

Should an amending Bill be introduced it would be highly desirable for a clause to be inserted therein making plain the intention of Parliament concerning section 87, subsection (3), of the Act of 1900. This subsection states that "The award, by force of this Act, shall also extend to and bind every worker who, not being a member of any individual union on which the award is binding, is at any time whilst it is in force employed by any employer on whom the award is binding; and if any such worker commits any breach of the award he shall be liable to a penalty not exceeding ten pounds, to be recovered in like manner as if he were a party to the award."

Legal opinions differ as to the meaning of the above section, but at present there is good reason to consider that by its terms non-unionists are brought under the award, but individual unionists are not. The union is regarded as under the award, and is presumably able to control its members, but the supposition entails hardship. All men in a union are not its whole-hearted supporters, and some of them either wilfully or inadvertently accept wages or earnings not permitted by the award. If there is a case proven against an employer who breaks an award by paying less than specified wages, the recipient of such wages is also a defaulter and should be prosecuted. Although in a few cases this has been done in order to make an example, still in the large majority of cases the employer alone is prosecuted, as it is considered that there is probably pressure from several directions before a man will accept less for his work than that to which he is properly entitled. But it is asserted that if unionists accept such wrong wages or rates the union is at present liable for its members breaking the award, and it is hard for a union that has had the trouble and expense of bringing a justifiable action to find itself also in the position of a delinquent. Either industrial unions should be directed to pass rules giving them power to control their members financially so far as to recover fines from them, if through their fault the union is mulcted in penalties, &c., or Parliament could, by putting the individual unionist on the same footing as the individual non-unionist, make the worker personally liable for his own breach of the law.

It is worthy of consideration whether there should not be a limit to the time for which back wages should be paid in a breach of award. That a very large sum (in one case £73, in another £88) should be paid as back wages to a worker who has broken the award by receiving illegal remuneration appears hardly defensible in a general way, however justifiable in a particular case. If prosecuted such worker would be fined instead of rewarded, and although, as stated above, the case of employer and employee are not exactly on the same footing as to indirect compulsion, there is reason to fear that, unless there has been proof of continued remonstrance as to wages, a policy more characterized by cunning than honesty may dictate silent acceptance of less pay than the award prescribed, while there is concealed the purpose of claiming the difference as a lump sum in the Arbitration Court. I do not infer or suggest that such has hitherto been the case in any action for breach of award, but the weak place is there, and should be exposed.

At meetings of Trades and Labour Councils and by delegates at the Labour Conference there has been expressed an intention to work towards making "preference for unionists" compulsory. A motion to that effect was negatived in the House of Representatives last session. Several members of Parliament who are friendly to trade-unions voted against the motion, on the expressed ground that the unions would be stronger composed of volunteers united in one cause, as at present, than if composed of conscripts forced to join the union by legal process. They considered leaving "preference" for the decision of the Court in each case as preferable. As a general rule, the Court of Arbitration only gives "preference" when coupled with conditions, but in one case, extending over an entire trade and over the whole colony (the New Zealand Federated Boot Trade; 24th September, 1903), the union can demand and obtain the dismissal of any non-unionist if his place can be adequately filled by a unionist. However, as practically the whole of the members of the trade are unionists, there is no hardship, and the award ratified the terms of an agreement already settled between employers and employed.

On one very important point in regard to the Act opinions, even legal opinions, are decidedly at variance. We have even had cross-rulings in the Arbitration Court on the subject. It is as to the interpretation of section 86, subsection (3), of the Act of 1900. Some read this section as implying that only those employers cited in the award are under its provisions, holding that it is unfair to bind a person who has not received notice that he was pecuniarily interested in the case. Others hold that the section binds all employers in the district whether cited or not, whether original parties or not, and that the unfairness