

(136.) DUNEDIN AND SUBURBAN CARTERS.—RE AMENDMENT OF AWARD.

In the Industrial District of Otago and Southland.—In the matter of an industrial dispute between the Dunedin and Suburban Carters' Union of Workers; and in the matter of an application to amend the award herein.

JUDGMENT of COOPER, J., delivered 4th November, 1902:—

This is an application to the Court to amend the provisions of an award made by the Court on the 28th June, 1901. The clause in respect of which the amendment is asked is clause 5, prescribing the rate of payment for "casual labour." It is not suggested that there is any defect in the award, nor that any further provision is necessary to give fuller effect to the award; but the ground on which the amendment is asked is that the clause has the "effect not foreseen or contemplated when the award was made of preventing the employment of men who would otherwise be employed." The question, therefore, is whether the Court has any jurisdiction to entertain the application.

The power of amendment of an award which the Court possesses is contained in section 87 of the Act, subsection (1) of which confers on the Court a limited power of amendment only—namely, "power to amend the provisions of the award for the purpose of remedying any defect therein or of giving fuller effect thereto." The present application is not to remedy any "defect" in the award, nor to amend the award by inserting any clause for the purpose of "giving fuller effect to any provision" in the award, but it is an application to strike out the rate of payment prescribed in clause 5, and to introduce in lieu thereof different conditions and rates of pay for "casual labour"—in effect, to make a fresh award in respect of casual labourers during the currency of an existing award under which these rates and conditions have been already settled by the Court. This is a power which the Court do not possess, and we have therefore no jurisdiction to entertain the application. Where owing to changing conditions the rates of wages fixed by an award may require alteration, such alteration cannot be made by the Court without the consent of both parties to the dispute in respect of which the award has been made.

(137.) DUNEDIN PAINTERS.—AWARD.

In the Court of Arbitration of New Zealand, Otago and Southland Industrial District.—In the matter of "The Industrial Conciliation and Arbitration Act, 1900," and its amendment; and in the matter of an industrial dispute between the Dunedin Painters' Industrial Union of Workers (hereinafter called "the union") and the following persons, firms, and companies (hereinafter called "the employers"): P. Omand, George Street, Dunedin; A. Lees, George Street, Dunedin;