

FACTORIES AMENDMENT ACT, 1936.—ORDER EXTENDING
WORKING-HOURS IN RESPECT OF **UNION AIRWAYS OF
NEW ZEALAND, LTD., COOK STRAIT AIRWAYS, LTD.,
AIRTRAVEL (NEW ZEALAND), LTD., AND TASMAN EMPIRE
AIRWAYS, LTD.**

In the Court of Arbitration of New Zealand.—In the matter of the Factories Amendment Act, 1936; and in the matter of an application on behalf of Union Airways of New Zealand, Ltd., and others for an extension of the limits of working-hours prescribed by section 3 (1) of the said Act.

JUDGMENT OF THE COURT, DELIVERED BY TYNDALL, J.

THIS is an application made under section 3 of the Factories Amendment Act, 1936, on behalf of four airway transport companies for an extension, to forty-four, of the weekly hours of work fixed by that section. The companies involved are—

Union Airways of New Zealand, Ltd., operating factories at Mangere (Auckland), Milson (Palmerston North), Rongotai (Wellington), and Taieri (Dunedin):

Cook Strait Airways, Ltd., operating a factory at Tahunanui (Nelson):

Airtravel (New Zealand), Ltd., operating a factory at Hokitika:

Tasman Empire Airways, Ltd., operating factories at Mechanics Bay (Auckland) and Hobsonville (Auckland).

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

The onus of proof of impracticability lies on the employers.

We have heard evidence on behalf of the employers, and also evidence from a worker representing a section of the employees of Tasman Empire Airways, Ltd., Auckland, who are opposing the application. We are satisfied from the evidence that under the conditions prevailing at the present time it is impracticable to carry on efficiently the work of the factories in question on a forty-hour week and that the applicants are entitled to an extension to forty-four hours.

In pursuance of section 3 (5) of the Factories Amendment Act, 1936, the Court accordingly doth hereby order in respect of the factories occupied by the applicant companies above enumerated that the limit of working-hours in any one week prescribed by section 3 (1) (a) of the said Act shall be extended to forty-four (excluding meal-times). This order shall continue in force until the 9th day of August, 1944.

Mr. Monteith is not in agreement, and his dissenting opinion follows.

Dated this 9th day of December, 1943.

[L.S.]

A. TYNDALL, Judge.

DISSENTING OPINION OF MR. MONTEITH

I dissent from this decision. It affects the engineers, fitters, and other workers who are engaged repairing and overhauling aircraft engines. This work is done in the workshop, and, except on the ground that too small a staff is engaged, there is no reason why a forty-hour week should not be observed. If this is a ground for exemption, then all employers could easily place themselves in the same position and secure an exemption.

The only witness called by the applicant employers admitted that until recently his men had not been fully employed. To use his own words, "Men idle and lost a fair amount time." "A considerable lot lost time till three weeks ago." "We had to find odd jobs for them."