

Fabian Tract No. 83.

STATE ARBITRATION AND THE LIVING WAGE.

WITH AN ACCOUNT OF THE NEW ZEALAND LAW AND ITS RESULTS

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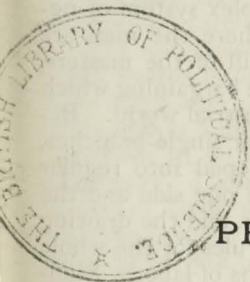
THE FABIAN SOCIETY.

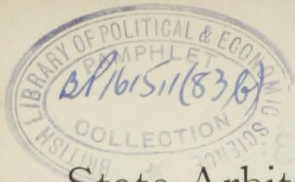
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State Arbitration and the Living Wage.

THE disastrous effects of a great labor dispute which has paralyzed an industry for months are obvious to all, and the consequences of smaller disturbances, though less apparent, are in the aggregate scarcely less important. In the eight years, 1890-7, there have been from 700 to 1,000 strikes and lock-outs a year, involving 335,500 persons on an annual average, and causing an annual loss of 11,450,000 working days. For thirty years everyone has been "ingeminating peace," and we propose, in the first place, to examine the machinery that exists to-day for preventing industrial war; and secondly, to consider in what way lasting peace can be secured.

Disputes may arise either out of the interpretation of an existing contract, or out of the framing of new terms of labor. To decide the former class is a judicial act, to determine the latter is a legislative function. Interpretation cases are on the Continent settled by special courts, but in England they are in no way distinguished from other cases, and, from the comparative rarity with which they come under the public eye, are scarcely included within the popular meaning of the term industrial dispute. In this tract we shall deal mainly with the second class.

Method of Collective Bargaining.

For the proper consideration of disputes arising out of the framing of new labor contracts it is important to bear in mind that they are only the exceptional failures which occur in a complex system of negotiation between employers and employed. Where the men are disorganized the terms of labor are fixed at the will of the masters, but the trade unions practise a method of collective bargaining which ensures peace throughout a great part of the industrial world. Beginning with the negotiations of shop committees, or single branches, with individual employers, the process has developed into regular conferences between the organized masters on the one side and the union of all the workmen in the trade on the other, and the drawing up of collective agreements embodying common rules for the whole industry, fixing both wages and the other conditions of labor. Similarly with disputes affecting individuals only—from the intervention of the trade union secretary on behalf of a victimized workman we proceed to the regular examination of all complaints in the textile industry by the paid secretaries of the employers' and workmens' organizations, and the reference of the few cases in which they cannot agree to joint committees, first of the local, and finally of the central associations. In the higher grades of industry we have thus a private legislative system and a private judicial system established by mutual agreement, and enforcing decisions by appeal to the law-abiding spirit of the people. The Board of Trade Bluebook on Standard Piece-

... six in a room, was obliged to consult a doctor, who attributed her ... as comfortable enough.

work Lists,* will give some idea of the work of the unions, and from the monthly returns in the *Labor Gazette* for 1897, it appears that of the workmen whose wages were altered in the course of the year, 50.8 per cent. secured the change under wage-boards or sliding scales, 42.4 by negotiation, and 6.8 after strikes. Even when conferences and negotiations fail, and a strike or lock-out ensues, the unions are pre-eminent in effecting peace, and in 1890-6 settled by direct negotiation 55.5 per cent. of the total strikes involving 36.5 per cent. of the workmen implicated.

Temporary joint committees naturally develop into trade boards of a more permanent character, representative of employers and employed in equal proportions. In 1896 there were 61 such boards actually at work,† which dealt with 1,451 cases; in addition, 37 actual strikes and lock-outs involving 18,257 persons were settled in the years 1893-6. The Durham Joint Committee for the coal trade, which itself decided 362 cases, owes its success to the fact that while general wage-movements are determined on the basis of the old sliding scale, now abolished, it settles what alterations shall be made in the county-average wage to meet the peculiarities of working in particular collieries, and arranges colliery as apart from county disputes. Provision is made for the reference to arbitration of cases which the committee cannot settle. The local boards in the boot trade, on the other hand, which settled 251 cases in 1896, have "full power to settle all questions submitted to them concerning wages, hours of labor, and the conditions of employment of all classes of workpeople represented thereon within their districts."‡ Their exercise of this jurisdiction is, however, governed by the clauses in the Agreement of 1895, referring to minimum wage, output, machinery, etc. Trade Boards, in fact, only seem to be successful where they work under carefully defined preliminary agreements.

The full power of collective bargaining through trade unions and trade boards is only attained in the few well-organized trades. For some time after 1890, District Boards of Conciliation were warmly advocated as a means of bringing the disputants together and inducing them to settle their differences amicably, that is by collective bargaining. Though they were welcomed by the weaker trades, their period of favor was brief, and, in 1896, out of twenty-two boards, only the London Board did any work. Finally, the reference of disputes to private persons is the oldest form of private intervention. With the disappearance of sliding scales it has become less prominent than formerly, but it is frequently provided for in collective agreements. In the years 1893-6, 112 strikes and lock-outs,§ involving 400,000 persons, were settled in this way—including the Coal War of 1893 and the Boot Trade Dispute of 1895, which were really official Governmental interventions, not to arbitrate but to further the negotiations between the parties.

*Report on Wages and Hours of Labor, Part II. C.—7567 I. of 1894.

† Fourth Annual Report of the Labor Department (1896-7).

‡ *Labor Gazette*, May, 1895, p. 143.

§ Including three cases settled under the Conciliation Act.

Government Mediation.

The report of the Royal Commission on Labor in 1894 recognized the failure of private attempts at mediation, and recommended (1) that Town and County Councils should be enabled to create special tribunals for defined districts or trades, more or less after the pattern of the French Conseils de Prud'hommes; (2) that a central department should promote by advice and assistance the formation of trade and district boards of conciliation and arbitration; (3) that the Board of Trade should have power to enquire into and report on any trade dispute; and (4) that the Board of Trade should have power to appoint an arbitrator, when requested by both parties. In 1896 the Conciliation (Trade Disputes) Act was passed, empowering the Board of Trade, where a dispute had arisen or was apprehended, (a) to enquire into the causes of the dispute; (b) to induce the parties to meet together with a view to an amicable settlement; (c) to appoint a person to act as conciliator when requested by either party; (d) to appoint an arbitrator on the application of both parties. Private boards of conciliation and arbitration might be registered under the Act, and where no Board existed the Board of Trade might endeavor to get one formed.

This measure is thoroughly permissive, for neither can one party to a dispute compel the other to submit the difference to arbitration, nor is either bound by the award. In both these respects it is inferior to the Durham Joint Committee and the Boot Trade Boards, and it has been thoroughly discredited by its powerlessness to overcome the obstinacy of Lord Penrhyn, and by the tardiness and inefficacy of Mr. Ritchie's intervention in the engineering dispute. Up to the end of June, 1897,* thirty-five cases were dealt with under the Act, four on the initiative of the Board. In seven cases the application was refused; fourteen disputes were settled by conciliation, five by arbitration, and four out of court; in four cases a settlement was not effected, and one case was still pending. In twenty-six cases a strike preceded or followed the intervention of the Board of Trade, leaving about 900 strikes which the Act failed to prevent or terminate.

Conciliation in Germany.

In Germany, since 1845, interpretation disputes have had to be submitted to *Gewerbegerichte*, or Industrial Courts,† consisting of a president nominated by the parish authorities, subject to Government approval, and of assessors directly elected by ballot in equal numbers by the employers and workmen respectively, and compensated for travelling expenses and loss of time. The courts may take evidence on oath, and an appeal from their decision to the regular tribunals of the district only lies when the matter in dispute exceeds £5. In 1896 there were 284 such courts, which adjudicated 19,448 cases, half of them being under £1 in value.‡

* First Report of the Board of Trade of Proceedings under the Conciliation (Trade Disputes) Act, 1896. C.—8533.

† Royal Commission on Labor: Foreign Reports, Germany, pp. 35-8.

‡ *Labor Gazette*, June 1897, p. 169.

"six in a room" was suggested to consult a doctor, who attributed her illness to a room as comfortable enough.

By a law of 1890* these courts were permitted to act as boards of conciliation and arbitration when appealed to by both parties to a dispute relating to a new labor contract. The president appoints four assessors, and the parties may name as additional assessors, in equal numbers, persons not concerned in the dispute. The Board first tries to bring about an amicable agreement; failing to conciliate, it decides as arbitrator, and the parties have to declare within a given time whether they accept the award or not. If the assessors fail to agree, no decision is made. In 1896† forty-two cases were dealt with, three of which were settled out of court. The Court decided 20 cases, and its award was rejected in 11 others. In the same year there were 483 strikes.‡

Conciliation in France.

The Conseils de Prud'hommes§ date back to the eighteenth century, and deal with matters arising out of the interpretation of a contract written or implied, and involving not more than £20. They are formed of at least eight employers and eight workmen elected separately under second ballot. In 1892|| they dealt with 52,336 cases of which 37,243 related to wages.

By a law of 1892¶ the Juge de Paix may, on his own initiative or on the joint or separate application of employers or employed, urge the parties to a dispute to form a committee of conciliation. Failing conciliation his duty is to induce the disputants to appoint arbitrators, who, if they cannot agree, may appoint an umpire; and the president of the civil tribunal chooses an umpire if the arbitrators fail to agree on one. The decision of the court of arbitration is not supported by any legal process. The expenses of the committees are borne by the communes. In the four years 1893-6 there were 1,906 disputes, and the law was put into operation 399 times, in 177 cases or 9.28 per cent., successfully. The employers refused mediation in 169 cases.**

Conciliation in America.

Twenty-five States of the American Union have laws dealing with conciliation and arbitration in trade disputes, sixteen of them providing for the establishment of State Boards of Mediation.†† The Massachusetts State Board, created in 1886, has been the model for most of the subsequent legislation. It consists of three members, two of whom are appointed by the Governor as representatives of the employers' associations and trade unions respectively; the third is selected by these two, or, failing their agreement, by the Governor. On application being made by either party to a

* Royal Commission on Labor. Foreign Reports: Germany, pp. 37-8. *Labor Gazette*, October, 1897, p. 293.

† *Labor Gazette*, October, 1897, p. 293. ‡ *Labor Gazette*, November, 1897, p. 329.

§ Royal Commission on Labor. France, pp. 47-50 and 100-103.

|| *Annuaire Statistique de la France*, 1896. Paris.

¶ Royal Commission on Labor. Foreign Reports, France, p. 104.

** *Labor Gazette*, August, 1897, pp. 228-9.

†† For Acts up to end of 1896 see Report of the Board of Arbitration and Conciliation (Massachusetts) for the year ending December 31st, 1896. Boston, 1897.

dispute the Board must hold an enquiry and publish a decision. On hearing of a dispute, existing or threatened, it is its duty to try and effect an amicable settlement, and it may investigate the dispute and publish a report thereon, apportioning blame. In 1896 it settled 16 out of 29 cases.

The New York State Board (1887), consisting of a representative from each of the two great political parties and a trade unionist, is a similar Board without power to enforce its awards. In 1896* it settled five out of 18 cases, or two per cent. of 246 disputes.

Australian Acts.

Two of the Australian colonies have Acts providing for State intervention. The New South Wales Act† of 1891 speedily became a dead letter, as its awards were only enforceable by consent of both parties. The South Australian Act‡ of 1894 also failed through legal difficulties and the clumsy provisions for an electoral register constituted by personal application for registration.

Compulsion in New Zealand.

New Zealand is the classical land of compulsory arbitration, the only land where it has had a fair trial, and the only land where industrial peace prevails. Since the Hon. W. P. Reeves, then Minister for Labor, carried in 1894 his Industrial Conciliation and Arbitration Act,§ "all matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or workmen in any industry" are withdrawn from the domain of private warfare and placed under the regulation of law. In the first place, the Act defines the bodies with which it has to deal by providing for the registration of any number of persons, not less than five employers or seven workmen, as industrial unions, which thereby become corporate bodies with power to sue and be sued. They alone can take proceedings under the Act, for the law takes no cognizance of disputes between individual workmen and their masters. Unregistered employers or men are not exempt from the control of the law. These industrial unions may enter into industrial agreements with each other—or industrial unions of workmen with individual employers—dealing with any industrial matter or for the prevention or settlement of industrial disputes. These agreements—which resemble the "collective agreements" with which we are familiar—must run for not more than three years, and are enforceable by law if they provide penalties for breach. The colony is divided into six districts, in each of which a Board of Conciliation has been established consisting of four persons, two chosen by the industrial unions of employers and two by the industrial unions of workmen, and of a chairman chosen by the Board from outside at its first meet-

* *Labor Gazette*, November, 1897, p. 327.

† Royal Commission on Labor. Australia, pp. 33 and 53-7.

‡ *Labor Gazette*, April, 1895, p. 115.

§ New Zealand Labor Laws, 1894, pp. 108-134. Summary of Rules: *Labor Gazette*, March, 1895, p. 88. Amending Act: *Labor Gazette*, Sept. 1896, p. 276.

"six in a room" was changed to consult a doctor, who attributed her illness to the crowded and uncomfortable enough.

ing. In case the unions refuse to take part in an election the Governor may nominate members to complete the Board, and he may also appoint a chairman if the Board cannot agree on one. Special Boards may be appointed to meet special cases, and are elected in the same way. The Board holds office for three years. Industrial disputes may be referred to a Board for settlement either pursuant to an industrial agreement, or on the application of any party to a dispute, *i.e.*, an individual employer, or several employers, or an industrial union of employers or workmen. The parties may appear by their representatives or, if all sides agree, by counsel or solicitors. After investigation the Board attempts to arrange an amicable settlement, failing which it "shall decide the question according to the merits and substantial justice of the case," and issue a report accordingly.

Any party to the case may thereupon require it to be submitted to the Court of Arbitration. This Court acts for the whole colony, and consists of a president, who must be a Judge of the Supreme Court, and two members recommended by the industrial unions of employers and workmen respectively. The Court holds office for three years, and, like the Boards, has power to inspect factories, administer oaths, and compel the production of documents or the attendance of witnesses. It may award costs and dismiss frivolous cases. All questions must be decided "in such manner as they find to stand with equity and good conscience." Every award must specify the parties upon whom, and the period, not exceeding two years, for which it is to be binding, and it must be given within one month after the Court has begun to sit for the hearing of any reference. On the application of any of the parties the Court may order the award to be filed in the Supreme Court office, and it is then enforceable in the same way as a judgment of the Supreme Court, the maximum fine being £500 for any union or person, and £10 for any individual on account of his membership in a union. No strike or lock-out must be declared after a case has been referred to a Board or to a Court, and proceedings are not to be nullified by mere want of formality.

In the Report of the Department of Labor for 1896-7, the Secretary for Labor suggested an amendment of the Act to the effect that when a Board of Conciliation was unanimous it should have the same power as the higher court to make its award binding on the parties.

The Working of the Act.

Since the passing of the Act all trade disputes, 26 in number up to March, 1898, have been or are being dealt with on the application of the workmen. A few were settled by Boards of Conciliation, but the majority were decided by the Court. The awards have been frankly accepted by the losing parties, and not till February, 1898, was it necessary to appeal for a penalty.* Although special care was taken, both by the creation of new bodies, industrial unions,

* *Journal of the Department of Labor, New Zealand, March, 1898, p. 205.*

with separate funds, &c., for the purposes of the Act, and by giving the Court power to award costs, in order to obviate the expected fear of the trade unions that their funds would be dissipated by vexatious litigation, the workmen have shown such confidence in the measure that 70 trade unions have registered under the Act, and only a few other industrial unions of workmen have been formed. On the other hand, employers have been very slow to avail themselves of the right of registration.

The Boards and the Court have had to deal with almost every possible kind of dispute. Minimum rates of wage have been established both for trades and for grades of workmen, and piecework lists have been drawn up. A standard working week has been fixed in several trades—forty-four hours in the case of the Christchurch builders; overtime has been defined, and work on Sundays and holidays limited. Codes of rules relating to piecework, apprentices, travelling allowances, the position of trade union officials, &c., have been framed. On several points of special difficulty important principles have been laid down. For example, on the "unemployed question" the Court decided in the case of the Westport Coal Co., 1896:* "If work is slack, and the men wish, the company is recommended to distribute the work among the men rather than discharge employees"—and again: "So long as there are sufficient capable men at Dennistoun out of work, the company shall employ these, either by contract or day-labor, provided they are willing to contract or work at reasonable rates, before the company calls for tenders from outsiders, or employs outsiders." In the awards establishing a standard wage an important condition is introduced dealing with a class of men whose employment is a frequent source of disturbance in this country: "That the minimum wage for a tradesman competent for the work in which he is employed, shall be 10/- per day. Men who are considered to be unable to earn the minimum wage, shall be paid such lesser sum, if any, as a committee of employers and workmen shall agree upon, or, if they cannot agree, the matter shall be settled by the Chairman of the local Board of Conciliation" (Christchurch Building Trade Dispute, 1897, Award).†

On the specially vexed subject of the employment of non-union labor, the Court, in its awards, has always followed the previous practice of the trade in question. Thus, in the Bootmakers' Dispute, 1896,‡ the Court decided that, unless special circumstances intervened, employers should give preference to unionists if they were equally qualified with non-unionists to perform the work required; and that where unionists and non-unionists were employed together they should work in harmony under the same conditions and having equal pay for equal work. But in the case of the Seamen's Union, 1897, the rule was modified, "inasmuch as the bootmaking shops had

*Report of the Department of Labor for the year to the 31st March, 1897. New Zealand, p. vi.

† *Journal of the Department of Labor*, New Zealand, Aug., 1897, p. 677.

‡ Report of the Department of Labor for the year to 31st March, 1897, New Zealand, p. vii.

"six in a room" was arranged to consult a doctor, who attributed their discomfort to no comfortable enough.

been and were purely union shops, whereas the steamers had been manned by both union and non-union labor."* In such cases the order runs: "The Employers in employing labor shall not discriminate against members of the union. Employers shall not in the engagement or dismissal of their hands or in the conduct of their business do anything directly or indirectly to operate to the injury of the union."† If an employer discharges all his union hands and replaces them by non-unionists the Court has decided that it still has jurisdiction.

In machinery questions the safeguards of a maximum working week and a standard rate of pay have been set up, and then (as in the Bootmaking Case, 1896) masters have been permitted to introduce machinery and to sub-divide machine-labor as they pleased. In the Furniture Trade Dispute, 1896, reductions on account of machinery were limited to 20 per cent. off the standard "log" prices.‡

Failure of Voluntary Intervention.

State intervention in labor disputes when one of the parties cannot be compelled to arbitrate, and the award is not enforceable at law, can be summed up as a universal failure, and the contrast with the compulsory Act of New Zealand is striking. The causes are on the surface. Naturally the party in an industrial dispute which feels itself the stronger is unwilling to surrender the strategic advantage of position for the chance of winning less in arbitration, and when both are strongly organized the result may be disastrous. Secondly, intervention usually takes place too late, when angry passions have been roused and neither side is willing to believe in the other's good faith. Distrust of well-meaning but unskilled arbitrators counts for much, and the fact that arbitrators are usually drawn from the middle or upper classes has been a standing cause of objection by working men. This feeling is, however, changing. "Things are very different now," said Mr. Mawdsley to an interviewer (*Sunday Chronicle*, 7th November, 1897), "the Board of Trade takes the matter up, and appoints a thoroughly able investigator." Above all, the absence of a penalty for breach of the award nullifies the best intentions of the legislators. Actual breach of agreements formally entered into have fortunately been of comparatively rare occurrence in this country, but the statistics show that refusal to accept an unfavorable award is by no means uncommon everywhere. Or if the award is accepted the quarrel is renewed in a short time and arbitration refused.

The Right of the State.

The great difficulty in the way of arbitration is the refusal of the disputants to admit that anyone is concerned in their quarrel but themselves. When the Board of Trade at last intervened in the Engineering War its conduct was denounced by Sir Henry Howorth, F.R.S., M.P., as an "impertinence," and the *Times*, October 7, 1897,

* *Journal of the Department of Labor*, June, 1897, p. 506.

† *Journal*, December, 1897, p. 1049.

‡ Report of the Department of Labor for the year to 31st March, 1897, p. viii.

declared that: "The right of interference by a government department can only be exercised to any good purpose when the conflict is practically over, and when one side or the other wishes to have an opportunity for honorable retreat." Against this belated theory of the right of private warfare we oppose the only theory under which social peace is possible—the right and duty of the State both to safeguard the national welfare and industry, and to secure the wellbeing of each of its members. This theory is particularly applicable to strikes and lock-outs where large numbers of people, not concerned in the dispute, are often seriously injured by the stoppage of work. For the sake of the public peace the State interferes in the purely private quarrels of a couple of litigants, for the sake of the public health it interferes at every turn with the rights of private property, for the sake of safety to life and limb it interferes with the internal arrangements of factories and mines and the right of an employer to do what he likes with his own, for the sake of common honesty it regulates the payment of wages by means of Truck Acts, "Particulars Clauses," and Checkweighmen. To extend this general principle of the regulation of industry by common rules to the determination of wages, hours, and the other conditions of labor is a natural sequence. It is not proposed, as is often objected, to compel employers to run their works at a loss, but it is proposed that if employers enter into an industry at all they shall conduct it on terms satisfactory to the public conscience. A man is not compelled to run a factory if he cannot afford it; but if he does open one it must have sufficient fire-escapes and satisfactory appliances against accidents. When the small boot and shoe manufacturers complained that they were being driven out of the trade by the agreements which the large factory-owners were making with the trade union, the editor of the *Shoe and Leather Record* replied: "If small manufacturers cannot continue to exist except by paying less than a proper standard of wages for work done, that is the clearest possible proof that they have no right to exist as such."* In return for this State interference employers are offered the opportunity of conducting their business under the rules of peace instead of war, of freedom from cessation of industry, and of having the terms and conditions of labor fixed for periods of sufficient duration to enable them to enter advantageously into future contracts. The workmen are given the great boon of steady rate of wages, and instead of having to maintain their standard of life in an unequal struggle against the present-day huge amalgamations of capital, they are offered an impartial umpire and a judicial enquiry.

The Principles of Arbitration.

When it is admitted that all labor disputes ought to be submitted to Boards of Arbitration whose awards should be enforceable at law, we are still left face to face with the problem of the principles upon which arbitration ought to be based. For practical purposes this

* Vol. X., p. 254, 10th April, 1891; quoted in *Industrial Democracy*, by S. and B. Webb, Vol. II., pp. 549-550.

"six in a room" had as comfortable enough.

means the principle on which wage questions must be arranged. Of the persons involved in strikes and lock-outs in 1891-7 in Britain, 65.5 per cent. were "out" on account of wage disputes, 3.8 per cent. on account of hours of labor, 15.7 per cent. on account of working arrangements, and 15 per cent. for other causes. There can be little expectation that either side in a dispute will be satisfied with an award of which they do not know the basis. The public view is that the decision must leave the national interests unimpaired. In New Zealand the settlement of disputes on the basis of the demands of "equity and good conscience" has led to progressively rising wages and progressively decreasing hours of labor. Such expressions are, however, too vague to suit the requirements of a highly organized industry. As a matter of fact, wage questions are debated upon one of two assumptions: that wages are dependent on profits or independent of them. The former assumption is naturally prevalent among employers, the latter among workmen, though not universally. The belief that capital should be assured of a certain minimum profit is one that arbitrators have often been credited with holding, and has caused the growing dislike of the working classes to private arbitration. As Mr. Mawdsley told the Labor Commission (Group C., Q. 774): "Arbitrators generally go in for a certain standard of profit for capital—generally speaking, it has been 10 per cent. Mr. Chamberlain has always said that capital ought to have 10 per cent. If the arbitrator went in for 10 per cent. in the cotton trade we should have a very big reduction of wages; and we are not going to have it." Under the form that wages must follow prices, this same assumption was once very widely held among working men and still subsists among the miners of Northumberland and Durham and the ironworkers of the North of England. It was the governing idea of great arbitrators like Mr. (now Sir) David Dale and Dr. Spence Watson, and is strongly supported by Dr. Schultze-Gaevernitz, who says that the function of the arbitrator is "simply to find out what the price (of labor) would naturally have tended to become if he had not been called in . . . and discover the state of the balance of power between the two parties by scientific methods."* In the course of the last ten years, however, this assumption has been gradually replaced among the working classes by another, that wages must conform to a certain standard of life for each industrial grade. The Dock Strike of 1889 won over the general public to the belief that wages should not depend merely on the balancing of the supply of and demand for labor; and the Coal War of 1893 went far towards establishing the further principle that labor should be guaranteed a certain minimum wage not dependant on the price of the product. In the Boot Trade Dispute of 1895 it was agreed that the employers should not take advantage of the numbers thrown out of employment by machinery in order to reduce wages. The growth of this assumption has also been aided by the proved efficiency of high wages, and in fact it is rapidly replacing the other both among economists and in the general mind.

* *Social Peace*, p. 192.

Legal Standards.

To give the support of the law-courts to the decisions of courts of arbitration means, frankly, the regulation of wages by law. Under such a system the remuneration of labor would no longer depend on the higgling of the market, whether between individuals or between associations of employers and employed, but would have to conform to some principle which the State had elected to support. The determination of this principle—or, rather, the choice between the two principles already set forth—is therefore all the more important. So far as has been tried in this country, the most successful method of determining wages is where a strong trade union negotiates directly with the employers. Such success, however, has been largely due to the fact that the organization of the workmen has been superior to that of the employers, and that consequently their strategic position has been stronger. Not agreement upon economic principle, but defective combination among factory-owners, has enabled the cotton operatives to maintain their wages against falling profits. The growing process of trustification in the cotton industry is removing this obstacle, and where the masters are solidly combined even organized labor is powerless, as the Engineering Dispute of 1897 has shown. The slow growth of trade unionism and its abject weakness in a large, and that the lowest and worst-off, section of the labor world are additional arguments for not leaving the Standard of Life to the sole protection of the unions. The general public of consumers have also this special responsibility in the matter, that to them is due the economic pressure under which the workman is crushed; for it is their insistence upon cheapness which, traced from the retail dealer through the middleman to the manufacturer, leads to the continual attacks on wages. The limitation of competition, by preventing the underselling of good employers by men who find their profit in low wages, is another object desirable both to the general public and to the best section of the capitalist class. And, failing other modes of settling wages, there is the danger, which has realized itself in the Birmingham staple trades and in the textile dyeing trade, that employers and employed should unite into "alliances" to put down competition and keep up prices and wages to the detriment of the general consumer. Finally, there is the transcendent interest of everyone in the freeing of industry from the serious losses caused by strikes and lock-outs.

We therefore conclude that the State should in its legislative capacity adopt the same principle which the Government departments and municipalities follow, and declare that wages fixed under its sanction must be an effective Living Wage. An antipodean precedent exists in the Victorian Factory Act of 1896, empowering the Governor to appoint Boards (representative of employers and employed in equal proportions) to determine the lowest wages payable to the employees in the clothing, furniture, and bread-baking trades, contraventions of the decisions of the Board being punishable by fines up to £100. It also fixes an absolute minimum of 2s. 6d. per week for all persons employed in factories or workrooms, to meet the case of apprentices.

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 death to a cold as comfortable enough.

If a Standard Living Wage were once established for a trade and fixed for a period of time, the fluctuations required by the exigencies of the market would be easier of determination. The Standard ought to be not simply a minimum healthy subsistence wage, but a higher sum calculated to secure the average standard of comfort which the custom of the trade demands, to leave room for progressive improvement, and to fit the recipient for the life of an efficient citizen. It should also take into account the cost of training and the raising of a fresh generation of workers. Such a wage should be fixed for a somewhat long period, say five years, after which it should be revised to meet the new demands of progressive society. It should be an absolute minimum upon which the conduct of industry should be based, just as there is a minimum of sanitary requirements. The increases which market fluctuations might permit should be granted for a lesser period, say not exceeding two years. The determination of wages would thus involve: first, the fixing of the Standard Living Wage for a trade; second, ascertaining the additions allowed by movements in the market; and, third, the application of these general rates to particular cases. The Standard Wage would not be as high as Mr. Pickard's ideal of 16s. per day for coalminers, but it would not fall as low as the 6s. per week which the sweated sempstress receives. It might even be somewhat under the wage now current in the given trade. These principles, therefore, should be set forth in the Act of Parliament to guide the Arbitration Boards in the determination of wages, and, in fact, in addition to their ordinary function of settling disputes referred to them, they should have the special duty of ascertaining and fixing Standard Rates of Wage. The terms of the Act would necessarily, to a certain degree, be lacking in precision, but they would still act as an effective guidance. The Admiralty finds no difficulty in obtaining through its own officials, or the Labor Department, the information on which to base a living wage for its employees.

The battle for a standard limit to the hours of labor is at present being fought out before Parliament; but there is no reason why the Arbitration Boards should not be utilized as legislative bodies on the lines already laid down in "Eight Hours by Law."* Both in this question and in that of wages it should be a legal rule that regard should be had to uniformity of conditions throughout the trade. It is adhesion to this principle which forms the strength of the Joint Committees in the cotton trade.

Constitution and Powers of the Boards.

Generally speaking wherever Arbitration Boards have been created the District and not the Trade has been the unit. Despite the success with which this system has worked in New Zealand it is doubtful whether it is applicable to this country. The failure of voluntary District Boards and the comparative success of Trade Boards is certainly significant. In a country where industry is much localized, a District Board would inevitably in its composition be confined to

* Fabian Tract No. 48.

the dominant industry, and be would unsuited to determine questions dealing with the unrepresented trades. It is essential, in order to ensure confidence in its decisions, that the members of a Board should be fully qualified to deal with all practical details, and the Trade is therefore the best administrative unit for this country.

Again, bearing in mind the experience of the coal and cotton industries, it would be expedient to distinguish between "local" and "trade" questions. Local Boards should be established in the different centres of the trade, and a Trade Board should be established for the whole trade. To the Local Boards should be assigned full power to settle all questions arising out of the interpretation of a contract, or the application of a general rule to particular cases. In the settlement of new contracts Local Boards would first act as conciliators to facilitate collective bargaining between the two sides. If conciliation failed, the Board would give a decision, from which an appeal would lie to the Trade Board. In cases where the Board was unanimous it would probably be well to adopt the suggestion of the New Zealand Labor Department and allow no appeal. Besides dealing with appeals the Trade Boards would consider questions affecting the whole trade, such as an identical demand from several centres, Standard Living Wage, &c. It would on the whole be better to confine the Local Boards to interpretative cases, and the Trade Boards to the framing of trade rules; but while experience shows this to be possible in industries like the coal and cotton trades covering a number of competing centres, it would not be applicable to the building trades where the various localities are non-competing. In any case the Local Boards would only have to deal with market fluctuations above the Standard.

The Boards should be small in size, and each side should separately elect its own members. The suffrage might be given to all employers, but in the case of workmen only organized bodies of men should be dealt with. Trade Unions should be the labor electoral bodies, as they are responsible organizations which can be made to suffer for the default of their members. They should be corporate bodies for the purposes of this Act only, otherwise every petty-fogging solicitor would be encouraging men expelled from a society for blacklegging, etc., to bring actions for reinstatement, or compensation for loss of friendly benefits. Members of Local Boards should reside continuously in their district during their term of office. The Trade Board might be elected by the members of the Local Boards, the two sides voting separately. At the first meeting of every Board a chairman should be chosen from outside. The Board of Trade should have power to settle all questions as to electoral areas, to nominate representatives where either side refused to take part in an election, and to nominate chairmen in cases of deadlock. The Boards should have full powers to conduct the necessary enquiries, inspect factories, appoint investigators, compel the attendance of witnesses, award costs, &c. The examination of complaints by experts, as in the cotton industry, should be in every way encouraged

"six in a room" was arranged to consult a doctor, who attributed her illness to the crowded conditions as comfortable enough.

by the Board of Trade. The expenses of the Boards, including compensation to members for loss of time, should be borne by public funds.

Disputes should be referred to the Boards on the initiative either of an employer, or of an association of employers, or of a trade union ; and no strike or lock-out after the reference should be permitted under pain of severe penalties. Parties could appear by their agents, but only by legal representatives with the consent of all concerned. Want of formality should not invalidate proceedings. Final awards should specify the persons upon whom, and the period, not exceeding two years, for which they are binding, and breach of an award should be made punishable by fine on the union or person concerned, as in New Zealand. Collective agreements made between parties voluntarily could be registered before a Board, and thereby become enforceable in the same manner as awards, provided they contained no worse terms for the workmen than those already contained in an award relating to the whole trade.

Finally, it may be pointed out that local authorities can anticipate the action of Parliament by specifying schedules of wages to be paid by the contractors to whom they give out work, and by making it a condition of the contract that all disputes between employer and workmen shall be referred to arbitration.

The Position of Trade Unions.

Under such a law the position of trade unions would be much altered from what it is at present. The drain on their funds to resist strikes and lock-outs, and to fight the masters in their attempts to put down picketing and restrict the right of combination, would cease, and it would consequently be in their power to increase their out-of-work and other benefits. While a trade union which occupied a strong strategic position in the labor market would have to resign its power to exact the full remuneration which the law of supply and demand might give it, a weak union would not be crushed by the mere money-power of capital. Their status would be greatly raised by the conferring of powers to take their share in the legal determination of the wages and other conditions of labor. In fact this would be their chief function in the future. For the right to strike would be substituted the power to legislate. A strong attraction would thus be exerted on the eight millions of workers who are at present outside the unions, while the raising of the wage-standard among the lowest ranks would enable many hundreds of thousands to join their organizations who are at present prevented by their poverty. Finally the wage-depressing competition of non-unionists would be stopped by decisions, on the New Zealand model, that unionists and non-unionists should be employed on equal terms for equal work.

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