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STATE PROMOTION OF INDUSTRIAL PEACE.

THE fact that the Government has brought in a Bill intended to promote the settlement of industrial disputes by conciliation and arbitration¹ may lend interest to a brief review of the legislative measures which have been adopted with a similar object in this and other countries. The statutes of this nature previously in force in England were consolidated and amended by an Act (5 Geo. IV. c. 96) passed in 1824. Under this Act a justice of the peace may arbitrate, if both parties to the dispute consent; if not, he may, at the request of either party, nominate from four to six persons (one half manufacturers or agents or foremen of manufacturers, the others workmen employed in the trade) from among whom the parties choose one man each as referees, with final resort to the justices, if the referees disagree. In 1837 an Act (7 Will. IV. and 1 Vict. c. 67) was passed amending this law in certain minor details. By an Act (30 and 31 Vict. c. 105) passed in 1867 the Home Secretary is empowered to license councils of conciliation to be formed by the employers and the employed in any industry, such councils to have the powers granted to arbitrators and referees under the existing law. This was followed in 1872 by a statute (35 and 36 Vict. c. 46) enabling masters and workmen to agree to be bound by the decision of arbitrators with ultimate reference to an umpire, no license being required. Disputes as to future conditions of employment are not within the operation of the Act of 1867, but

¹ This Bill gives the Board of Trade power on the application of employers or workmen to appoint a conciliator or a board of conciliation; power to aid in the establishment of local boards of conciliation or arbitration; and power to register boards of this nature already formed or to be formed. The Board of Trade may require all registered boards of conciliation or arbitration to make returns and reports; all conciliators or boards of conciliation appointed under the Act are to report their proceedings to the Board of Trade; and such reports, as well as the reports of registered boards, are to be laid before Parliament. The Board of Trade is to present to Parliament an annual report of their proceedings under the Act.

may, with the consent of both parties, be decided under the Acts of 1824 and 1872. The payment of money directed to be paid by awards made under the English Acts may be enforced by distress or imprisonment. It is very doubtful whether any one of these statutes has ever yet been applied in any single instance.

The most celebrated example of the State promotion of industrial peace is the system of *conseils de prud'hommes* which has existed in France since a remote antiquity. Each of these councils consists of an equal number of masters and workmen elected respectively by the employers and by the employees in the trades over which jurisdiction is exercised, the *prud'hommes* usually, but not invariably, receiving a stipend paid by the *communes* concerned. Each council is divided into two sections. The first section (*bureau particulier*, or *de conciliation*), is composed of one master and one workman, and has the special duty of endeavouring to persuade the parties to a dispute to settle it by a voluntary agreement. If this attempt fail, the matter comes before the *bureau général*, or *de jugement*, which consists of the president or vice-president, taking the chair on alternate days (one of them always being a workman, the other an employer), and of at least four other members, two masters and two workmen. In cases in which the amount in dispute exceeds £8 an appeal from the award of the *conseil* lies to the Tribunal of Commerce; but the right of appeal is rarely exercised. The total number of these French councils is close upon 140, and they deal with between 40,000 and 50,000 cases a year, of which about 16,000 are amicably adjusted by the *bureaux particuliers*, about 12,000 are withdrawn by the parties, and only some 13,000 or 14,000 come up for decision by the *bureaux généraux*. The cost to the city of Paris of the four councils of *prud'hommes* established in the French capital is somewhat over £8,000 a year. Three out of four of all the cases which come before a French *conseil* relate to disputes as to what wage the employer agreed to pay, the time and manner of payment, deductions for misconduct, &c.; the rest refer to absence from work, spoilt work, delay in the completion of work, and so on. The disputes with which the French *prud'hommes* deal will thus be seen to be of the same character as those minor differences which, in the rare instances in which they are not settled by negotiation, are in England determined by county court judges or magistrates. But, speaking broadly, these are not the sort of disputes which give rise to strikes. Strikes are, for the most part, caused by a disagreement between masters and men as to what the conditions

of employment, as to wages and otherwise, are to be in the future. And in regard to future terms of employment the *conseils de prud'hommes* have no manner of jurisdiction.¹ With a view to the pacific adjustment of differences in regard to future wages the French have recently (December 27, 1892) passed a law for the promotion of boards of conciliation and arbitration which are to be entirely voluntary in their nature (neither party to a dispute being bound to submit the matter for discussion to a *comité de conciliation* nor to refer it to arbitration), but which partake of an official character in so far that the meetings of the conciliation board are to take place in the presence of the *juge de paix*, who may act as chairman, if the parties so wish; while, if arbitrators are unable to agree upon an umpire, the selection of the umpire is to be made by the president of the *Tribunal Civil*. The *commune* is to provide a meeting-room, lights, and fire. Obedience to the decrees of the industrial tribunals to be established under the new French law cannot be enforced by legal pains and penalties. All that the employer or the workmen in whose favour an award has been given can do to secure compliance with its terms is to point to the public announcement of the result of the arbitration which the mayor is bound to post up, to placard the walls with a copy of this notice, and to write to the newspapers to invoke the force of public opinion.²

The Belgians have for a long time had a system of *prud'hommes* analogous to the French; and have recently organized 'Councils of Industry and Labour' whose functions include conciliation in disputes between masters and workmen. A large number of these councils have already been formed; but of their probable utility it is, as yet, too soon to form an opinion.³ In Switzerland courts for the settlement of trade disputes organized on the model of the French *conseils de prud'hommes* exist in some places (*e.g.* at Bâle and Geneva).⁴ In Austria the establishment of courts of arbitration of a nature similar to the *conseils de prud'hommes* was authorized by a law passed in 1869. These courts are created, at the instance of employers and employed, by the ordinance of the Government on the advice of the provincial assembly (*Landtag*). But this law has up to now remained almost inoperative, only a quite

¹ See Foreign Office Report, F.O., 1890, No. 159 [C. 5896-17].

² For circular issued in respect to the application of this law see *Board of Trade Journal*, Feb. 1893, pp. 149-151.

³ See Foreign Office Reports, F.O., 1891, Nos. 198 [C. 6206-18] and 214 [C. 6551-5], pp. 49, 50.

⁴ See Foreign Office Report, F.O., 1892, No. 244, p. 34.

insignificant number of courts having been constituted.¹ In Hungary the duty of endeavouring to effect the pacific settlement of questions arising between masters and workmen is by the law of 1884 imposed upon the 'industrial corporations' (associations of employers, especially of small manufacturers), each of which has to establish a court of arbitration composed of masters and workmen in equal numbers, the rules for its procedure being drawn up by its members with the approval of the Minister of Commerce. These Hungarian arbitration courts appear to deal exclusively with minor disputes.² Whether they would be able to avert or put an end to anything like a serious strike, it is not possible to judge. For in Hungary (though the conditions of labour are by no means favourable) strikes of a serious character are practically unknown. Turning to Germany, we find that under the First Empire the French established *conseils de prud'hommes* at Cologne, Crefeldt, and in other towns; and after the peace of 1815 other *conseils* were established in the Rheno-Prussian provinces, where they acted also as chambers of commerce. The Prussian industrial code of 1845, and the German industrial code of 1869 provided for the establishment by the parish authorities of courts of arbitration. The German councils of conciliation and arbitration were re-modelled by the Imperial law of 1890. In their new form these bodies have power to deal, not alone with disputes arising out of existing contracts, but also, by the consent of both parties, with questions as to future conditions of employment. But, in arbitrations dealing with these wider issues, an award possesses no legal effect except by the consent of the party affected by it, who is allowed to render it null by giving notice that he declines to accept the decision. In any event the award is to be made public.³

Passing now to our colonies,⁴ we note that in Ontario a law intended to promote the creation of boards of arbitration was enacted many years ago, was never applied, and was amended in 1890 by extending its provisions so as to cover disputes as to future wages. In Nova Scotia the coal-mines are owned by the State, but worked by lessees, the relations between these

¹ See Foreign Office Report, F.O., 1892, No. 250 [C. 6813-10], p. 3, and the article on 'Social Reform in Austria' by Dr. Baernreither in *Zeitschrift für Volkswirtschaft, Socialpolitik und Verwaltung*, No. 1, p. 37.

² See Foreign Office Report, F.O., 1892, No. 238 [C. 6551-29], pp. 8, 9.

³ See Foreign Office Report, F.O., 1891, No. 212, pp. 21-25; and *Das Reichsgesetz betreffend die Gewerbegerichte vom 29 Juli*, 1890, by Drs. Wilhelmi and Fürst.

⁴ See vol. II. of *Foreign Reports* published by the Labour Commission [C. 6795-xi] 1893, pp. 8, 14-17, 31-34, 53-57.

employers and their workmen being governed by special laws passed in 1890 and 1891, under which the miners are not allowed to strike, nor are their masters allowed to lock them out or to reduce their wages, without first bringing the matter before a board consisting of two persons appointed by the Governor in Council, two members each appointed by one of the parties to the dispute, and a fifth co-opted by the last-named two. The employer is at liberty, as soon as a reference to the board is ordered, to pay into a bank to the order of the Commissioner of Public Works a fortnight's pay of his men, together with a like amount on his own behalf. Thus is formed a fund, by the forfeiture of which it is possible to punish workmen or master for acting in contravention to an award. In addition, any award may be enforced by ordinary legal process, and acts as an attachment against all the property of an employer. Appeal from an award lies to the full bench of the Supreme Court. But on no single occasion, it is believed, has a dispute been referred to the compulsory arbitration board contemplated by this statute, all matters at issue between the Nova Scotian coal-masters and their men which have arisen since these Acts were passed having been settled by voluntary methods. In the early part of the present year (1893) British Columbia passed a law intended to promote the settlement of labour disputes by courts of conciliation and arbitration, which so closely follows the lines of the New South Wales statute mentioned below that a statement of its provisions is unnecessary. The Act 'to provide for the establishment of councils of conciliation' passed by the legislature of Victoria in 1891 does not differ from our own laws on this subject sufficiently to require detailed description. But it may be remarked that, if the employers and their workmen fail to maintain voluntary councils of conciliation, the Governor in Council may create and keep up such tribunals. The New South Wales law passed in March, 1892, provides for the formation in each 'Industrial District' of an official council of conciliation composed of four members to be appointed by the Governor, two of them 'on the recommendation of the organization or a majority of the organizations representing the interests of employees' and two recommended by the organizations of the employers. The Governor may treat the whole colony as one Industrial District. Until the colony is divided into Districts, there is to be a general council of conciliation for New South Wales, consisting of from twelve to eighteen members to be appointed by the Governor, one half on the recommenda-

tion of the employers, the other half on that of the employees. In addition, notwithstanding the existence of an official council, the parties to a dispute may themselves form a special unofficial council of four conciliators, two appointed by each side; and, if there is no available official council in existence, a special unofficial council may be formed at the request of either party, to consist of four conciliators appointed by both parties, two being selected by each side. No person can be appointed a member of a special unofficial council without the approval of the Governor. These special councils are to have all the powers given to the official councils. The members of all these councils, official and unofficial alike, are to receive such remuneration as Parliament shall fix and provide. If the dispute is not settled by conciliation, either party may have it referred to arbitration. The council of arbitration is to consist of three members, who are to be remunerated out of the public moneys; one is to be appointed by the Governor on the recommendation of the employers; the second is to be appointed by him on the recommendation of the employees; the third, who is to act as president, is to be appointed by the Governor, the first two arbitrators having the right to submit the name of a person to fill this position. Provision is made enabling members of the council of conciliation which failed to settle the dispute to sit (with the consent of the parties) as assessors to the council of arbitration. Compliance with the decisions of the arbitrators cannot be enforced by legal process unless both parties shall declare their willingness to be bound thereby; but these decisions are in all cases to be made public in the newspapers and otherwise. Queensland has recently passed 'The Courts of Conciliation Act, 1892,' which provides for the settlement by a 'Conciliation Justice' of a dispute arising 'in respect of an alleged wrong or breach of contract'; this statute appears to be more applicable to commercial than to industrial disputes. In New Zealand a Bill providing for the compulsory reference of trade disputes to a court of arbitration presided over by a judge of the Supreme Court was before the House of Representatives in 1892, but the Legislative Council struck out the compulsory clauses, and the Bill was abandoned. In South Australia a Conciliation Bill has for some time been before the Legislature, but has not yet become law.

Concerning the legislation which has been enacted in certain parts of the United States (*e.g.* in Pennsylvania, Ohio, New York, Colorado, Maryland, Iowa, Michigan, North Carolina and Kansas) with the view of promoting the settlement of industrial disputes

by courts of conciliation and arbitration it is impossible within present limits to say more than that the laws in question, which bear a general resemblance to the English statutes, have achieved only a very limited success. Nor can we do more than briefly indicate the character and scope of that noteworthy institution, the New York State Board of Arbitration. In the Report of this Board for 1887 it is stated that 'the anticipation that vesting the power of mediation and investigation at will in the Board would exercise a deterrent influence upon disturbing elements in cases of ordinary labour grievances and disputes has, it is fully believed, been realized to a very large extent, and has justified the belief that a power of inquiry and publicity, representing the sovereignty of the State, would have great moral effect in restraining a disposition, on the one hand, to exact too much from employees, and, on the other, to strike without justifiable cause against employers.' In its Report for 1891 we read that 'it has been the constant effort of the Board to induce parties to controversies resulting in strikes and lock-outs to settle their differences through the medium of boards of arbitration chosen by themselves, and it is gratifying to be able to state that that course is now being followed to a large extent.' In 1892 'the Board has succeeded in settling several strikes'; while in a recent specially bitter struggle between tailors' cutters and their employers in March and April, 1893, the Board contrived by the exercise of a remarkable degree of tact to bring about a settlement. It would, however, be improper to close this paper without giving some details in respect to the State Board of Arbitration and Conciliation in Massachusetts, a body which has attained a not inconsiderable measure of success in bringing about the pacific settlement of disputes between employers and employed. Formed under a law passed in 1886 and amended by subsequent statutes of 1887, 1888 and 1890, the Massachusetts Board is composed of three persons appointed by the Governor of the State, one as representative of the employers, the second on behalf of working men, and the third recommended by the other two. Each of these gentlemen receives an annual salary of £400, and is recouped all travelling and other expenses. The Board has its own clerk, and is permitted to employ special investigators as occasion may require. An Act passed in 1892 gives the Board power to employ expert assistants to aid in its deliberations. The total cost of the Board's operations is about £2,000 a year. The duties of the Board are of a two-fold nature. If requested by both of the parties

to a dispute, the Board acts as arbitrator; in all other cases the Board's function is that of mediation—the suggestion of terms upon which the Board, after due examination of the facts, recommends that the dispute be settled. In respect to the cases in which the Board acts as arbitrator it should be noted that no means are provided by which compliance with its award can practically be enforced. However, as a fact, the awards of the Board are almost invariably carried out by both masters and workmen with complete loyalty. Whenever a trade dispute arises it is the duty of the municipal authorities to give notice to the Board. On learning from this or any other source that labour troubles are likely to break out, the Board has power to 'investigate the cause or causes of such controversy, and ascertain which party thereto is mainly responsible or blameworthy for the existence or continuance of the same, and may make and publish a report finding such cause or causes, and assigning such responsibility or blame.' An analysis of the Reports published by the Massachusetts Board shows that, between the date of its creation in 1886 and the end of 1892, the attention of the Board was directed to 188 distinct trade disputes, with respect to two of which the information given is imperfect, while the others were dealt with in the following manner. In eighteen cases the Board, for one reason or another, determined to take no action; in forty-five cases the action taken by the Board failed to produce any effect; in sixty-six cases the dispute was settled by the parties upon terms arranged by themselves; in ten cases the two sides adjusted their difference upon terms suggested to them by the Board; and in the remaining forty-seven cases the questions at issue were decided by a formal award of the Board. California, New Jersey and Ohio have also recently (in 1891, 1892 and 1893 respectively) established State Boards of Arbitration. By a Federal law passed in 1888 provision was made for the creation of boards of arbitration to deal with disputes between railway companies carrying on interstate traffic and their employees, but, no case suitable for its application having arisen, this statute has not yet been brought into operation.¹

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¹ With regard to the United States see Vol. I of *Foreign Reports* published by the Labour Commission [C. 6795—x] 1892, pp. 21 and 22.