

DUNEDIN MILK-ROUNDSMEN.—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 in the matter of an industrial dispute between the Dunedin Retail Milk Employees' Industrial Union of Workers (hereinafter called "the union") and the under-mentioned persons, firms, and companies (hereinafter called "the employers") :—

Bain, A. L., Milk-vendor, Half-way Bush.

Otago Co-operative Milk Supply Co., Ltd., 200 King Edward Street, South Dunedin.

Quality Bottled Milk, 6 David Street, Caversham, Dunedin.

The Taieri and Peninsula Milk Supply Co., Ltd., 200 King Street, Dunedin.

THE Court of Arbitration of New Zealand (hereinafter called "the Court"), having taken into consideration the matter of the above-mentioned dispute, and having heard the union by its representatives duly appointed, and having also heard such of the employers as were represented either in person or by their representatives duly appointed, and having also heard the witnesses called and examined and cross-examined by and on behalf of the said parties respectively, 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 1st day of March, 1947, 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 the Court hath hereunto set his hand, this 18th day of February, 1947.

[L.S.]

A. TYNDALL, Judge.

#### SCHEDULE

##### *Industry to which Award applies*

1. This award shall apply to milk and cream vendors operating within a radius of fifteen miles from the Chief Post-office, Dunedin, and to workers employed delivering milk and cream within the said area.

##### *Hours of Work*

2. (a) The ordinary hours of work shall not exceed forty hours per week, to be worked on any six days of the week.

(b) The daily hours of work shall be continuous, except for meal intervals.

(c) The time for starting work shall be in accordance with the provisions of the Shops and Offices Act, 1921-22, and its amendments.

##### *Wages*

3. (a) All roundsmen shall be paid the minimum wage of £5 16s. 8d. per week. Relieving roundsmen shall be paid 7s. per week additional whilst so employed.

(b) Wages shall be paid in the employer's time and not later than Friday morning of each week.

(c) No deduction shall be made from the weekly wages except for time lost through the worker's sickness, default, or voluntary absence, or accident not arising out of or in the course of his employer's business.

*Learners*

4. Learners shall be paid a minimum wage of 15s. 6d. per day for each day that they require the assistance of a teacher while learning the milk-round.

*Overtime*

5. Any time worked outside or in excess of the hours mentioned in clause 2 hereof shall be deemed to be overtime and shall be paid for at the rate of time and a half for the first four hours and at double time thereafter.

*Increase in Rates of Remuneration*

6. All rates of remuneration (which term includes time and piecework rates, overtime, and other special payments) provided for in this award shall be subject to the provisions of the general orders dated the 9th August, 1940, and the 31st March, 1942.

*Holidays*

7. (a) Each worker shall be allowed an annual holiday in accordance with the provisions of the Annual Holidays Act, 1944.

(b) Workers required to work on Christmas Day, Good Friday, New Year's Day, Easter Monday, the birthday of the reigning Sovereign, Labour Day, Boxing Day, Anzac Day, and Anniversary Day shall receive an extra day's pay.

*Juvenile Labour*

8. (a) Any person, irrespective of age, who delivers milk shall be deemed to be a milk-roundsman.

(b) No person under the age of seventeen years shall be employed in the delivery of milk.

(c) In cases where more than one roundsman is employed delivering milk or cream from the same vehicle, each person so employed shall be entitled to the full rate of pay for roundsmen.

*Matters not provided for*

9. Any dispute connected with any matter not provided for in this award shall be settled between the particular employer concerned and the secretary or president of the union, and in default of any agreement being arrived at, then such dispute shall be referred to Conciliation Commissioner,

who may either decide the same or refer the matter to the Court. Either party, if dissatisfied with the decision of the Commissioner, may appeal to the Court upon giving written notice of such appeal to the other party within fourteen days after such decision shall have been communicated to the party desiring to appeal.

#### *Under-rate Workers*

10. (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 the worker after due notice to the union, by the local Inspector of Awards or such other person as the Court 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 shall think fit to consider after hearing such evidence and argument as the union and such worker shall 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 fourteen days' notice shall have been given to such worker by the secretary of the union requiring him to have his wage again fixed in manner prescribed by this clause: Provided that in the case of any person whose wage is so fixed by reason of old age or permanent disability it may be fixed for such longer period as such Inspector or other person shall think fit.

(c) Notwithstanding the foregoing, it shall be competent for a worker to agree in writing with the president or secretary of the union upon such wage without having the same so fixed.

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

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

#### *Workers to be Members of Union*

11. (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.)

#### *Scope of Award*

12. This award shall apply only to the employers carrying on business within a radius of fifteen miles from the Chief Post-office in the City of Dunedin.

#### *Application of Award*

13. This award shall apply to the original parties named herein, and shall extend to and bind as subsequent party hereto every trade-union, industrial union, industrial association, or employer who, not being an original party hereto, is, when the award comes into force or at any time whilst this award is in force, connected with or engaged in the industry to which this award applies within that part of the industrial district to which this award relates.

#### *Term of Award*

14. This award, in so far as it relates to wages, shall be deemed to have come into force on the 1st day of March, 1946, 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 1st day of March, 1947.

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 18th day of February, 1947.

[L.S.]

A. TYNDALL, Judge.

## MEMORANDUM

This dispute was originally heard by a Conciliation Council on 13th February, 1946, when a complete settlement was reached. The terms of settlement were forwarded to the Court with a request that an award should be made pursuant to section 3 of the Industrial Conciliation and Arbitration Amendment Act (No. 2), 1939.

The Court, however, decided that it would make a fixture to enable certain objections to be heard. This hearing took place on 15th March, 1946, and at the conclusion of the hearing the Court referred the dispute back to the Conciliation Council to enable the Council to hear and consider the representations of a large number of employers who claimed that they had not had the opportunity to assist in the nomination of assessors or to express their views on the matters in dispute.

The Conciliation Council met again on 24th July, 1946, and the following report has been received from the Conciliation Commissioner:—

DUNEDIN MILK-ROUNDSMEN'S, DISPUTE: REPORT OF CONCILIATION  
COMMISSIONER

The above-mentioned dispute, which was referred by the Court back to the Conciliation Council, was reheard on the 24th July, 1946.

Messrs. F. L. Nicolson and J. W. Wilson, having resigned as assessors for the employers, I appointed in their stead Messrs. A. C. Reece and Ivan E. Sutherland, both of whom belonged to and represented the group of employers on whose behalf objection was raised by Mr. J. P. Ward in the Court that they had no representation at the original hearing by the Conciliation Council.

Proposals for amending the settlement previously arrived at, by inserting a casual workers' clause and deleting the present clause 8 of the recommendations, were tabled by the employers at the hearing, and copies have been lodged with the Clerk of Awards. The applicant union's assessors raised no objection to the admission of these proposals, but could not agree to their insertion in the recommendations to the Court. The matter is therefore referred again to the Court.

The union suggested that both sides make their submissions in writing to the Court in order to obviate further delay, and the employers undertook to consider this suggestion.

Dated at Christchurch, this 29th day of July, 1946.

A. B. RIGG,  
Conciliation Commissioner.

On 17th February, 1947, the Court heard submissions from Messrs. McDonnell and Cookson, representing the workers' union and employers respectively. No evidence was called in support of the amended counterclaim of the respondents.

After considering the arguments put forward by each of the advocates, the Court has decided to make the award in accordance with the original terms of settlement. The clause which has been the subject of controversy is very similar in character to the clauses dealing with the employment of juvenile labour which appear in several milk-roundsmen's awards operating in other parts of the Dominion. The wages clause has been made to operate retrospectively from 1st March, 1946, in accordance with the agreement of all the assessors who sat on the Conciliation Council.

A. TYNDALL, Judge.

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