

NORTHERN, WELLINGTON, CANTERBURY, AND OTAGO AND
SOUTHLAND **WOOLLEN-MILLS AND HOSIERY-FACORIES'**
EMPLOYEES.—APPLICATION FOR AWARD

In the Court of Arbitration of New Zealand, Otago and Southland Industrial District.—In the matter of the Industrial Conciliation and Arbitration Act, 1925, and its amendments, and the Economic Stabilization Emergency Regulations 1942; and in the matter of the Northern, Wellington, Canterbury, and Otago and Southland Woollen-mills and Hosiery-factories Employees' Industrial Dispute.

MEMORANDUM OF THE COURT, DELIVERED BY TYNDALL, J.

THE combined District Woollen-mills and Hosiery-factories' Employees' industrial dispute was filed on 21st June, 1943, a date subsequent to the coming into operation of the Economic Stabilization Emergency Regulations 1942. In making the award, therefore, the Court is bound to comply with the provisions of Regulation 38, which directs that no variation shall be made in the minimum rates of remuneration or the principal conditions of employment for the time being applying to the industry except such adjustments of anomalies as the Court thinks fit, having regard to the general purpose of the regulations.

The parties in Conciliation Council reached a complete settlement on 5th August, 1943, and the terms of the settlement were forwarded to the Court pursuant to section 3 of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1939.

The terms of settlement involve several alterations to the provisions of the present award applying to the industry. Only one of the alterations is important so far as the Stabilization Regulations are concerned, and that is an alteration to clause 7 (a) dealing with piecework.

Clause 7 (a) of the present award reads:—

Piecework logs shall set out clearly the rates payable for all classes of work, and such rates shall be so fixed that an ordinary worker should be able to earn not less than 15 per cent. in the case of all weavers, and 10 per cent. in the case of all other pieceworkers, above the time rates prescribed in this award.

The proposed clause agreed upon in Conciliation Council reads:—

Piecework logs shall set out clearly the rates payable for all classes of work, and such rates shall be so fixed that an ordinary worker should be able to earn not less than 15 per cent. above the time rates prescribed in this award.

For the purposes of the Stabilization Regulations, the term "remuneration" includes time and piece wages (see Regulation 31), and consequently we are of the opinion that clause 7 (a) of the present award is a clause specifying minimum rates of remuneration. The proposed variation to the clause may therefore only be made and embodied in a new award on the grounds that there at present exists an anomaly which the Court thinks should be adjusted, having regard to the general purpose of the regulations.

An anomaly is a departure from a general rule.

Clause 7 (a) in its present form was first included in the 1938 award (38 Book of Awards 1309, clause 6 (a)). It was repeated in the 1940 award. In the 1942 award, which was the result of a complete settlement in Conciliation Council, the same clause was again included.

In these circumstances, can it be accepted that the present clause is a departure from some general rule prevailing in this particular industry, or a departure from some general rule prevailing in industry generally?

We think not. Consequently we have no option but to comply with the mandatory provisions of Regulation 38, and we therefore decline to make an award on the basis of the terms of settlement reached in Conciliation Council.

As the clause which offends against the regulations may have been an important consideration in the reaching of agreement by the assessors, we consider it only proper that the matter should be referred back to the parties, and it is referred back accordingly.

Dated this 7th day of September, 1943.

[L.S.]

A. TYNDALL, Judge.