

INDUSTRIAL CONCILIATION AND ARBITRATION ACT 1954—APPLICATION FOR  
AWARD

In the Court of Arbitration of New Zealand, Taranaki, Wellington, Marlborough, Nelson, and Westland Industrial Districts—In the matter of the Industrial Conciliation and Arbitration Act 1954; and in the matter of the Taranaki, Wellington, Marlborough, Nelson, and Westland Hydatids Control Inspectors Industrial Dispute between the Wellington, Marlborough, Westland, Nelson, and Taranaki Local Bodies Officers Industrial Union of Workers (Applicant) and the Horowhenua County Council, Levin and others (Respondents).

JUDGMENT OF THE COURT DELIVERED BY BLAIR, J.

THIS was an application for an award to be made to apply to Hydatids Control Inspectors employed by local authorities. A preliminary matter must be decided, namely should an award be made at all? In the *Canterbury Sale Yards Co. case*, 59 Book of Awards 414, Tyndall J. said:

This Court has on several occasions pointed out that when an application is made for an award in an industry in which there has never been any previous award or industrial agreement, a heavy onus lies on the applicant to satisfy the Court that it is necessary that an award should be made for the industry . . . .

The evidence in the present case showed that while a few Hydatids Control Officers would like an award a strong majority of opinion was against such a step. The matter was discussed at the annual conference of the Institute of Hydatids Control Officers and the idea was rejected without dissent. At a meeting of the Central Group of the Institute of Hydatids Control Officers the proposition was also rejected. It was suggested that the meeting was swayed by an address given by a county clerk on the subject. However, we find it hard to believe that a group of independent men such as the officers concerned in this case would be thereby prevented from coming to an independent judgment on the matter. There is strong evidence that at present there is no desire for an award by the great majority of the officers concerned. Under these circumstances it appears to the Court that it would be wrong to impose an award upon them. In our view the applicant has failed to discharge the onus to satisfy the Court that an award should be made. Pursuant to section 145 of the Industrial Conciliation and Arbitration Act the Court declines to make an award upon the present application.

Mr Grant does not agree with the foregoing and his dissenting opinion follows.

Dated this 14th day of December 1965.

[L.S.]

A. P. BLAIR, Judge.

## DISSENTING OPINION OF MR GRANT

I do not understand the meaning of "a heavy onus lies on the applicant" in order to satisfy the Court that an award should be made for an industry as in the case of the present application; therefore I am constrained to disagree with this decision of the Court.

How "heavy" is the "onus"? There are approximately 130 Hydatids officers employed under the authority of various local bodies in New Zealand. Of this total there seems to be a proportion already working within the protection of awards. However a fairly large number of these officers are working without an award and their conditions of work and salaries are determined by agreements between the individual officers and the local authority concerned. Incidentally, and importantly, many of the officers are not employed by any one public authority but are employed by joint authorities. In one case by the Greymouth and Westland Counties together with the six internal boroughs of Greymouth, Hokitika, Ross, Kumara, Runanga and Brunner; in another by the joint authorities of Waimarino, Ohakune and Raetihi.

Surely workers in such case are entitled to be protected by an award and by a responsible industrial union of workers. I think so, along with the applicant union and those of the officers who appeared in support of the application. If this is not to be so then obviously some stronger in personality than others, or some employed by weaker, or perhaps wealthier, local authorities can obtain a better bargain from the public purse for the same responsibilities than others who are employed by stronger, or perhaps meaner, local authorities. This was made evident by a witness, Mr T. J. Fitzgerald, Hydatids Inspector, Feilding, who strongly opposed the need for an award. This witness was quite convinced he could make and maintain his own satisfactory agreement with his employing authority and opposed the making of an award because it would introduce, so he said, an unwelcome uniformity to which one would have to conform, and an award would probably react to his disadvantage. Not for Mr Fitzgerald the exhortation of Paul the Apostle "Look not every man on his own things, but every man also on the things of others".

Mr G. Bennets, Senior Hydatids Control Officer, Masterton, qualified his opposition to an award because he envisaged there would be perhaps even higher qualifications required of officers than as at present, and therefore it would appear to be too early to introduce an award.

It is pertinent to observe that not one – not one – elected representative of any of the local authorities concerned with the application of the workers' union attended the Court to oppose the application. It is also pertinent to point out that neither the Institute of Hydatids Control, nor the Central Group of the Institute, notwithstanding their stated resolutions, considered it necessary to instruct any of their officials to attend and protest an award either at the Conciliation Council appointed to consider the dispute, or the Court. Even if the institute had opposed the application it would have to be remembered that the institute is comprised of less than one half of the total number of officers employed.

The witnesses in support of the application gave detailed reasons for their desiring an award, reasons which I need not recapitulate here but it appears to me that the important responsibilities of the Hydatids officers are identical in the protection of the health of the community; their salaries are drawn from the public purse; and whilst the terrain and area of their districts will vary, of course, according to the geography and population weight of the centres, it does seem that these officers require the protection of an award and do need a responsible industrial union to negotiate on their behalf.

I think the application should have been granted.