

JULY 13, 1966.

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*President-Business Agent,*  
*International Union of Operating Engineers, Local 825,*  
*Newark, N.J.*

SPENCER MARSELLIS,  
*President, Associated General Contractors of New Jersey,*  
*Trenton, N.J.*

GENTLEMEN: The enclosed Determination is transmitted in response to the parties' agreement of March 25 and 28, 1966.

Sincerely,

W. WILLARD WIRTZ,  
*Secretary of Labor.*

RAYMOND F. MALE,  
*New Jersey Commissioner of Labor and Industry.*

DETERMINATION: IN THE MATTER OF THE CONTRACT BETWEEN LOCAL 825, INTERNATIONAL UNION OF OPERATING ENGINEERS, AND THE ASSOCIATED GENERAL CONTRACTORS OF NEW JERSEY

#### I. IN GENERAL

The previous contract between these parties expired on June 30, 1965. Negotiations for a new agreement started before the expiration date, and continued on past it. Substantial but not complete agreement on a new three-year contract was reached last October. Prior to final agreement the negotiations became the subject of extensive public comment.

On March 25 and 28, 1966, the parties agreed on an interim wage settlement and agreed further, on their own initiative, to submit this controversy to the Secretary of Labor of the United States and the Commissioner of Labor and Industry of the State of New Jersey for "determination, resolution and disposition." We accepted this submission.

A series of meetings, joint and separate, have been held with the parties. We have extended our inquiry to cover certain aspects of construction industry practice which appear relevant. A draft Determination was submitted to the parties for their comments and suggestions on June 24, following which the parties indicated that the lines set forth in the draft were an appropriate basis for future action and requested time for joint exploration. Such time was accorded, and views concerning specific points were thereafter received.

We have taken account of three sets of factors:

1. The extent of agreement reached by the parties in this case prior to its submission to us.
2. The interests of the parties and of the public in maintaining economic stability.
3. The desirability of developing some method of meeting or at least reducing the problem of seasonality in the construction industry, with its adverse effects on contractors, workers and the public.

Particular emphasis has been placed on the third of these factors—the meeting of the seasonality problem. We have felt that if an answer can be found to this, the stabilization factor can be more constructively handled, and a settlement made in this case which will be more to the advantage of both parties—as well as to the industry, its employees, and to the public generally.

This case has been considered in the context of collective bargaining practices in the construction industry as a whole. The independent local settlements common in the construction industry are heavily affected by the long-established and pessimistic habit of viewing the industry as highly seasonal and characterized by great uncertainties which hover over contracts, business fortunes, and job assignments. This has led to the view that gains must be taken wherever and whenever they can be obtained to balance periods in which gains are not feasible, and to the development of an historic process of justifying relatively high hourly rates as being necessary to provide reasonable annual earnings.

These considerations are reflected in the tentative (and incomplete) agreement reached earlier by the parties in the present case.