from the hours of work ordained by the award.

Section 19 of the Factories Amendment Act, 1936, provides that all awards shall be read subject to the provisions of the Act, but goes on further to provide that nothing in the Act shall be construed to increase the working-hours of any worker as fixed by an award.

In this case an award—the Auckland (Ten-Mile Radius) Female Printing Trades' Employees' award (Book of Awards, Vol. XXXVIII, p. 1176)—is in operation, and that award fixes the hours at forty per week. The memorandum to the award makes it clear that the question of the weekly number of hours was discussed fully and considered by the Court which made the award, and it must be assumed, as no extension of hours beyond forty per week was granted, that the Court considered that it had not been shown to be impracticable to carry on the industry efficiently without an extension of the weekly hours.

Here, then, we have an award, to which the applicant employers in this case are parties, and which fixes the ordinary hours of work at not more than forty per week. To grant an order for an extension of hours to these employers under the provisions of section 3 (5) of the Factories Amendment Act, 1936, would necessitate disregarding the provisions of section 19

of the same Act, which provides that nothing in the Act (including, of course, section 3 (5)) shall be construed to increase the working-hours as fixed by an award.

A similar question was dealt with by this Court in respect of an application by the Irvine and Stevensons St. George Co., Ltd., of Dunedin, the application being refused in a judgment delivered on the 23rd September, 1938.

The present application must accordingly be refused.

Dated the 21st day of November, 1938.

[L.S.] P. J. O'REGAN, Judge.