

NELSON CITY COUNCIL **LABOURERS AND GARDENERS.**—
AWARD

In the Court of Arbitration of New Zealand, Nelson Industrial District.—In the matter of the Industrial Conciliation and Arbitration Act, 1925, and its amendments; and in the matter of an industrial dispute between the Wellington, Nelson, Westland, and Marlborough Local Bodies', other Labourers, and Related Trades' Industrial Union of Workers (hereinafter called "the union") and the under-mentioned Council (hereinafter called "the employers") :—

Nelson City Council, Nelson.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the terms of settlement arrived at in the above-mentioned dispute and forwarded directly to the Court pursuant to the provisions of section 3 of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1939, doth hereby order and award:—

That, as between the union and the members thereof and the employers and each and every of them, the terms, conditions, and provisions set out in the schedule hereto and of this award shall be binding upon the union and upon every member thereof and upon the employers and upon each and every of them, and that the said terms, conditions, and provisions shall be deemed to be and they are hereby incorporated in and declared to form part of this award; and, further, that the union and every member thereof and the employers and each and every of them shall respectively do, observe, and perform every matter and thing by this award and by the said terms, conditions, and provisions respectively required to be done, observed, and performed, and shall not do anything in contravention of this award or of the said terms, conditions, and provisions, but shall in all respects abide by and perform the same. And the Court doth hereby further award, order, and declare that any breach of the said terms, conditions, and provisions set out in the schedule hereto shall constitute a breach of this award, and that a penalty as by law provided shall be payable by any party or person in respect thereof. And the Court doth further order that this award shall take effect as hereinafter provided, and shall continue in force until the 7th day of September, 1946, and thereafter as provided by subsection (1) (d) of section 89 of the Industrial Conciliation and Arbitration Act, 1925.

In witness whereof the seal of the Court of Arbitration hath hereto been affixed, and the Judge of Court hath hereunto set his hand, this 7th day of September, 1945.

[L.S.]

A. TYNDALL, Judge.

SCHEDULE

Interpretation

1. This award shall apply to the Nelson City Council and its undertakings, except such undertakings in respect of which the workers are covered by another award or industrial agreement.

Hours

2. (a) "Ordinary working-hours" shall mean eight hours worked between 7.45 a.m. and 4.45 p.m. from Monday to Friday inclusive. One hour shall be allowed for a midday meal. An ordinary week's work shall not exceed forty hours worked within the above limits.

(b) Notwithstanding anything contained in subclause (a) hereof, the ordinary working-hours of employees engaged in street-sweeping, cleansing of public conveniences, or in the maintenance of other essential services shall be from 7 a.m. to 5 p.m. on any day of the week from Monday to Friday inclusive and from 7 a.m. to 11 a.m. on Saturday: Provided that not more than eight hours shall be worked on any one day and the total working-hours in any two consecutive weeks shall not exceed eighty (80).

(c) All time worked outside or in excess of the hours prescribed herein shall be deemed to be overtime.

(d) Notwithstanding anything hereinbefore provided, it shall be lawful for the chief executive officer of the department concerned to agree with workmen employed on any work affected by the tide or other unavoidable circumstances (or on any emergency work) that ordinary working-hours shall be other than those hereinbefore mentioned. Payment of overtime shall not be required, provided the number of such other hours worked does not exceed eight on any one day or forty in any week and does not include any part of a Saturday after 12 o'clock noon or a Sunday or any holiday mentioned in clause 3 of this award. For the purposes of this provision the chief executive officer of the department concerned may arrange the workmen in shifts. Where shifts are worked 2s. extra per shift shall be paid to workers so employed in respect of any shift if any part thereof is worked before 6 a.m. or after 6 p.m.

(e) Waterworks caretakers shall be required to work in the ordinary course of their duties upon any day set out by the Council's executive officers: Provided that they shall not be required to work more than forty hours per week without the payment of overtime. Caretakers may leave the reserves for one full day as agreed upon with the Council's executive officer, and shall be granted three weeks' annual holiday. They shall be paid at the rate of £5 11s. 8d. and shall be provided with a free house.

(f) In consideration of the service performed by the caretaker at the Queen's Gardens on Saturdays, Sundays, and holidays, he shall be granted three weeks' holiday.

The caretaker shall be paid £5 12s. 6d. per week and shall be granted a free house so long as he is required by the Council to live in the Gardens.

(g) The weekly hours to be worked by the sexton and any assistant sexton shall not exceed forty, to be worked on any day of the week, including Sunday: Provided that the Court shall permit Sunday funerals only under exceptional circumstances; and provided, further, that in respect of all work performed by the sexton or any assistant sexton on Saturdays after noon and on any Sunday or holiday, he shall receive extra pay at one-half the ordinary rate.

Holidays

3. (a) The following days shall be regarded as holidays and shall be paid for—namely, New Year's Day, Anniversary Day, Good Friday, Easter Monday, Labour Day, the birthday of the reigning Sovereign, Christmas Day, Boxing Day, Anzac Day, and any day or part of a day declared by the Mayor for any reason of local or national importance to be a holiday. Should any of the above-named days, other than Anzac Day, fall on a Sunday, the day following shall be observed as a holiday.

(b) Work performed on Sundays or holidays shall be paid for at double ordinary rates: Provided there shall be a minimum additional payment of 10s. for all work performed on such days.

Wages

4. The minimum rates of wages to be paid to labourers and all workers covered by this award for work done during working-hours shall be—

(a) £5 9s. 2d. per week whilst engaged on any of the following work, namely—

- (i) Construction, maintenance, and repair of street footpaths, preparing and, except as hereinafter provided, handling of materials for same.
- (ii) Assisting a skilled worker in the construction, repair, or demolition of buildings, bridges, culverts, sewers, drains, fences, walls, or other structures the property of the employer.
- (iii) Trenching, ditching, levelling, and grading ground.
- (iv) Pick-and-shovel and barrow work.
- (v) Labourers on gardens and reserves.
- (vi) Street cleaning and sweeping.
- (vii) Cemetery workers other than resident sexton.

(b) The following rate shall be paid to the undermentioned workers:—

Concrete work: £5 10s. 10d. per week.

Quarry work—

Quarry foreman: £6 6s. 8d. per week.

Pneumatic-drill men: £5 19s. 2d. per week.

Hammer and drill, and assisting foreman to lay and fire charges, and feeding stone-crushers: £5 12s. 6d. per week.

All other quarry workers: £5 10s. 10d. per week.

Laying and repairing gas and water mains or services or new piped drains: £5 15s. 10d. per week.

NOTE.—This applies to a workman responsible for the proper placing and jointing of the pipes and not to workmen employed on excavation or back filling.

Workers employed in clearing or repairing blocked or defective sewers or foul drains, or when required to come into contact with faecal or sewage matter or to enter an operating septic tank for purposes other than inspection, or to enter the sewers, manholes, ejector stations, or other underground works in operation as part of the sewerage system of the city, or to repair same, shall be paid 6d. per hour additional on their ordinary rate for the time they are so employed.

Collecting and handling house refuse: £5 15s. 10d. per week.

Spraying tar or bitumen on power-driven sprayer—

- (i) Man operating the nozzle of the sprayer: £6 2s. 6d.
Man assisting nozzle-man with hose: £6 2s. 6d. per week.
- (ii) Men carrying, boiling or mixing, or coming in contact with free tar, bitumen, or asphaltic oils: £5 19s. 2d. per week.
- (iii) Such workers to be supplied with boots, overalls, and cleansing-oil, and, where required, with gloves.
- (iv) "Free tar or bitumen" shall mean tar or bitumen which is not enclosed in barrels or drums.

In addition to the wages hereinbefore prescribed, the employer shall provide sound gum boots in case of "wet work" and overalls in all cases of "dirty work."

Qualified gardeners: £5 12s. 6d. per week.

"Working gangers" or leading hands in charge of three or more other men shall be paid 1s. 6d. per day additional on ordinary rates.

Men sinking shafts or trenches 6 ft. or over in depth, or working in excavations requiring workers to shovel more than 6 ft. in height, shall receive 1½d. per hour additional on ordinary rates.

Resident sexton: £5 11s. 8d. a week and free house.

Assistant sexton: £5 12s. 6d. per week.

Overtime

5. The rates to be paid for overtime shall be—

- (a) Time and a half for the first four hours and double time thereafter.
- (b) When working overtime, an interval as may be agreed upon between the workmen engaged and the chief executive officer of the department affected shall be allowed for a meal about every four hours.
- (c) Overtime shall not be worked except in case of emergency and under instructions from the chief executive officer of the department affected, who shall be the sole judge of what constitutes an emergency. Such instructions may be standing instructions applicable to any particular class of emergency.
- (d) For the purpose of computing overtime, the hourly rate of wages shall be one-fortieth of the prescribed weekly rate.

Payment of Wages

6. (a) Wages shall be paid weekly or fortnightly, at the option of the employer, in the employer's time on a specified day of the week.

(b) One week's notice on either side shall terminate the engagement. Nothing in this subclause shall be held to prevent the summary dismissal of a worker for serious misconduct.

Tools

7. All tools shall be found by the employer and shall be taken in charge by the workman to whom the same are issued. Any tools not returned or accounted for to the satisfaction of the chief executive officer of the department affected shall be charged against such workman, and such charge shall be a debt due to the employer and recoverable accordingly.

General Provisions

8. (a) Sanitary accommodation shall be provided where necessary, and also shelter-sheds for men to take meals and change clothing where this is necessary.

(b) Where necessary, workers employed removing or disposing of household refuse or rubbish shall be supplied with gloves by the employer.

(c) Where workers' hands come in contact with faecal matter, rubber gloves shall be supplied by the employer.

(d) A pair of rubber gloves shall be made available by the employer for the use of convenience attendants.

(e) Employers shall supply suitable oilskin raincoats to surfacemen when they are required to work in wet weather, and to workers required in wet weather to clear sumps, culverts, drains, or water-tables. Workers using oilskin raincoats shall be held responsible for any loss or damage due to wilful destruction or neglect. Before a second or subsequent issue is made the used coat shall be returned to the store.

(f) Suitable raincoats shall also be supplied to other men engaged on outside work, at the discretion of the Engineer or management.

(g) Gum boots shall be provided for all workers engaged in working in sewers or wet places. A wet place shall be deemed to be a place where workers are required to work in water, slush, or wet concrete over 2 in. in depth, or where water, other than rain, is dripping on them.

(h) Five minutes at lunch time and ten minutes at knock-off time shall be allowed to all tar-workers for cleansing purposes.

(i) *Qualified Gardeners.*—A "qualified gardener" is a workman classified as such by the Council on recommendation by the Superintendent of Parks and Reserves, or who has served as apprenticeship to gardening. Should any question arise as to the correct classification of any such workman, the matter shall be decided in accordance with clause 15 hereof.

(j) Where workers are engaged upon work of an unusually dusty or dangerous or dirty or unpleasant nature, the Council shall make an additional payment for such. Each case shall be decided on its merits. In cases where the payment allowed by the Council is deemed insufficient by any worker the matter shall be dealt with in accordance with clause 15 hereof. This subclause shall not apply to work or workers already provided for in clause 4 (b).

(k) The caretaker employed at the Roding Waterworks shall be paid a travelling-allowance of 10s. per week.

Annual Leave

9. (a) The provisions of the Annual Holidays Act, 1944, shall apply to workers covered by this award.

(b) Men employed on street-cleaning, or as refuse-loaders, or at refuse-tips shall be entitled to fifteen working-days annual leave on full pay.

(c) The resident sexton shall be entitled to three weeks' annual leave on full pay.

(d) Not less than fourteen days' clear notice shall be given by employer to employee to go on annual holiday leave, and holiday payment shall be made to workers prior to going on leave.

(e) Nothing in this award shall operate in any way to reduce the holiday privileges at present enjoyed by workers covered by this award.

Special Leave

10. Workers shall not be entitled to payment if absent from work without leave of the chief executive officer of the department affected, and deduction shall be made from wages at ordinary rates accordingly.

Sick-leave

11. In the case of sickness or accident in respect of which payment is not due under the Workers' Compensation Act such leave may be for any period not exceeding one week from the date of ceasing work in any period of twelve months. In such case the worker shall obtain from a doctor a certificate stating the nature of such illness and the probable duration of such worker's incapacity for work, and the cost of such certificate as aforesaid shall be borne by the employer.

Public Property

12. Every worker is required to conserve the employer's interests in every way possible, and shall report to some responsible officer any matter which in his opinion is likely to result in damage to public property, loss to the employer, or inconvenience or danger to the public. Any worker who shall neglect or fail to take all such reasonable steps as lie in his power to fulfil the obligation imposed upon him by this section and to report as aforesaid shall render himself liable to summary dismissal.

Accidents

13. A worker who shall meet with any injury during the course of his employment shall forthwith report to or be conveyed to a doctor for examination and first-aid treatment, and obtain from such a doctor a certificate stating the nature and extent of such injury and the probable duration, if any, of such worker's incapacity for work; and the cost of such conveyance, treatment, and certificate as aforesaid shall be borne by the employer.

Bicycle Allowance

14. Workers who are required to use their own bicycle for the purpose of their employment shall receive an allowance of 3s. per week or 9d. per day for same.

Disputes

15. The essence of this award being that the work of the employer shall not on any account whatsoever be impeded but shall always proceed as if no dispute had arisen, it is provided that if any dispute or difference shall arise between the parties bound by this award, or any of them, as to any matter whatsoever arising out of or connected therewith and not dealt with in this award, every such dispute or difference shall be referred to a committee to be composed of two representatives of each side, together with an independent chairman to be mutually agreed upon or, in default of agreement, to be appointed by the Conciliation Commissioner for the district. Either side shall have the right to appeal to the Court against the decision of any such committee upon giving to the other side written notice of such appeal within fourteen days after such decision has been made known to the party desirous of appealing.

Increase in Rates of Remuneration

16. The two general orders of the Court made under the Rates of Wages Emergency Regulations 1940, and dated the 9th August, 1940, and the 31st March, 1942, respectively, shall be deemed to be incorporated in this award, and shall have effect according to their tenor.

Workers to be Members of Union

17. (a) Subject to the provisions of subsection (5) of section 18 of the Industrial Conciliation and Arbitration Amendment Act, 1936, it shall not be lawful for any employer bound by this award to employ or to continue to employ in any position or employment subject to this award any adult person who is not for the time being a member of an industrial union of workers bound by this award.

(b) For the purposes of subclause (a) of this clause a person of the age of eighteen years or upwards, and every other person who for the time being is in receipt of not less than the minimum rate of wages prescribed by this award for workers of the age of twenty-one years and upwards, shall be deemed to be an adult.

(c) Every person who, being obliged to become a member of any union by the operation of the foregoing provisions, fails to become a member of that union when requested so to do by his employer or any officer or representative of the union, commits a breach of this award, and shall be liable accordingly.

(NOTE.—Attention is drawn to subsection (4) of section 18 of the Industrial Conciliation and Arbitration Amendment Act, 1936, which gives to workers the right to join the union.)

Under-rate Workers

18. (a) Any worker who considers himself incapable of earning the minimum wage fixed by this award may be paid such lower wage as may from time to time be fixed, on the application of such worker after due notice to the union, by the local Inspector of Factories or such other person as the Court of Arbitration may from time to time appoint for that purpose; and such Inspector or other person in so fixing such wage shall have regard to the worker's capability, his past earnings, and such other circumstances as such Inspector or other person as aforesaid may think fit to consider after hearing such evidence and argument as the union and such worker may offer.

(b) Such permit shall be for such period, not exceeding six months, as such Inspector or other person shall determine, and after the expiration of such period shall continue in force until the expiration of fourteen days' notice which shall have been given to the worker by the secretary of the union

requiring the worker to have his wage again fixed in the manner provided by this clause: Provided that in the case of any worker whose wage is so fixed by reason of old age or permanent disability the wage may be fixed for such longer period as such Inspector or other person as aforesaid shall think fit.

(c) Notwithstanding the foregoing, it shall be competent for a worker to agree with the chief executive officer of the department affected and the secretary of the union upon the rate of such wage without having the same fixed as aforesaid.

(d) It shall be the duty of the union to give notice to the Inspector of Factories of every agreement made with a worker pursuant to the provisions hereof.

(e) It shall be the duty of the employer, before employing a worker at such lower wage, to examine the permit or agreement by which such wage is fixed.

Scope of Award

19. This award shall apply only to the parties named herein.

Term of Award

20. This award, in so far as it relates to wages, shall be deemed to have come into force on the 1st day of April, 1945; and so far as all the other conditions of this award are concerned it shall come into force on the day of the date hereof; and this award shall continue in force until the 7th day of September, 1946.

In witness whereof the seal of the Court of Arbitration hath hereto been put and affixed, and the Judge of the Court hath hereunto set his hand, this 7th day of September, 1945.

[L.S.]

A. TYNDALL, Judge.

MEMORANDUM

In making the award, which embodies the terms of settlement arrived at by the assessors in Conciliation Council, the Court has had regard to the provisions of the Economic Stabilization Emergency Regulations 1942.

Wages have been made payable retrospectively, in accordance with the agreement of the parties.

A. TYNDALL, Judge.