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Industrial Conciliation and Arbitration in Great Britain

Industrial Conciliation and Arbitration in Great Britain

by

Ian G. Sharp

LL.B., PH.D.



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PREFACE

THE GREATER PART OF THIS BOOK was written in 1939-40 in the course of studies at the London School of Economics and Political Science. It was revised in 1947 to cover developments in the war and immediate post-war years. For reference purposes, the principal changes in the field of industrial conciliation and arbitration during 1948 and 1949 are noted in the addendum.

Publication of this work has been made possible through the generous assistance of the University of London Publication Fund. To the Trustees of that Fund and to the University authorities, I wish to express my thanks.

I should also like to acknowledge my indebtedness to the Senate of the University of Western Australia who, as Trustees of the Hackett Studentship Fund, awarded me an overseas studentship which enabled my enrolment at the London School of Economics and Political Science.

To no one am I more indebted than Professor W. A. Robson who supervised my studies at the London School. Since my return to Australia, Professor Robson has given generously of his time and experience in advising on the many matters leading to publication. For his constant encouragement, practical assistance and his friendship, I am most grateful.

This work is based on a thesis which was awarded a Ph.D. in the University of London and for which the author received the Hutchinson Silver Medal from the London School of Economics and Political Science.

IAN G. SHARP

MELBOURNE
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PART ONE

Voluntary Conciliation and Arbitration in Selected Industries

CHAPTER I

Historical Outline

BY CONTRAST WITH MOST BRITISH INSTITUTIONS, voluntary machinery for the adjustment of disputes has a brief history. The repeal of the Combination Acts in 1824-1825[1] marks the earliest date at which that history could begin, for, apart from the legal restraint on organisation, the outlook which produced those Acts was itself an insuperable psychological barrier to effective joint action.

The Acts of 1824-1825 were an essential preliminary to the development of voluntary machinery but little progress could be made in this direction until two further conditions had been satisfied. The first was the gradual retirement of the older generation of employers and workers, too embittered in their antagonisms to take part in any form of negotiations; the second was the growth of organisation among the workers. Whilst, therefore, there are traces of joint action in the fixing of price lists and the settling of disputes prior to the middle of the century, they are but isolated cases of an ephemeral character.

There was, for instance, a list of prices jointly negotiated for the silk trade of Hawick in 1833, while Glasgow and Paisley in 1834 established an annual conference of employers and operatives in the textile trade for the purpose of mutually revising prices for the ensuing twelve months.[2] In the same year, an attempt was made to set up a committee to arbitrate

[1] 5 Geo. IV c. 95 repealed some 34 anti-combination statutes and legalised trade associations. It was itself repealed in the following year by 6 Geo. IV c. 129 which legalised combinations not for all trade purposes but for the most important, the improvement of wages and hours of labour.

[2] Report of Select Committee on Handloom Weavers, 1834 (556): evidence of H. Mackenzie, pp. 48-9.

on disputes in the pottery trade of Staffordshire.[1] In 1839, the large carpet manufacturers of York and Durham formed an association for the purpose of wage fixing. Their employees were forbidden to combine in similar fashion, but each factory was permitted to select one delegate to confer with the manufacturers at their annual meeting. At the same time, provision for arbitration with employers began to appear in the rules of associations of workers. The Order of Friendly Boilermakers incorporated such a rule into their constitution in 1839.[2] Of greater influence was the National Association of United Trades for the Protection of Industry formed in 1845. Its second object was expressed as "to settle by arbitration and mediation all disputes arising between members and between members and their employers."[3]

In the 'fifties, there were three Boards of Arbitration in existence. The first was formed in the silk-weaving trade of Macclesfield in 1849 and fixed price lists which, until 1853, it endeavoured to enforce on individual employers with little success.[4] The second operated from 1850 to 1852 for disputes between shipwrights and their masters in the construction of wooden ships.[5] The third existed in the printing trade from 1850 to 1853 but remained inactive mainly through the opposition of the men to the employers' attempts to lay down a series of permanent decisions wider than the matters at issue.[6]

But it was not until 1860 that the first joint board of any lasting importance was formed. This was established for the hosiery trade of Nottingham by A. J. Mundella,[7] from the inspiration of, though not modelled on, the Conseils de Prud

[1]H. Owen : *Staffordshire Potter*, p. 114.

[2]D. C. Cummings : *Historical Survey of Boilermakers' Society*.

[3]T. Winters before Select Committee on Equitable Councils, 1856 (343), p.1.

[4]*Ibid*, per S. Higginbotham, p.160.

[5]H. Crompton : *Industrial Conciliation*, ch. VI.

[6]T. Winters before Select Committee on Equitable Councils.

[7]An influential employer in the hosiery trade of Nottingham, subsequently a Member of Parliament and president of the Board of Trade. See Part II, Chapter I.

'hommes. The vital point in Mundella's experiment was the proposition that masters and men should get round a table and "talk it out" on a footing of equality. The suggestion in the first place was for a single conference to solve a particular dispute in the hand-frame section of the trade; but the outcome was the formation of the first board to practise conciliation and the first joint machinery to operate with any degree of success.

At first it was formed apart from trade organisations on either side. Representatives were chosen by all the employees and were "leaders of the trade unions undoubtedly". An equal number of employers met these representatives under the chairmanship of Mundella, who was unanimously elected to that position. Constitutionally, questions could be decided by majority vote, the chairman exercising a casting vote if necessary. In practice, even this vestige of arbitration was dropped by Mundella, who saw to it that decisions were arrived at by agreement.

The Nottingham Board attained considerable success, not only in freeing the town from strikes and lockouts for many years, but also in establishing a price list which helped to diminish the evils of wage fluctuations. Before long Mundella saw the wisdom of making the trade union an active partner in the machinery. "We could have done nothing," he reported in 1868, "without the organisation of the union."[1] A further constitutional change was made by the appointment of a committee of two employers and two operatives to investigate disputes and settle them, if possible, without reference to the board. The Nottingham structure of a joint board of equal numbers of representatives of employers and men under the chairmanship of a member of the trade, with a smaller committee as a time-saving device, later became the most generally accepted pattern for voluntary dispute machinery.

The hosiery board remained in existence for about twenty years. Its success was mainly responsible for the spread of

[1]Evidence before the Trade Union Commission in 1868.

conciliation which began in the late 'sixties, to the lace trade of Nottingham,[1] the pottery trade of Staffordshire,[2] and, most important of all, to the iron trade of the North of England.[3] The idea of conciliation and arbitration machinery took root in the late 'sixties and early 'seventies. It is significant that the greatest expansion occurred in the years following 1875, that is, after the passing of the Conspiracy and Protection of Property Act,[4] the so-called "Charter of Trade Unionism".[5] With their legal position settled, for the time being, by that Act, and the Trade Union Act, 1871, the Unions were able to take a more direct part in the expansion. Thus we find that at the Twenty-first Trade Union Congress held at Bradford in 1888, the following resolution was carried almost unanimously:

> "That this Congress is of opinion that the formation of joint boards composed equally of employers and workmen is very necessary and would bring about a better understanding between them and secure settlement of vexed questions affecting the interests of both; and urges the workmen of the large centres of industry to bring the matter before the Chambers of Commerce and other bodies of employers, in order to facilitate the formation of such boards."[6]

The enthusiasm felt during this period for conciliation was voiced by Arthur Toynbee in the course of a lecture on

[1] H. Crompton was the first referee of this board which he has described in some detail in his book *Industrial Conciliation.*

[2] The Staffordshire board was the first to cover a larger area than a single town. Formed in 1868, it lasted until 1892 when it was replaced by a joint committee of a less formal character, which in turn gave way to direct negotiations until another board was established in 1908. In 1918, the industry adopted Whitley machinery, which is still operating.

[3] See below Chapter III.

[4] 38 and 39 Vict. c. 86.

[5] W. Milne Bailey: *Trade Unions and the State*, p. 181.

[6] Trade Union Congress Report, 1888, p. 43. A similar resolution was passed at Dundee the following year, Report, 1889, p. 60. The first Congress approval of voluntary joint boards was made in 1875. In 1887, a motion at the Congress at Swansea for compulsory arbitration was lost on a division.

Industry and Democracy delivered to audiences of working men at Newcastle in 1881. "We should do all that in us lies to establish Boards of Conciliation in every trade when the circumstances—economic or moral—are not entirely unfavourable . . . But notwithstanding failures and obstacles, I believe these Boards will last; and more than that, I believe that they have in them the possibilities of a great future."

Such optimism was due less to an increase in the number of boards and committees than to a sturdy growth in their vitality; for as the century drew to a close, the machinery became more substantial and less easily destroyed by the vicissitudes of trade. It is true that sooner or later most, if not all, of the early boards did cease to exist, but that did not mean a reversion to the old conditions. The failure of a board did not destroy the new approach in the industry. Usually, it left price lists or decisions which did in fact continue to govern the trade with a sanction of custom. And the habit of working together on joint machinery had been a valuable education in the ways of thought of the other side, so that if negotiations did become more informal they were facilitated by the fact that the board had once existed. After a time, too, fresh machinery was almost invariably set up.

The process of establishing dispute machinery was accelerated after the turn of the century.[1] All industries were not involved in the movement and those that were did not all develop at the same pace. For, throughout, it has been a spontaneous growth and not the result of imposition, and even today different industries reveal different stages of the growth. On the whole, it has been the older and better established industries, where organisation has been greatest, that have gone farthest in this direction.

[1]In 1894, there were 64 boards known to be in existence, 54 of which had been called upon to act in that year. By 1905, the number had increased to 162 and by 1913 to 325. The Second Report of Labour Department of the Board of Trade (Cmd. 7901 of 1895), p. 80; Fifth Report of Proceedings under Conciliation Act, 1896 (Cmd. 335 of 1905) and Eleventh Report (Cmd. 89 of 1914).

Three phases in the history of conciliation and arbitration machinery can be distinguished. These form, as it were, a pattern of general development rather than any law of inevitability. The first step was one of local negotiation, current during the last three decades of the nineteenth century. The characteristic institutions of that period were the local joint committees and the town or district conciliation and arbitration boards. These were concerned mainly with questions between individual "masters" and their employees. At the end of the century the formation of district federations of local unions and employers' associations initiated the second period dominated by county or area boards conducting more general negotiations as well as acting as courts of appeal from the local bodies. The establishment of area or county standards of wages and working conditions was the chief consideration of this second period. Finally, the development of national associations, which began before 1914 and which World War I fostered, produced the third stage in which the central organisations have drawn authority away from the localities and have placed negotiation, including formalised conciliation and arbitration, on a national footing. This has, in effect, reduced the joint bodies of the preceding periods to the position of agents for the supervision of the local application of industry decisions. This position was reached very early in a few industries (e.g., railways and boot and shoe manufacture); in others (e.g., coal-mining) it had still to be fully realised at the start of World War II. The most recent developments relate to the broadening of the activities of joint machinery rather than to fundamental changes in the machinery itself. The more progressive trades have realised the value of joint action not merely as a means of adjusting disputes over wages and hours of work, but also as a method of achieving that self-government by the personnel of industry which the Whitley Committee timidly envisaged. Where this is so, joint action may cover all questions of industrial discipline, and matters such as retirement pension schemes, educational facilities, housing of

employees and other aspects of social welfare only indirectly connected with industrial production.

The tendency of British conciliation to move through these stages of growth will be apparent in the detailed examination of separate industries in the following chapters of this Part. The industries selected for review have been chosen not entirely because they are major ones, but also because in them the voluntary principle has found fullest expression. Towards the development of conciliation and arbitration in these cases, state action and encouragement have been quite incidental and have added little to the trends of their history.

CHAPTER II

The Coal Mining Industry

HIGH IN THE LIST of industries which have evolved their own machinery to deal with conflicts in coal mining. The keynote in this development has been powerful organisation, primarily of the workers, and secondarily, as a defensive reply, of the owners.

The miners are noted for their strong corporate spirit, stronger probably than among any other class of working people. This is due partly to the conditions of their work which involves mutual dependence and helpfulness, often in circumstances of danger, but even more to the fact that coal mining leads to the growth of the colliery village, a homogeneous community which produces a powerful sense of solidarity.

These conditions have induced compact unionism with the distinctive features of militancy and rugged determination. Unlike the craft unions, whose purpose usually was the provision of elaborate friendly society benefits, the mining unions formed in the nineteenth century usually had the single aim of redressing miners' grievances by direct action.[1] The size of the contributions which their members might be expected to pay made it impossible to provide benefits beyond those necessary for the fulfilment of the union's industrial purpose.

Two facts have been responsible for the effectiveness with which this purpose could be pursued. The first is the special position of coal mining in relation to other industries, the second, the position of labour in relation to the other factors of production in the industry.

[1]S. and B. Webb : *History of Trade Unionism*, p. 415

As a key industry, a threatened stoppage in it is a very effective means of drawing public attention to grievances. This side of strike action was more important last century than today since the extended franchise has enabled the miners to exercise a block vote which can command the attention of parliament. This accounts for the great political activity in connection with the labour problems of the industry during the present century.

Within the industry, labour occupies a place of pre-eminence. The Sankey (Coal Industry) Commission in 1919 estimated that the wages bill accounted on an average for two-thirds of the proceeds of the industry.[1] Relative to other industries the capital invested in mining is small, being put at £135,000,000 in 1913 by Lord Stamp, while in 1928 an unofficial Labour scheme for acquiring the industry concluded that £260,000,000 would be sufficient for the purpose.[2] The knowledge that he is the all-important factor in producing the wealth of the industry has had its effect upon the outlook of the miner, giving him a feeling of indispensability to his employer.

The extent to which the industry has been a storm centre in labour matters is shown by the number of strikes which have occurred since statistics have been available. From 1897 until the outbreak of war in 1939, there were, on an avaerage, 150 strikes or lockouts a year involving an average yearly loss of over eight million working days.[3] The total average yearly loss over the whole of industry has been under twelve million days. This one industry has accounted for over two-thirds of all the

[1]Some idea of the relative position of the labour factor in recent years can be gained from reports of joint accountants under existing wage agreements. For example, the figures supplied to the Warwickshire Coalfield Wages Board at the end of 1938 revealed that wages in that district during 1938 accounted for 10/9.22 per ton of coal sold at pithead, while other costs amounted to 4/6.46, leaving a profit of 3/5.12.

[2]Including purchase of royalties since acquired.

[3]This, however, being a numerical average does not give a true picture for most years, the average being swollen by the figures for three prolonged national stoppages. If the years 1912, 1921 and 1926 are left out of account, the annual average of lost days falls to under two million.

days lost in British industry over more than 40 years ; 21.4 per cent. on the average of the workers employed in coal mining have been involved in disputes as against 6.4 per cent. in the textile trades, the next most troubled industry, while the mean percentage in all the groups of trades was 4.4 per cent.[1]

This volume of conflict and the realisation of the potential effectiveness of "downing tools" have not been without influence on the coal owners' willingness to take part in voluntary conciliation and arbitration.

In the history of mining conciliation and arbitration there are certain fairly distinct periods. The first occupies the last quarter of the nineteenth century when local disputes predominated and the first conciliation tribunals, the joint standing committees, were limited in jurisdiction to questions other than "general or county questions." These latter, foremost being general wage rates, were settled at conferences (often followed by *ad hoc* arbitration) where association had developed sufficiently to permit of joint negotiation. Where association was still weak, wage rates were determined by the masters, who fixed them with reference to the available supply of labour and their need to keep the pits working to fulfil contracts, or, later, with reference to a sliding scale.

During the second stage, from 1900 to 1917, these general matters were dealt with by standing machinery in the form of conciliation boards. The local joint committees still operated, some in conjunction with the boards, others independently. But these boards were themselves localised in that they had no common policy in dealing with wage problems.

From the assumption of Government control of the industry during 1917, national negotiations and, after the war, national criteria replaced the local machinery until the defeat of the Miners' Federation after the general strike in 1926 enabled the employers to restore the prewar position. These form a third and fourth stage of development, whilst recent years have

[1]Bulman : *Coal Mining and the Coal Miner*, p. 31.

witnessed a return, begun in wartime and doubtless to be continued under nationalisation, to central determinations.

FIRST PERIOD—LOCAL JOINT COMMITTEES

Northumberland and Durham

As late as 1870, there seems to have been no standing machinery of any sort in operation in coal mining for the adjusting of differences, whether arising at one colliery or of a more universal nature. The only settlement of disputes other than by resort to industrial conflict before that date were of a fortuitous and precarious nature. The first of these seems to have been during a strike on the Northumberland and Durham field in 1810 against the "yearly findings," when a magistrate of Newcastle, the Rev. Mr. Nesfield, called a meeting of the trade at Chester-le-Street and submitted "proposals for regulating the contracts between the coal owners and their miners on the river Tyne and Wear and of Hartley Blyth and Cowper," which were accepted by both sides.[1]

Until 1840, the men had not even the protection of association. Trade unionism among them had not got further than ephemeral strike organisations hastily arranged in the midst of a revolt against a particular hardship of the truck system of payment or the custom of yearly hirings. One of the most important steps in the development of unionism and hence of conciliation was the incorporation into the Mines Regulation Act, 1860, of provisions empowering the miners of each pit to appoint one of themselves as checkweigher. Although rendered nugatory to a large extent in its main purpose by the evasions of the owners, prior to the amendments of 1872, 1887 and finally 1911, this provision in the 1860 Act was, nevertheless, of immense importance in providing a channel through which miners' complaints could reach the management without fear of retaliatory action being taken by the management in the

[1] *Fyne's History of Northumberland and Durham Miners*, p. 15.

form of dismissal.[1] It accustomed the employers to receiving complaints without loss of dignity, a necessary preliminary to the welcoming of deputations and ultimately to amicable collaboration with workmen on joint committees.

These last stages we find beginning in the early years of the 'seventies in the North East. Prosperity in the industry in 1871 brought demands for improved conditions of service. In December, 1871, the members of the Coal Trade Association received a deputation of the Northumberland miners who requested a reduction of hours of labour for boys to ten per day and "after some friendly and good humoured discussion the Coal Trade granted eleven."[2]

More important were the events early in the next year. In February, the members of the union working in various mines each presented a demand to their respective employers for an increase in wages. This was in accordance with the usual practice of regarding each demand as a separate matter between the individual workman and his employer. For the first time, however, the employers took another attitude and, declining to deal with separate proposals, actually invited a deputation from the union to wait on them in concert and confer upon the applications as a whole. This deputation, to quote from *Fyne's History*, "asked for an advance of 15 per cent., on which occasion 10 per cent. was granted; this both sides conceding in a free and generous spirit."[3] There is little doubt that this unusual action on the part of the owners was

[1] S. and B. Webb in *History of Trade Unionism* emphasise the value of the 1860 Act. "It would be interesting," they write at p. 306, "to trace to what extent the special characteristics of the miners' organisation are due to the influence of this one legislative reform. Its recognition and promotion of collective action by the men has been a direct incitement to combination. The compulsory levy upon the whole pit, of the cost of maintaining the agent whom a bare majority could decide to appoint has practically found for each colliery a branch secretary free of expense to the union. But the result upon the character of the officials has been even more important. The checkweigher has to be a man of character insensible to the bullying or blandishments of manager or employers."

[2] *Fyne's History*, p. 253.

[3] p. 254.

actuated by fear of a stoppage at a time when the prosperity of the trade brought liberal contracts to be fulfilled. Probably, too, the success of round table conferences in other industries in the district about the same time, particularly those organised by Dale and Kettle for the iron and steel and engineering trades, had some influence upon the attitude of both parties.

The Northumberland precedent was followed in the following month in Durham when a conflict seemed imminent on the issue of retention of the yearly bond.[1] On this occasion, however, it was found that agreement on the terms of employment which it was determined should replace the hated bond created many difficulties in individual application, and to settle these a joint committee, consisting of the members of the coal trade and delegates of the men, was appointed as a standing body with power to settle "all differences that might arise between the miners and their employers".

In Northumberland, the need for a standing committee to supervise the application of the regulations mutually agreed upon was not realised until a year after the first conference. The two bodies were very similar in constitution and were the model for most of the joint committees subsequently set up in other fields. At first the decisions of the Northumberland committee were not final but took the form of a recommendation to a general conference of the trade. Its success in suggesting settlements, however, led to amendment of its rules in 1877 to enable a final decision to be reached immediately.

These committees consisted of six representatives chosen by the Durham Miners' Association and six representatives chosen by the Durham Coal Owners' Association in the case of Durham, and in the case of Northumberland the same number

[1]Until 1834 in Northumberland and 1872 in Durham, it was the usual practice for miners to be hired for the year. The men were "in bond" to their masters and unfree to leave for that time. The binding of all the men in the one mine usually took place on the same day in each year on which generous supplies of liquor helped the men to forget objectionable terms of the bond and attracted an increased supply of labour should there be the need for it. It was the yearly binding more than anything else that maintained the miner in a state of virtual serfdom up to the opening of the 19th century.

were chosen by the Northumberland Miners' Mutual Confident Association and the Steam Collieries' Defence Association, with a chairman in each case elected annually and having a casting vote and being paid for his services.

Similar joint standing committees were later set up in Durham to deal with disputes among the cokemen, enginemen and mechanics, the same chairman presiding over all four bodies.

The rules[1] of procedure were drawn up and amended from time to time by the committees themselves and provided in detail for the appointment of joint secretaries, the calling of meetings, notices of applications, quorum and conduct at meetings. A preliminary question to be answered in dealing with each matter was whether it lay outside the scope of the committee's powers as being a "county question." Within this limit the powers of the committees under their rules were quite wide. If evidence was needed witnesses might be called or documents produced. Where the question turned on the circumstances or condition of a particular colliery or seam it was usual to appoint two Commissioners (called Arbitrators), one from each side of the committee, to investigate on the spot and report to the next meeting. Sometimes they were empowered to make a final decision themselves, or, failing agreement, to appoint an umpire, and in default of agreement on such an appointment, the chairman of the committee made the selection in Northumberland, whilst in Durham the County Court Judge automatically became umpire.

This use of arbitration was, however, never very extensive. Of the 562 cases dealt with by the Durham Committee in 1883, only 37 were referred to arbitration while 17 only were reported upon by persons "nominated to inquire into the facts."[2] In the following year, these figures were 45 and 23 respectively.

[1]A copy of the early rules appears at pp. 184-6, *Social Peace* by G. von Schulze-Gaevernitz.

[2]Spence Watson on Boards of Conciliation, etc., in the *Barnsley Chronicle*, March 20th, 1886, and quoted in *Social Peace*.

No vote was essential on a matter and the majority of cases were disposed of by agreement after some discussion. Where a technical point arose, it was deputed to an expert for decision. When a case had once been heard it could not again be raised until one meeting had intervened, and if a decision had not been complied with, on any further submission from the same parties, the side representing the non-defaulting party could object to the hearing of the question. Each side of the committee paid its own expenses and joint costs were shared equally.

The removal of the more controversial questions of trade relationships such as general wage rates and hours of work enabled the committees of Durham and Northumberland to function without much friction. Such connection as they had with these general questions was judicial rather than legislative in so far as the committees were concerned in applying to individual cases principles already agreed upon by negotiations between the associations. But it was not, of course, judicial in the sense that there existed any legal sanction to their determinations. These depended for observance upon such persuasive force as arose from the fact that representatives of both parties had concurred in, or were responsible for, the decision, and as most decisions affected only a few individuals, revolt was useless.

As might be expected, therefore, there were few complaints of evasion of awards by either side. In fact, in Northumberland up to 1886 when the committee had dealt with some 4,000 submissions at its monthly meetings there had been no case of failure to comply with any decision.[1] In Durham, the majority of complaints were in respect of awards made by the cokemen's committee, the cokemen being less effectively organised than other sections of mine workers. But although both sides in this first stage felt general satisfaction with the reception of the committees' awards, there were complaints of delay in hearing disputes, due to the fact that from 1882 the

[1] *Social Peace*, p. 174.

annual number of submissions to the miners' committee in Durham never fell below 500, which had to be disposed of in 26 meetings. This, no doubt, was responsible for the further complaint made by both owners' and miners' representatives in giving evidence before the Royal Commission on Labour appointed in 1891,[1] that many parties refused to bring the matter before the committee once negotiations between the mine management and the individuals or the union representative had failed.

In respect of county questions, and in particular, the hewers' piece rate upon which most other wages in the colliery were calculated, there was no attempt at first to bring these within the scope of the standing body. From the time of the first conference the practice was for alterations in wages in each county to be made as a whole by the two associations of owners after conferring with the union officials. Many such alterations invoked no contest or objection but with the end of the coal boom in 1873, increasing difficulty was found in reaching agreement. A threatened conflict in 1875 was only averted by the owners' acceptance of the unions' suggestion of arbitration by an independent umpire. This began a period of *ad hoc* arbitrations in both counties whenever the associations failed to agree. Sir Rupert Kettle, Lord Herschell, Sir Lyon Playfair and other prominent men, some connected with the industry but the majority not, were called upon to act as arbitrators. Their decisions were by no means invariably accepted. In July, 1877, for instance, the refusal of the owners to accept Lord Herschell's rejection of a further reduction in wages was the cause of a long conflict. But on the whole *ad hoc* arbitration did avoid many stoppages. Its disadvantages, however, were soon revealed. With the current price of labour fixed according to the circumstances of the moment, each party felt justified in demanding fresh arbitration at any real or fancied change in their favour. In the years 1875 and 1876, there were nine arbitrations in the two counties and dissatis-

[1]Digest of Evidence before Group A, P.P. Vol. XXXIV of 1892, p. 59.

faction with this method of adjusting wages led to the adoption of the sliding scale.

The first scale agreement[1] in Durham was signed in 1877, and lasted until April, 1879. An award by Lord Derby in that year introduced a second scale which continued for two and a half years. In April, 1882, the last general arbitration in that county provided a further scale which, amended in June, 1884, continued to regulate wages until the abandonment of the method by the men in 1889. In Northumberland, the position was similar, a sliding scale being adopted in November, 1879, amended in 1883, and terminated by the men in 1887.

On coal fields other than the North-Eastern, which was then by far the most important and best organised, progress was slower in this first stage.

Cumberland

There was an exception to this at Workington in Cumberland where, from the 'seventies, wages disputes were settled by the method described above, that is, by conference, with arbitration as a last resort while a joint committee dealt with "individual cases." In fact, the position in Cumberland was a mere mirror of Durham practice, each step in that county being followed in Cumberland, including the adoption of a sliding scale in 1879 and its final abandonment in 1889.

South Wales

In South Wales prior to 1898 there was no effective organisation of miners, while the Coal Owners' Association for Monmouth and South Wales did not include many of the smaller mines until 1900. The first recognition of collective bargaining by the Owners' Association seems to have been the occasion of the adoption of a sliding scale in 1875. The agreement then drawn up was signed by the Council of the Owners' Association and a deputation representing the individual employees at the collieries of the Association. Besides fixing the

[1]A list of the sliding scale agreements which operated at some time in the industry appears as an Appendix to the Webb's *History of Trade Unionism.*

first scale this agreement set up a joint committee of five owners and five men to decide upon the basis of future scales and to settle any difficulties that might arise in their application. Once started, the joint committee was kept in existence by various agreements each adding to its rules as experience dictated. Under an agreement of 1892, which was the basis of its working until it was finally terminated ten years later, it consisted of a maximum of 22 members, 11 representing each side, with joint secretaries and an owners' representative as chairman without casting vote, and a miners' representative as vice-chairman. No president or umpire was appointed until a deadlock had arisen. Its functions were wider than those of the northern committees, but in respect of local disputes, its working was less satisfactory. It had no standing sub-committees for dealing with colliery disputes and no matter how petty the difference it necessitated the calling of a special meeting of the whole committee. That this committee had more success in settling general than local questions was shown by the South Wales record (stated before the Commission on Labour) of 17 years' freedom from a general stoppage, whereas, on the other hand, local strikes and lockouts had, over that time, been not infrequent and many were the instances on both sides of individuals repudiating the committee's decisions.[1]

Federation Area

In the newer fields of North Wales and the area controlled after 1888 by the Miners' Federation,[2] joint organisation in this first period had developed even less than in South Wales.

In South Derbyshire and the surrounding districts there existed no central organisation of owners, whilst the Derby-

[1]See evidence of Isaac Evans of South Wales Miners' Association before Royal Commission on Labour Group A. Digest p. 64 of P.P. 1892, Vol. XXXIV.

[2]A federation of the unions which, in 1888, opposed the regulating of wages by sliding scales. The Federation area covered the coal mining fields of North Wales and England with the exception of the counties of Northumberland, Durham, Cumberland, and the Forest of Dean, and Bristol and Radstock districts.

shire Miners' Union could not claim to speak for the majority of miners in the field. In some districts the owners did have loose associations and where this was so, especially in Leicestershire and Nottinghamshire, the tendency towards the end of the century was for general wage questions to be settled by *ad hoc* conferences between these bodies and representatives of their men. No joint committees existed, local disputes being dealt with on the spot by the "masters" who might or might not confer with the men's representatives, the checkweighmen. An attempt to introduce a sliding scale in Derbyshire in 1875 was unsuccessful and was not repeated.

In Staffordshire both owners and men were organised from the middle of the 'seventies, but while relations were satisfactory, no attempt was made to set up standing machinery. In parts of the district a sliding scale operated from 1874 until terminated by notice from the men in 1883.

In Lancashire and Cheshire, except at individual collieries and then only for short periods, the sliding scale device was not in use. The organisation on both sides was sufficiently strong and relations sufficiently cordial in 1885 to enable the parties to meet and agree to the reference of a threatened dispute to a mining engineer nominated by the owners and a Miners' Federation official, with power, which it was not found necessary to use, to call in an umpire.

The strongest field outside the Newcastle area in the last quarter of the nineteenth century was in Yorkshire. For some years a standing joint committee of representatives of the South Yorkshire Coal Owners' Association and the local union of the Miners' Federation dealt with local disputes. The chairman of the Owners' Association presided at its meetings. Questions upon which the committee failed to agree were referred to an umpire appointed by mutual agreement. Unlike the committees in Northumberland and Durham upon which it was otherwise modelled, the Yorkshire Committee did not draw up rules of procedure. Despite the looseness of the arrangement, however, it seems to have worked with satis-

faction to both sides. Up to 1891, there had been no instance of repudiation of its decisions by either side and few instances of resort to an umpire's award. An attempt to establish a conciliation board to sette general questions was made in 1885 without success and was not persisted with, county matters being considered, prior to the establishment of the Federated Conciliation Board, by the general body of associated owners usually after discussion with representatives of the union.

Scotland

In Scotland, unionism was later in developing, both among owners and men, than in England but having once started, gathered greater strength than in fields of similar size in the south. Relations between individual owners and the unions seem to have been fairly friendly in the last two decades of the century, although apart from periodic *ad hoc* conferences on specific matters of difference there existed no direct connection between them. Local grievances were usually the subject of deputations of miners from the locality of the dispute invariably accompanied by the secretary of the local lodge. When a dispute assumed serious proportions, the custom in the Fife and Kinross districts seems to have provided for a joint meeting of seven members from each side to endeavour to compose the difference, a custom established on the precedent of a conference held in 1873 to discuss the special rules adopted under the Coal Mines Regulation Act of the previous year.

SECOND PERIOD—CONCILIATION BOARDS

The abandonment of sliding scales towards the end of the century raised again the question of district adjustment of wages. The pre-sliding scale method of negotiation with *ad hoc* arbitrations had proved unsatisfactory. The method almost universally adopted after 1900 was a quarterly adjustment through a conciliation board, representative of employers and employees throughout the county or district. Again it was the North Eastern field which pioneered this machinery. A con-

ciliation board was first set up in Northumberland in May, 1894, but after two years of operation during falling prices the county reverted to direct negotiation. In December, 1899, however, a second board was formed which continued to function until the end of World War I except for the years 1912 to 1914. The first Durham board formed in 1895 broke down for the same reason and was also reconstituted in 1899. In South Wales, the sliding scale joint committee ceased to exist in 1901 and in 1903 a conciliation board was constituted. The permanent conciliation board for the so-called Federated area dated from 1st January, 1899, and the Scottish board from 5th January, 1900. With the exception already mentioned in the case of Northumberland these boards continued to exist until abrogated by the national settlement of 1921.

The boards[1] consisted of an equal number of representatives of each side ranging from 15 in Northumberland to 24 in South Wales. In Durham, the 18 owners' representatives were counterbalanced by nine representatives from the Miners' Association and three from each of the cokemen's, mechanics' and enginemen's unions. Like the joint committees, the boards drew up and amended the rules under which they operated. All had certain features in common. They provided for joint secretaries ; for either a chairman and vice-chairman or, as in South Wales, joint presidents ; for regular quarterly meetings and for other meetings convened by the secretaries upon demand in conformity with the rules ; for the conduct of meetings ; and for joint apportioning of expenses. The boards of Northumberland, the Federated area and Scotland were limited to the determination of the district rate of wages and the settling of general wages disputes. The boards in Durham and Wales had wider jurisdiction, the former dealing with all questions not falling within the jurisdiction of the joint committees, while the Welsh board itself acted in one capacity as

[1]See rules of the boards in the 1907 and 1910 Reports on Rules of Voluntary Conciliation and Arbitration Boards and Standing Joint Committees.

a local joint committee, meeting for that purpose "at least once in every month".

At their regular quarterly meetings, the boards heard applications from each side for reductions or increases in wage rates to operate over the following quarter. After 1903 in the Federated area such applications were limited to a maximum of 5 per cent. increases or decreases. Each board adopted a basic year computing existing wage rates as a percentage on the rate of the standard year. In South Wales, the Federated area, and Scotland, the boards worked within maximum and minimum rates[1] expressed in the same way.

The greatest difference between the various rules was in the method adopted to reach a decision once the board had failed to settle by agreement. The Northumberland rules provided for the annual election of an independent chairman by the board, or in default of agreement, by the chairman of the county council "after conferring jointly with the parties." He presided at all meetings and on disagreement had power to give a decision that was "final and binding on all parties."

The umpire annually elected by the Durham board only presided at an adjourned meeting. In the first instance, the board met under the presidency of the chairman or vice-chairman whose duty it was, upon the failure of the meeting to agree to adjourn it and summon the umpire. Upon a continuance of the disagreement at adjourned meetings, the umpire did not give a decision but exercised a casting vote. The object behind this provision was, of course, to use conciliation until the last practicable moment, and conciliation was not likely to succeed where the umpire was too readily available, both sides being then in hostile camps and unwilling to endanger the strength of their cases by suggesting compromises. The curtailment of the umpire's power to the exercise of a casting vote was thus an attempt to moderate demands.

[1]Thirty per cent. and 60 per cent. above the rates of December, 1879, in South Wales, 30 per cent. and 45 per cent. above the 1888 standard in the Federated area, and 34½ per cent. and 75 per cent. over the 1888 rates in the case of Scotland.

In South Wales, an independent chairman was appointed by the Lord Chief Justice or the Speaker of the House of Commons where the parties could not agree upon a choice. After appointment the chairman's position was the same as that of the Durham umpire.

The rules of the Federated board also provided, in the event of failure to agree upon an independent chairman, for the members to request the Speaker of the House of Commons to nominate the chairman. The functions of this chairman were similar to those of the umpire in Durham or the South Wales chairman up to the stage of the adjourned meeting. Upon a continued failure of the board to agree, however, he had two courses open to him. He either gave his casting vote which was then final and binding or he might "again and from time to time refer back to the board" the question, whereupon an amended application could be discussed and the process repeated until a settlement was reached or the chairman did exercise his vote.

Submission to an independent umpire was a matter for mutual agreement in Scotland until 1909. After that date submission to a "neutral chairman" elected by the board or, failing agreement, by the Speaker of the Commons, became automatic upon the failure of the board to agree at its first meeting. The neutral chairman then had full power to grant the application or award a less advance or reduction than was sought.

With the possible exception of the Scottish board, all the conciliation boards worked with a great deal of success. The number of cases brought before them between 1897 and 1906 was 4,438 of which all but 38 were settled without a stoppage of work.[1]

The conciliation boards did not replace the standing joint committees. These bodies continued to conciliate in respect of local disputes. Their rules were amended from time to time but on the whole they remained little changed up to World

[1]1908 Report on Rules, etc.

War I and were constantly employed. The Durham committees in the year 1913, for instance, dealt with 901 cases, of which 836 were miners' cases, 45 came before the cokemen's committee, six of the enginemen's and 14 the colliery mechanics.[1] Of these, 462 or 51 per cent. were either withdrawn, ruled out of order or settled independently of the committee, 257 or 29 per cent. were settled by conciliation, and 182 or 20 per cent. by arbitration.

The general satisfaction felt for the conciliation and arbitration machinery in the mining areas in Durham and Northumberland during this second period is best illustrated by the report[2] of the Commission of Enquiry into Industrial Unrest in 1917. The Commissioners delegated to investigate the North Eastern area reported on the mining industry: "There exists an arrangement between the employers and employees which for a long period of years has secured amicable settlements of contentious questions, and we can suggest no method of dealing with disputes which is likely to meet with more success in this very important field."

Before proceeding to the third period it is necessary to mention one dispute which occurred in the period of the conciliation boards not because it was the first occasion upon which the whole industry was brought to a standstill but because in attempting to settle the specific conflict, the legislature brought into being district boards to whose statutory function has subsequently been added by agreement in some districts, general conciliatory functions. A national strike in 1919 was occasioned by the demand for adequate provision for workers in "abnormal places." The specific demands made by the Miners' Federation took the form of national daily minima for all grades of workers. The Coal Mines (Minimum Wage) Act[3] conceded the miners' claim to minima but not to a national minimum. These minima were fixed by joint district boards

[1]Bulman: *Coal Mining and the Coal Miner*, p. 34.
[2]Cmd. 8662, p. 10.
[3]2 Geo. V, c. 21.

set up in 22 districts specified in the schedule to the Act, with an independent chairman selected by agreement or by the Board of Trade. The powers of the boards under the Act include, in addition to determining minimum rates for underground workers which are legally enforceable, the settling of general district rules as to procedure and conditions under which such rates should be applied, as well as for the settlement of disputes arising under the arrangement. By section 2, the Act enabled the Board of Trade to recognise as a joint district board for any district "any existing body of persons which in the opinion of the Board of Trade represents the workmen in coal mines in the district and the employers of those workmen," the chairman of which is an independent person appointed by agreement between the members. In point of fact in 1912 the number of district boards constituted was not great, the majority of the boards or committees already in existence for other purposes being accepted by the Board of Trade for the purpose of the Act. Since 1918 this legislation has had a formal existence only, its purpose being covered by voluntary negotiation though nominal minima continued to exist in each of the coalfield districts.

THIRD PERIOD—NATIONAL AGREEMENTS

The period of wage determinations by national criteria began with the settlement of a strike in July, 1921, but evidence of its approach had not been wanting since 1908. In 1910 a resolution passed at the annual conference of the Miners' Federation gave instruction to the executive committee to take reasonable steps to replace the district conciliation boards by a single national conciliation board and thenceforth to regulate wages upon common principles throughout the whole of the coal industry. More definite evidence was afforded by the miners' demands during the 1912 strike mentioned above. The wartime experience of unification of the industry for wage regulation purposes strengthened the determination of the

Miners' Federation to replace the district boards by a national body.

In effect, the settlement in 1921 was a compromise between the Federation demands and the owners' desire to return to the pre-war position. While retaining the pre-control criterion for wage rates of capacity of each separate district to pay, the settlement met the miners' demand by establishing a national board consisting of an equal number of representatives from the Mining Association and the Miners' Federation with an impartial chairman. Under the second clause of the settlement provision was made for district boards consisting of equal numbers of representatives from the district association of owners and workmen. The detailed functioning of the national and district boards was not set out in the agreement itself but it was left to each to draw up its own rules. The agreement, however, did make it clear that the actual settling of wages was the task of the latter while the national board should be in the nature of a final court of appeal from district decisions and a medium of contact between the Mining Association and the Miners' Federation.

As far as most districts were concerned, in its effect upon existing machinery the settlement involved little more than a change of name from "conciliation" to "district" boards. This was so in Scotland, Northumberland, Durham, South Wales and Monmouthshire, and Cumberland. But the pre-settlement Federated area was divided into four separate areas, comprising :

1. Yorkshire, Nottinghamshire, Derbyshire, Leicestershire, Cannock Chase, and Warwickshire.
2. Lancashire, Cheshire and North Staffordshire.
3. North Wales.
4. South Staffordshire and Shropshire.

In 13 areas, district boards were set up under the settlement, as compared with 8 areas over which the pre-war conciliation boards had operated.

At the first meeting on the 21st July, 1921, the national board drew up rules of procedure for the conduct of its business. These rules[1] set out the matters to be dealt with by the board as :

(*a*) Questions directly referred to it under the terms of settlement ; and

(*b*) All questions of national application to the industry.

They provided for the representatives of the Association and the Federation to remain on the board for two years and to be eligible for re-election. The president, vice-president and independent chairman were elected annually, the president being chosen in alternate years from the Association members and Federation members whilst the chairman was nominated by the Lord Chief Justice upon failure of the board to agree upon the choice. The rules provided for no regular meetings but either party might request the president to convene a meeting. The questions then raised were submitted to, and considered by, the board without the independent chairman. But rule 11 provided that "if the parties on the board cannot agree upon questions arising out of the terms of settlement of the coal dispute dated 1st July, 1921, the meeting shall be adjourned for a period not exceeding 21 days and the independent chairman shall be summoned by the secretaries to the adjourned meeting when the matter shall be again discussed and in default of an agreement the independent chairman shall give such decision as he shall think fit, which decision shall be final and binding upon the parties and their constituents."

The rules also provided, *inter alia*, for the appointment of joint secretaries and set out their duties ; for voting to be by sides ; for each party to pay their representatives' expenses and joint expenses to be shared ; for the appointment of sub-committees with delegated powers and duties ; and for the amendment of the rules at any meeting after one calendar

[1]Unpublished except in the Minutes kept by the Association and the Federation.

month's notice in writing had been given of the intended alteration or addition.

FOURTH STAGE—RETURN TO DISTRICT SETTLEMENTS

The position created by the 1921 settlement, as amended in minor points in 1924, existed until the General Strike of 1926 which ended the career of the national board. The dispute of that year was followed, not by a national agreement as in 1921, but by separate district agreements negotiated between the local unions and associations of owners in the following areas: Northumberland, Durham, Cumberland, Lancashire and Cheshire, Yorkshire, Nottinghamshire, Derbyshire (excluding South Derbyshire), South Derbyshire, North Staffordshire, South Staffordshire and Worcestershire, Cannock Chase, Leicestershire, Warwickshire, Forest of Dean, Radstock, South Wales and Monmouthshire, North Wales, Scotland.

Although separately negotiated and varied from time to time these agreements retained the following essential features in common:

1. A basis rate of wages was declared, in the form of the rate prevailing in a certain year, on which actual wages were computed as a percentage.
2. A fixed minimum percentage was added to the basis rate to be paid whether the proceeds of the industry permitted of it or not.
3. Quarterly assessment of the proceeds of the industry in the district was provided for through joint audit of colliery books by independent accountants acting for owners and men respectively.
4. The proceeds of the industry after certain deductions were divided in the following quarter after payment of the minimum wage, in agreed proportions as profits and wages.
5. A "deficiency account" was established, being the amount paid as wages under the minimum percentage clause in excess of the proceeds of the industry, such account being carried

forward indefinitely in some cases, but more often for one year only.[1]

6. A subsistence wage was agreed upon for the lower-paid day wage workers irrespective of proceeds or any other consideration.

Certain other features reappear in all but a few of the agreements. So, for example, only the Lancashire, Cheshire and Radstock settlements failed to provide for the establishment of a district board consisting of equal numbers of the parties and with power to draw up its own rules of procedure provided they included provision for the appointment of an independent chairman.

In the Mining Industry Act[2] passed at the beginning of the trouble in 1926 with a view to the reorganisation of the industry, an attempt was made to ensure that adequate facilities should exist at all coal mines for the hearing by the management of any grievances of the employees. Section 21 of that Act provided :

"1. If at any time after the expiration of two years from the commencement of this Act the Board of Trade are satisfied upon representation made to them as respects any coal mine (not being a small mine within the meaning of the Coal Mines Act, 1911) that no adequate opportunity has been afforded by the owner, agent and manager of the mine for the establishment of machinery for mutual discussion between representatives of workers employed in or about the mine, of matters of common interest in regard to the working of the mine, the Board may by order direct that regulations under this section shall apply to that mine.

2. The Board of Trade may make regulations providing for the constitution of a joint committee for any mine to which the regulations apply, consisting of representatives of the owners

[1]During the depression years it was found that the "deficiency account" where indefinitely carried forward was running into an amount that was never likely to be liquidated. As a result, the owners waived their right to the deficiency account beyond each current year.

[2]16 and 17 Geo. V. c. 28.

and management of the mine, and of the workers employed in or about the mine, and having such functions as may be prescribed by the regulations.

3. Regulations made under this section shall provide for the procedure and meetings of joint committees and for enabling joint committees to obtain such information and to cause such inspections to be made as may be necessary for the purpose of enabling them to exercise any of their functions under the regulations, etc."

These provisions never became operative.

A second legislative failure to impose conciliation machinery upon the industry was made in 1930. The Coal Mines Act[1] passed by the Labour Government for "regulating and facilitating the production, supply and sale of coal" and for the "Constitution and function of a Coal Mines National Industrial Board" provided in Part IV for a board of "17 members appointed by the Board of Trade, so however, that before appointing the members of the National Board other than the Chairman, the Board of Trade shall consult the Mining Association of Great Britain as to six, the Miners' Federation of Great Britain as to six, the Federation of British Industries and the Association of British Chambers of Commerce as to one and each of the following bodies as to one, that is to say :

The General Council of the Trade Union Congress ;

The Co-operative Union ;

The National Confederation of Employers' Organisations ; and the Chairman of the National Board who shall not be a member of any of the bodies aforesaid."

The functions of the board purported to be the confirmation and recording of "any agreement between the owners of and the workers employed in or about, the coal mines in any district providing for the regulation of wages or other conditions of labour throughout the coal mines in the district, and the dealing with any disputes arising in the districts where the

[1]20 and 21 Geo. V. c. 34. This Act is repealed by 9 and 10 Geo. VI. c. 59.

local machinery has failed to effect settlement and which has been referred to the board by either party to the dispute."

Despite the refusal of the Mining Association to collaborate on the ground that the board was the thin end of the wedge to the return to the pre-1926 period of national wage agreements, the Board of Trade duly appointed 17 members and an independent chairman as provided by the Act, six members connected with mining management being appointed upon the refusal of the Association to nominate. Some disputes were referred to it up to 1936 but as its awards were dependent on voluntary acceptance by the parties, one of which considered itself to be not represented, successful working could hardly have been expected. When the independent chairman resigned on the ground of the board's uselessness without the co-operation of the Association, no attempt was made to fill the vacancy and the board lapsed.

Thus in the period prior to the wartime changes, the district agreements, largely unaffected by state action, continued to provide the wage machinery for the industry and must be dealt with briefly in relation to each coal district. The agreements[1] in the main did not disturb the existing arrangements for settling other than wage disputes as, for example, the joint committees, the agreements for which were continued "unless inconsistent with any of the provisions of this agreement."

Northumberland

The main agreement of January 15th, 1927, was made for a duration of two years certain and thenceforth was terminable on one month's notice. The district board set up under this agreement was expressly continued by subsequent agreements, each of which did little more than declare that there shall be such a board, leaving the procedure to be settled by the board itself. The board, officially titled "The District Board for the

[1]The substance of the agreements in operation up to 1934 are set out in the 1934 Report on Collective Agreements. For amendments and agreements made after 1934, the minutes or printed records for each district must be consulted.

Coal Mining Industry of Northumberland," consisted of not more than 20 persons chosen by the Northumberland Coal Owners' Association and a similar number by the Northumberland Mine Workers' Federation, together with three independent persons annually chosen from outside these members by the board, one by the owners' side, one by the workmen's side and the third jointly or, on disagreement, by the Lord Chief Justice of England. These three independent members (referred to in the rules as "arbitrators") could not include a coal owner or person connected with "any employers', miners' or trade union association or organisation" or "the holder of ordinary or preference shares in any colliery company in the United Kingdom." A president and a vice-president were elected annually, one from each side of the board with the positions alternating between the parties. The president and vice-president exercised an ordinary member's vote only. Each side provided its own secretary, but unless already a member of the board a secretary had no power to move or second any resolution, although he could take part in discussion. Each secretary kept a copy of the minutes and jointly convened meetings and conducted the board's correspondence. The rules make provision for only one regular meeting a year, the annual meeting in December. Other meetings were requisitioned by either party, such requisition, stating the object of the meeting, being made to the secretaries who thereupon convened the meeting within 14 days.

The primary object of the board was expressed to be the determination of any questions "arising out of the County Agreement not otherwise provided for" but any question might be referred to it by agreement between the parties. The board had power under rule 15 to appoint sub-committees and delegate to them any of its own powers and duties. On all occasions, voting was by sides.

Questions were dealt with by the board in the first instance, without the presence of the arbitrators. If the board failed to agree, the meeting was then adjourned for not more than 21

days and the arbitrators were summoned by the secretaries. At the adjourned meeting, the matter was again discussed in their presence and in default of an agreement, the arbitrators gave such decision as they or a majority of them thought fit. This decision was "final and binding on the parties and their constituents." The decision of the arbitrators was announced by the non-party member, with no indication as to whether it was a unanimous or majority decision. Until the adjourned meeting the arbitrators were forbidden by the rules to consult or be consulted by the parties or to make any inquiries or obtain any information as to the matter in dispute.

One calendar month's written notice of a proposed alteration was necessary before a meeting could alter or add to the existing rules. Each party defrayed its own expenses in connection with the board while the expenses of the arbitrators and other joint expenses were shared in equal proportions.

Among the "questions arising out of the County Agreement," certain ones were specifically provided for by the settlement itself. So, for instance, any difficulty arising out of the periodical test audit could be referred to the board by the independent accountants, including methods for ascertaining fair values to be placed on workers' houses and coal and fair prices for transfers to and from "excluded activities." The board also had power to increase the subsistence wage of low-paid day-wage workers without the necessity of a fresh agreement and could vary the periods of ascertainment. The independent accountants were able to obtain the advice of an expert on technical questions arising in the course of a test audit, the expert being chosen by agreement between them or, failing agreement, by the arbitrators of the board. The arbitrators or a majority of them could decide any question arising in connection with the audits as to inclusion or exclusion from the district aggregation of small collieries employing ten men or less. It should be noted that on all occasions upon which a question was left to the final decision of the arbitrators, the opinion of each was of equal weight, and in the event of the

two party-elected arbitrators differing, the third member had in effect only a casting vote and could not give a compromise decision.

The board in Northumberland—as elsewhere—determined the general wage rate as "a percentage of the basis rates prevailing at the collieries at the time of adjustment" (i.e., 1937 rates). Applications for fixing or varying piece work prices at a particular colliery or in respect of a particular seam were still made to the joint committee which continued its activities with little change since 1877. Its rules were amended during this period to require that "before any change in hewing prices be entertained it must be clearly shown that the average wage on which the claim is made is at least 5 per cent. above or below the County average" and that "all applications for advances or reductions in any portion of a pit shall open out the question of the prices paid to the same class of workmen throughout the whole of the pit ; but these rules do not apply where application is made for a price to be fixed in consequence of any *bona fide* change in the mode of working or for a new seam in regard to which prices are not already fixed."

Having examined the position in Northumberland in some detail, the same review is not necessary in the case of other counties where similar practice prevailed. The main deviation from the Northumberland pattern elsewhere was in the position of the chairman of the district board who, in most cases, acted in the place of the Northumberland arbitrators.

Durham

The original agreement in Durham was dated November 30th, 1926, and was made between the Durham Coal Owners' Association and the Durham County Mining Federation. Its main provisions were continued by subsequent agreements, the last being dated May, 1937, for a duration of three years certain and thenceforth being terminable at three months' notice. The powers and duties of the district board operating under these agreements were practically identical with those

exercised by the Northumberland board, with an independent chairman in place of the three arbitrators. No rules of procedure were printed by this board, the rules being recorded in the minutes as adopted, and a copy being held by each of the joint secretaries.

The Durham miners' joint committee ceased to function for the hearing and determining of non-county matters in 1923. The other three joint committees, however, still settled disputed questions arising at individual collieries in regard to the working conditions of mechanics, enginemen and deputies, respectively. Differences arising at individual collieries and involving miners only, were adjusted by *ad hoc* deputation at the colliery or by agreement between the individual owner or manager or if need be the Durham Coal Owners' Association and the local union or the Durham County Mining Federation.

Cumberland

The agreement made between the Cumberland Coal Owners' Association and the Cumberland Miners' Association on March 14th, 1927, was less comprehensive than the agreements in other districts. The district wages board then set up broke down in November, 1930, on the question of the guaranteed minimum percentage. The requisite three months' notice was given by the Owners' Association to terminate the agreement and the board. The dispute was referred by the union to the Coal Mines National Industrial Board and its recommendation of a guaranteed minimum of 22½ per cent. was ultimately the basis of a resumption of work in August, 1931. No formal agreement was then entered into, but the board resumed its operations and in 1934 an agreement was signed lasting until December, 1937, and thenceforth until ended by notice. Almost the only functions of the board were the determination of the percentage additions payable on basis rates and the regulation of the payment of subsistence allowances. No formal rules of procedure were published.

In addition to the district wages board two conciliation

boards were in operation, one for overmen and deputies and the other for enginemen and boilermen. The former was established in 1918, the latter in 1927 "to consider and decide all questions in dispute affecting the interests of the employers and employed constituting the board with regard to wages and conditions of employment." Purely local matters were not dealt with by these boards but by the standing joint committee which also dealt with matters affecting miners. In case of disagreement on the boards or the joint committee, a casting vote was exercised by an independent chairman.

Lancashire and Cheshire

The agreement made on December 1st, 1926, between the Lancashire and Cheshire Coal Association and the Lancashire and Cheshire Miners' Federation made no provision for the establishment of a district board, it being assumed by both parties that the joint board first established under the Coal Mines (Minimum Wage) Act, 1912, would continue to be used for all purposes of collective bargaining and settling of differences as well as for statutory purposes. The advantage of this position was simplification of the conciliation machinery by the application of the same rules to all matters. No fresh rules were required after 1926, the existing ones covering the added duties of this board. Under them the board consisted of 15 representatives of each side with an independent chairman with casting vote. Either party could make application through its secretary for a meeting of the board within 14 days for the variation of "any minimum rate of wages or district rules or for any other purpose within the province of the board." The independent chairman presided at all meetings and when a deadlock arose either gave his casting vote or reserved the matter for further consideration or referred it back to the parties.

The statutory functions of the board having become nominal, the expenses of the board were borne, not by the Board of Trade, but by the parties themselves.

The district rules made in 1912 and revised in 1914 provided for the establishment of a local joint committee of five representatives from each side and an outside chairman for hearing disputes in connection with the application of a minimum wage, while a wartime agreement of February, 1918, attempted to set up local joint pit committees at various collieries. It seems, however, that neither the local joint committee nor the pit committees assumed with time any wider duties than their original ones and had ceased to function shortly after 1918.

The procedure followed upon the development of a dispute at a colliery was invariable. If the matter was raised by the men, it was reported to the local representatives of the union who conferred with the management. If no solution was found the question was referred to the miners' agent for the district. Should he be unable to secure a settlement, he reported immediately to the executive committee of the Lancashire and Cheshire Miners' Federation who referred it to the joint board, where it was dealt with in the same way as a county matter, being referred in the last instance to the independent chairman. However, in practice, "this provision," to use the words of the General Secretary of the Federation,[1] "is very seldom used as most of our disputes can be settled before reaching that stage".

The first clause of the last county agreement signed by the Association and the Federation on the 9th May, 1938, continued the operation of the "joint district wages board until 1st July, 1939, and thereafter until terminated by one month's notice."

In the case of:

(*a*) winding enginemen, stokers and locomotive drivers

(*b*) undermanagers and underlookers and

(*c*) colliery officials (clerical workers, foremen and weighers)

there existed separate joint committees of the Owners' Asso-

[1]P. Pemberton, J.P., in corres ondence.

ciation and the various unions interested to deal with disputes of any nature other than the general settlement of wage rates.

Yorkshire

The Yorkshire settlement was signed on the 29th November, 1926, by the Yorkshire Mineworkers' Association and by both the South Yorkshire Coal Trade Association and the West Yorkshire Coal Owners' Association. While this agreement established the one wages board for the joint districts, it stated that "all questions of basis rates of wages, hours of employment and conditions of working at coal mines in the South Yorkshire Coalfield shall be dealt with in that district ; and all such matters in West Yorkshire shall be dealt with in that district and none of these matters shall form the subject of discussion or settlement under this agreement." The board consisted of an equal number of representatives, one half chosen jointly by the two Owners' Associations and the other by the Mineworkers' Association, together with an independent chairman, and dealt with questions directly referred to it under the agreement.

About the same time as the general settlement was signed, a further agreement was made between the South Yorkshire Owners and the Mineworkers' Association, which in addition to fixing basis rates for surface workers, established a joint committee composed of representatives of the owners and of the surface workers for the settling of disputes at individual collieries. The agreement set out the procedure to be adopted on the occurrence of such a dispute and aimed at preventing reference of the matter to the committee until adequate discussion had first taken place at the colliery itself between a responsible colliery official and the workmen concerned and, failing agreement, by the management and the workmen's representative.

Nottingham and Derbyshire

These counties, with the exception of South Derbyshire,

really form one field, and the two agreements are in almost identical form. The primary Nottinghamshire agreement was dated May 29th, 1933, and was signed by the Nottingham Coal Owners and the Nottingham and District Miners' Industrial Union. The Derbyshire agreement was signed by the same Association of Coal Owners and the Derbyshire Miners' Association on 18th July, 1933. Both agreements operated until June 30th, 1938, when fresh agreements were made expiring in 1943 with the proviso that "if it is found at any time during the period of this agreement that in the opinion of either party any change of circumstances or conditions in the coal industry should react to the disadvantage of this district as compared with any other district or districts," the agreement becomes terminable at one month's notice. Disputes arising under this proviso were to be referred to a single arbitrator under the Arbitration Act, 1889.

The position of enginemen, firemen, and other craft workers was regulated by a similar agreement made on December 10th, 1926, between the owners and the Derbyshire, Notts and Midland Counties Colliery Enginemen, Firemen and Motormen's Union. All three agreements provided for the establishment of district wages boards which drew up their own rules of procedure including provision for the appointment of independent chairmen with power, *inter alia*, to alter, upon disagreement by the boards, the principles followed by the joint accountants in determining the costs of production other than wages, and the periods of ascertainment.

Many of the agreements made from time to time fixing basis rates and other conditions of work, contained clauses referring any disputes likely to arise under the agreements to joint committees of owners' and workers' representatives. Such bodies were not standing committees and had no definite form. However, in practice, the only disputes dealt with other than by direct negotiation were wages questions within the jurisdiction of the three wages boards.

South Derbyshire

The agreement setting up the wages board for South Derbyshire was similar in its clauses to the agreements for Nottinghamshire and the remainder of Derbyshire. Signed by the South Derbyshire District Colliery Owners' Association and the South Derbyshire Amalgamated Miners' Association on September 28th, 1932, and providing for a district wages board with independent chairman, it was renewed with alteration to the figures in 1935 and remained in effect until 1940.

South Derbyshire would hardly warrant separate treatment from the rest of the county were it not for an agreement dated February 10th, 1932, which dealt with the establishment of a "joint disputes committee for the settling of local disputes." This agreement (which "is not to be regarded as in any way in substitution for any existing or future district agreement") stipulated that in the event of a dispute arising of a local character, an endeavour should be made by the workmen concerned or their representatives to settle the difference with the colliery officials and failing a settlement by them, that the matter should be submitted to the pit manager and the agent of the Miners' Association in that district. Only if such procedure had been adopted could the matter be referred to the joint disputes committee consisting of the owners' and workers' representatives on the Coal Mines (Minimum Wage) Joint District Board for South Derbyshire, and, failing agreement by them, for final settlement by the independent chairman of the board. Each of the parties undertook to use its best endeavours to secure the avoidance of all disputes and the acceptance of any decision made at any stage of this procedure, and, in the event of refusal to accept and abide by such decision, to withhold financial support from such colliery owner or owners or workmen so refusing.

Other Midlands Districts

In North Staffordshire, in addition to the district wages board established in 1927 and continued by agreement into

wartime, there existed two joint committees for the settlement of disputes affecting enginemen, firemen, mechanics, etc., and undermanagers and underlookers. In South Staffordshire and Worcestershire, the district wages boards differed from other boards in numbering among their thirteen members the chairman and secretaries of the Coal Owners' Association and the District Miners' Association as ex-officio members in addition to an outside chairman.

The boards set up in Cannock Chase and Warwickshire were modelled on the Leicestershire District Wages Board established under the terms of the agreement dated 15th March, 1927. Under the rules of this board, the members held office for a period not exceeding two years but were eligible for re-election. The chairman and vice-chairman were chosen annually from among the members and the independent chairman from outside that body. On the board's failure to agree on the selection of the independent chairman, the rules provided for the nomination of an independent chairman by the Lord Chief Justice of England. The independent chairman presided at meetings adjourned on failure of the parties to agree and on continued disagreement might "give such decision as he shall think fit, which shall be final and binding upon the parties and their constituents." The independent chairman was, therefore, not limited to the exercise of a casting vote. The board had power to delegate any of its duties and powers to sub-committees of its own members, and to amend the rules of the board at a meeting of which one calendar month's notice in writing containing the proposed alteration, had been given to the joint secretaries. Other meetings were called on seven days' notice.

The agreement for the Forest of Dean was signed on the 15th December, 1926. Whilst setting up the usual district board composed of an equal number of persons chosen by the colliery companies, parties thereto, and "persons chosen from amongst the workmen actually employed at the collieries of the said companies," no provision was made for the appointment of an

independent chairman. The board was distinct from the "Forest of Dean Conciliation Board" established in 1895 for the much wider purpose of preventing and settling disputes whether relating to wages or not, which was still nominally in being although it had not been resorted to since 1925.

Southern Districts

In Somerset and Bristol no provision was made for the establishment of standing bodies either for wage rate ascertainments or for the settling of local disputes. Nor was there a board in Kent prior to January 20th, 1934. The district board then established was given somewhat wider functions than most district boards and any matter relating to wages or to general conditions in the coalfield could be referred to it. The rules of procedure were not left to be drawn up by the board but were incorporated in the agreement itself. This agreement as slightly altered was continued on November 3rd, 1937, for three years and thereafter until terminated by six months' notice.

South Wales

The most comprehensive of all the agreements drawn up at the conclusion of the 1926 conflict was the South Wales agreement of 13th December of that year. It was revised in 1931 and again in 1937. Each revision superseded all preceding agreements so that the agreement made on the 5th April, 1937, constituted a complete code not only of the conditions of work but also of the conciliation and arbitration machinery affecting underground workers prior to 1943. It was made between representatives of the Monmouthshire and South Wales Coal Owners' Association and representatives of the miners employed at the collieries of the members of that Association, who were members of the South Wales Miners' Federation.

Clause 1 of the Agreement provides: "That a Board of Conciliation shall be established to determine the general rate of wages to be paid to the workmen and to deal with disputes

at the various collieries of the owners." This board consisted of not more than 29 duly authorised owners' representatives and the same number of representatives of workers. For the purpose of arbitrating on disagreements on the minimum rate of percentage only, three independent persons were nominated by the parties to the agreement or, failing agreement as to their nomination, by the Minister of Labour and the Secretary for Mines jointly, after consultation with each side. The arbitrators issued a single award in each case without indicating whether or not it was unanimous. Any question or difference arising between the accountants appointed under the agreement to conduct the audit could be referred directly to the chairman of the joint arbitrators.

Each side of the board elected a president and secretary, the former from among the members and the latter either from within or without the board. The board's meetings were recorded by a shorthand-writer mutually agreed upon by the parties and transcribed into duplicate books before being signed by both presidents as confirmation. The secretaries conducted correspondence for their respective parties and jointly for the board. The quarterly meetings determined the wages payable for the next quarter. In addition the board met whenever requested by either party to receive reports of the joint disputes committee or for any other matters which either party desired to bring before it. But no subject could be considered, except by mutual agreement, which had not been placed on the agenda in the notice convening the meeting.

In addition to the conciliation board, the agreement set up machinery for dealing with disputes at the collieries prior to reference to the board. By clause 33, the parties pledged their respective constituents to make every effort to avoid difficulties or disputes at the collieries, and, in respect of any unavoidable difference, to follow the procedure outlined in the agreement. The first step was discussion by a committee composed of men employed at the colliery at which the dispute arose, accompanied by an authorised agent of the local federation lodge,

and the management of the colliery. Upon their failing to settle, the matter was reported in writing within two days to the colliery agent or general manager and the miners' agent for the district, respectively. The colliery agent and miners' agent were required to meet within seven days of notification and to take such steps as they thought fit to settle the question. Failing agreement, the agents referred the matter to the secretaries of the respective sides of the board within two days of their final meeting. It was then heard by a standing joint sub-committee of the board composed of seven representatives of each side and known as the joint standing disputes committee. This committee met once a week to hear disputes referred to it up to two clear days prior to its meeting. It had power to adjust the dispute in whatever way it thought fit and reported its actions at the next meeting of the board. When no settlement was achieved at this stage either party was at liberty to tender notices to terminate existing contracts at the separate collieries unless both sides of the board decided that further attempts to settle should be made before the next meeting of the board when a final report must be submitted. In case of such decision, the matter was taken up by the disputes finality committee consisting of three representatives drawn from each side of the board. The finality committee took evidence only from the representatives who had been appointed to investigate the particular dispute. The committee's decision was final. Except where otherwise agreed upon by the parties affected or stipulated in the decision itself, all decisions were required to be retrospective to the date upon which the appeal was sent to the secretaries of the board.

No stoppage was permitted or notice given to terminate contracts until this procedure had been exhausted and the parties were pledged to withdraw any notice wrongfully given before the board or its committee had considered the dispute.

Both parties to the agreement further undertook that no variation to any practice, custom or condition in existence at the

several collieries, except in so far as it was varied by the agreement, should be introduced by the parties except by mutual consent, and in the event of a failure to obtain mutual consent the proposed variation was not to be introduced until the proposal had been brought before the committee in the manner set out above.

If the provisions of clause 35 were not observed, both parties were required to "refrain from supporting their respective members whichever is responsible for such non-observance, until such provisions have been complied with."

Under clause 39, a copy of the agreement was to be placed in the contract book at each colliery to be signed by or on behalf of the owners of each colliery and by each miner as one of the terms of engagement.

The above procedures applied to miners only, but by agreement dated February 17th, 1931, between the Owners' Association and the South Wales and Monmouthshire Colliery Enginemen, Boilermen, and Craftsmen's Association, a craftsmen's joint board was set up, similar to the board of conciliation, for the purpose of dealing with disputes and questions arising between the parties to the agreement.

A "Board of Conciliation for the Owners and Officials of Collieries in South Wales and Monmouthshire" was first established by an agreement, dated March 27th, 1918, between the Owners' Association and the South Wales and Monmouthshire Colliery Examiners' Association for the purpose of determining the remuneration to be paid to officials other than overmen. The agreement contained an undertaking that collective notices to terminate contracts of service would not be given by the officials to the owners except after failure by the board to settle the dispute.

Similarly differences between the owners and the members of the Monmouthshire Master Hauliers and Traffic Foremen's Association were referable to a joint committee set up by agreement dated 3rd June, 1918.

North Wales

North Wales followed the Midland precedent of a wages board with independent chairman. The agreement establishing the board was made on March 1st, 1927, between the coal owners in the districts of Denbighshire and Flintshire and the North Wales Miners' Association. Elaborate procedures were not felt to be necessary in this area which had been relatively free from industrial disputes and even the provision for arbitration by the independent chairman was rarely needed.

A similar board existed in North Wales since 1920 for hearing disputes involving members of the Lancashire, Cheshire and North Wales Colliery Enginemen, Boilermen and Brakemen's Federation.

Scotland

The district settlement in Scotland which followed the General Strike in 1926 also resulted in the establishment of a conciliation board for the regulation of Scottish miners' wages and for dealing with questions referred to it in accordance with the agreement which was made between the coal owners of Scotland and the National Union of Scottish Mine Workers. This agreement was revised in 1934 and at two-yearly intervals up to the outbreak of war.

The conciliation board covered miners only but the Scottish Colliery Engine and Boilermen's Association maintained its own agreement with the coal owners under the terms of which, a standing committee of five representatives from each side was established to settle cases of dispute "arising in the interpretation of any of the clauses of the agreement dated October 16th, 1931, other than those relating to the method and operation of the ascertainment." Failing settlement by this committee, a neutral chairman was called in and his decision was final.

DEVELOPMENTS SINCE 1939

By September, 1939, the pattern of conciliation arrangements in the industry had become fairly standardised. It

showed the effect, on the one hand, of a steady decline in the importance of joint standing committees for pit disputes, and, on the other, of the failure to retain national machinery for the settlement of general questions.

The reason for the former is not hard to find. Local joint committees belong to the stage of struggle by the unions for increased membership and recognition by the owners. In the older coalfields this struggle had ceased to be necessary before the end of the last century and on all fields by the end of the First World War. It is significant that the last large district to accord recognition to the miners' union, South Wales, had the most elaborate provision for the airing and settling of local differences, while in Durham, where the union has represented all underground workers in dealings with the owners since 1872, the joint committee ceased to exist over twenty years ago.

Explanation of the second feature of the 1939 pattern, namely the absence of centralised conciliation machinery, lay in the different attitudes of the parties to the all-important question of wage fixation. On the one hand the Mine Workers' Federation[1] claimed that wages should be determined from a national formula. This claim was supported by the moral argument of equal reward for equal expenditure of effort, and the practical consideration that "the level of wages in any particular district is not the concern of that district only but the concern of other districts also, for the level of wages in one district vitally affects other districts."[2]

On the other hand, the Mining Association maintained that each district must be autonomous in choosing the figures of the formula for minimum rates and apportionment of surplus proceeds between wages and profits. In support of this the Association pointed out the great variations in cost of production between different fields and the considerable variation in profits which had been revealed in the report[3] of Sir Arthur

[1]The name was changed to Miners' Federation of Great Britain in 1932.
[2]Miners' Federation : *Statement of Case.*
[3]Referred to in *Wages in the Coal Industry* by J. W. Rowe at p. 122.

Lowes Dickinson to the Coal Mines Department at the end of the First World War.

The national agreement sought by the Federation and consistently rejected by the Association throughout the 'thirties was one which would establish a national minimum percentage but which, in view of geological and economic differences between the various fields, and even between the pits on the same field, would leave the settlement of actual price lists for individual collieries in the hands of the district boards. This would have required the formation of a national body as well as the retention of the district boards. In fact, this would have brought the negotiation machinery into line with that already adopted in most of the other major industries.

Even before wartime needs took charge there were signs that the Federation demands could not be withheld indefinitely. A general coal strike in 1935 for uniform increases in shift rates was averted by pressure from the Secretary for Mines in bringing the parties to negotiation. Whilst the Association refused in the settlement to depart from the principle that wage rate increases should be on a district basis it did concede something to the Federation view by agreeing "to co-operate with the Mineworkers' Federation in setting up a Joint Standing Consultative Committee for the consideration of all questions of common interest and of general application to the industry not excluding general principles applicable to the determination of wages by district agreements."[1]

The Federation accepted the proposal and the committee consisting of eight representatives of the Association and the same number from the Federation, met for the first time, in 1936 and continued to meet about four times a year. Prior to the outbreak of war, however, proposed legislation affecting the industry and welfare questions were the principal subjects of discussion and all attempts by the Federation members to introduce the question of wage rates were frustrated.

In 1940 the Association for the first time agreed to consider

[1]Quoted by H. Dickie in *The Coal Problem* at p. 138.

a miners' bonus on a national basis. Even then it was careful to explain that this was done on the analogy of the last war and did not necessarily indicate a change of attitude.

With the signing of the Essential Work (Coal Mining Industry) Order[1] on the 15th May, 1941, the determination of wage rates assumed a new significance. The scheduling of collieries was dependent on the Minister of Labour and National Service being satisfied with the terms and conditions of employment whilst scheduling carried with it a guaranteed minimum wage.

The production of coal and consequently industrial relations became matters of immediate concern to the State. On 3rd June, 1942, the Government published a White Paper[2] on the control and organisation of the industry and, after discussion with the industry, appointed, on 5th June, a Board of Investigation to inquire into certain wage issues and "into the present machinery and methods of determining wages and conditions of employment in the industry."

On the immediate wage issues, the Board of Investigation recommended increases for underground work and the pegging of the percentage additions to basis rates in order to prevent diminution of those increases by any subsequent fall in the additions. It also recommended an output bonus and the adoption of an overriding minimum wage of 83s. a week (the Federation had sought 85s.) for adult underground workers.[3] These recommendations were accepted by the Government.

The board's report on the industrial relations machinery was presented early in 1943 and outlined a scheme not as an emergency measure for wartime conditions but one which, the board hoped, took fully into account the special features of organisation in the coal mining industry and would "provide an effective method of dealing with questions arising in the industry for the settlement of which no satisfactory machinery

[1]Statutory Rules and Orders, 1941, No. 707.

[2]Cmd. 6364.

[3]*Ministry of Labour Gazette*, July, 1942, p. 134.

has previously existed."[1] The report outlined the salient features of the scheme as follows :

(1) It provides a comprehensive method of settling all questions of a national character ;

(2) It leaves purely district questions to be dealt with by district conciliation machinery, thus avoiding interference with the principle of district autonomy which is a fundamental element in the structure of the industry ;

(3) It provides for the transfer from district conciliation machinery to . . . national machinery . . . of any district question the special importance of which makes such a transfer desirable ;

(4) It provides for the immediate settlement of proper conciliation machinery for the final settlement of purely district questions, such machinery where not already in existence to be established by special district agreements made for the purpose and to comprise certain minimum requirements which the Board considers to be necessary for its efficient working.

The central machinery recommended was a National Conciliation Board consisting of a Joint National Negotiating Committee and a National Reference Tribunal. The former was to comprise 22 members, one half nominated by the Mining Association of Great Britain and the other half by the Mineworkers' Federation of Great Britain. The Tribunal was to consist of three permanent members appointed by the Master of the Rolls (or by a Lord Justice of Appeal nominated by him) after consultation with the Association and the Federation. These members were to be appointed for a period not exceeding five years and must not be associated with the industry or be members of either House of Parliament except in the case of a member of the House of Lords by virtue of judicial office.

The jurisdiction outlined for the National Conciliation Board

[1]Third Report of the Board of Investigation into Wages and Machinery for determining Wages and Conditions of Employment in the Coal Mining Industry. H.M. Stationery Office. Summarised in *Ministry of Labour Gazette*, April, 1943, pp. 47-8.

comprised all matters of a national character, and questions referred by the Minister of Fuel and Power. The National Tribunal was to have exclusive jurisdiction in relation to questions of interpretation of (*a*) the Conciliation Scheme itself, (*b*) any award or decision given by the Tribunal, and (*c*) any award, decision or recommendation relating to a question of a national character (not being an agreement between the two national associations), in force prior to the operation of the scheme. In addition the Minister of Fuel and Power could refer matters specifically to the tribunal for decision or report. Whilst these matters were to be within the exclusive province of the tribunal, that body was required to take into consideration the views of the members of the negotiating committee before giving a decision.

All other matters coming before the National Board were to be discussed by the negotiating committee with a view to settlement. Failing settlement within five weeks or such longer time as might be specially determined, the matter was to be referred to the National Tribunal sitting with assessors, for final decision which would be binding upon the national and district associations of employers and workers and those associations would become responsible for observance by all employers and workers affected whether associated or not.

The Scheme provided for district questions to be dealt with in accordance with the existing conciliation agreements. The report contained as an appendix a model form of district conciliation agreement and recommended that where no suitable agreement was in force in any area at a certain date after the introduction of the Scheme, the Negotiating Committee or, failing agreement, the National Tribunal, should establish conciliation machinery for the area. A district conciliation agreement would not be suitable unless it made provision for (*a*) a district conciliation board, (*b*) a district referee to whom would be referred questions which the district board failed to settle, (*c*) settlements of the district board and decisions of the district referee to be binding on the district associations and

their members, and (*d*) the transfer of district questions to the National Board in accordance with the Scheme.

The report proposed that district questions should be transferred to the National Board and dealt with by that Board in the same manner as national questions in the following cases:

(*a*) where both sides of the district conciliation board concerned resolve that the question be transferred;
(*b*) where the Negotiating Committee so resolves;
(*c*) where the National Tribunal, on reference to it by either side of the Negotiating Committee, decides that the question is likely to affect, or extend to, other districts or to assume an importance beyond the district concerned or seriously to affect the national interest;
(*d*) where, in the case of a matter which has been referred to the district referee by either side of the district conciliation board the referee decides as in (*c*); or
(*e*) where the question arises from failure to agree as to the making or revising of an agreement in relation to wages or conditions of employment in the district, and either or both of the national associations at the request of either or both of the district associations concerned required the question to be referred to the National Board.

The report did not outline procedures for pit questions prior to the stage of discussion under district conciliation agreements, but proposed that national and district organisations of employers and workers in the industry should be under an obligation to introduce, as soon as possible, improved methods for dealing with pit disputes. The Scheme covered the revision and recision of settlements effected through the Negotiating Committee and of awards and decisions of the National Tribunal, owing to changed circumstances; the incorporation of settlements, awards and decisions in the individual contracts of employment; arrangements for the adoption of the Scheme by non-federated employers; and the obligations of the parties to prevent stoppages of work while a question was being dealt with under the Scheme.

Prior to publication of the report the Mining Association and the Mineworkers' Federation announced their approval of the Scheme and although objections were raised at a later date in respect of its effect on an agreement of 1940 in Northumberland and Cumberland the Scheme was put into effect in May, 1943.

In its fourth award[1] issued on 22nd January, 1944, the Tribunal increased the national minimum wage for adult underground workers from 83s. to 100s. per week but rejected a claim for corresponding increases in piece rates. In announcing the award the Tribunal stated that they regarded it as merely a temporary expedient which would afford an opportunity for the wage structure in the coal industry to be reconsidered and thoroughly reviewed in conjunction with the general conditions obtaining in the industry.

This review was undertaken by the parties in association with the Minister of Fuel and Power who was able to exert considerable influence through control of the Coal Charges Account. On the 20th April an agreement[2] was signed between the Mining Association and the Mineworkers' Federation to govern wages in the industry for the next four years. The principal effect of this agreement was to suspend the existing ascertainment agreements and merge the percentage additions then payable into consolidated day and piece rates to which increases were made in respect of certain workers. The district output bonus scheme which operated since September, 1942, was discontinued. These changes did not, of course, affect the national minimum wage established by the National Tribunal.

The fixed term of four years for the agreement was an attempt to allay the fears of the miners about the post-war position and the parties agreed that during its currency no variation would be sought in the existing rates as modified by the agreement.

Following their sweeping success in the general elections in

[1] *Ministry of Labour Gazette*, February, 1944, p. 23.
[2] *Ministry of Labour Gazette*, May, 1944, p. 75.

July, 1945, the Labour Government lost no time in implementing the party's election promise to nationalise the industry. Although it was not until 1st January, 1947, that the mines were actually vested in the National Coal Board, the part which employers could be expected to play in the industrial relations arrangements after 1945 was only a nominal one. During this period the real responsibility passed to the Cabinet Room at Westminster. When making an announcement in the House of Commons on 26th June, 1946, the Minister of Fuel and Power, referring to the proposal of the Mineworkers' Federation for a five-day week in coal mines, set out the position as follows :[1]

> "It is clear that the present owners could not be expected to undertake the responsibility for negotiations with the union on a major issue of this kind, on which any agreement reached must have far-reaching effects on the future working of the industry for which they will bear no direct responsibility. Nor are the members designate of the National Coal Board, which has not been and cannot yet be legally constituted as such and has not yet the necessary staff, in a position to embark on such negotiations. On the other hand, in the Government's view, an early announcement on this issue is essential.
>
> "Accordingly, I take this opportunity of announcing that the Government offer no objection in principle, provided that arrangements and conditions can be established with the full co-operation of the miners, to an organised five-day week of a kind which will secure the output of coal which is necessary to meet the country's needs."

This did not mean that the Government was prepared to be saddled for longer than necessary with the regulation of conditions of work, as the Minister went on to explain :

> "While the Government offer no objection to the proposal in principle, . . . the working out of the scheme in detail, including the date of application, is a matter to be undertaken within the industry itself, and will proceed as soon as the Coal Industry Nationalisation Bill becomes law and the National Coal Board is constituted."

[1] *Ministry of Labour Gazette*, July, 1946, p. 185.

The Coal Industry Nationalisation Bill[1] became law on 12th July, 1946, and the National Coal Board (the members of which had been announced on 7th March, 1946) assumed office on 15th July. The Act does not itself establish dispute machinery but imposes a duty on the board to make arrangements in this regard. Section 46 reads as follows :

> "46–(1). It shall be the duty of the Board to enter into consultation with organisations appearing to them to represent substantial proportions of the persons in the employment of the Board, or of any class of such persons, as to the Board's concluding with those organisations agreements providing for the establishment and maintenance of joint machinery for :
>
> (*a*) the settlement by negotiation of terms and conditions of employment, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements ; and
>
> (*b*) consultation on :
>
> (i) questions relating to the safety, health or welfare of such persons ;
>
> (ii) the organisation and conduct of the operations in which such persons are employed and other matters of mutual interest to the Board and such persons arising out of the exercise and performance by the Board of their functions.
>
> (2) The Board shall deposit with the Minister and the Minister of Labour and National Service copies of any such agreement as aforesaid entered into by the Board and of any instrument varying the terms of any such agreement."

On the 5th December, 1946, the National Coal Board entered into two agreements with the National Union of Mineworkers[2] dealing respectively with conciliation machinery and the continuance of existing wages and conditions agreements.

In the first[3] the parties agreed to continue the Conciliation Scheme established in 1943 with such modifications only as

[1] 9 and 10 Geo. 6, Ch. 59.

[2] The Mineworkers' Federation of Great Britain was reconstituted as the National Union of Mineworkers on 1st January, 1945.

[3] *Ministry of Labour Gazette*, January, 1947, p. 10.

were necessitated by the substitution of the members of the National Coal Board for the employers' representatives on the Negotiating Committee. The parties also undertook to enter into formal agreements adopting the terms of the district conciliation agreements with suitable modifications. The only new feature in the conciliation arrangements is the formal acceptance of set procedures for dealing with pit questions prior to the stage of discussion at district conciliation boards. These procedures follow the practices adopted prior to nationalisation and already outlined, of discussion between the workmen concerned and the pit official and between the trade union officials and the colliery management.

In the second agreement,[1] which is expressed to take effect on the day the mines actually vest in the National Coal Board, the parties adopted the existing wages and conditions agreements including the wages agreement of 1944. In that agreement the Mining Association and the Mineworkers' Federation, as the contracting parties, had undertaken that the requisite six months' notice of termination would not be given before the 31st December, 1947. Notwithstanding this provision the agreement of 5th December, 1946, freed the Board and the Union to enter, after the "vesting date" (1st January, 1947), into an agreement for "new scales of wages and a new wage structure" in the industry.

The National Coal Board has thus inherited as going concerns the conciliation and wage arrangements of private enterprise with freedom of negotiation in relation to the latter. On the surface, therefore, nationalisation would seem to have involved merely a change in one of the negotiating parties. But beneath the structure of industrial relations are new influences.

The first of these is the psychological effect on the miners of achieving a long-cherished ambition. Much of the friction between the miners' and the employers' organisations over the last thirty years can be traced to some extent to frustration on the one hand and fear on the other. In such an uneasy partner-

[1] *Ministry of Labour Gazette*, January, 1947, p. 11.

ship the best conciliation machinery could not have produced satisfactory results. The very gesture of nationalisation, therefore, will produce a new atmosphere.

At the same time it holds a new danger. The realm of managerial control is more readily conceded to private ownership than to a public instrumentality. The miners' political strength can now be added to their industrial power not only to enforce demands but to influence management. It seems likely that some of the most difficult questions which will arise for settlement in the early days of state ownership will turn on the degree of independence to be accorded to the National Coal Board in managerial matters. A rigid attitude by the Board with Government support will undoubtedly bring disillusionment to the miners.

The solution would seem to lie in the Board taking the Union into full confidence in relation to the problems of the industry. Whilst managerial efficiency will call for the Board's loyalty to its officials, there is wide scope for identification of the workers and their officials with that efficiency.

The success of such a policy will depend not only on the tact of colliery managers, but on the Board's recognition of the importance of the individual pit and its willingness to concede to pit committees new functions and a new status.

CHAPTER III

The Iron and Steel Industry

FROM THE POINT OF VIEW of industrial peace, this has been one of the model industries of Great Britain. A spirit of goodwill has characterised the working of the several forms of conciliation machinery which the various branches of the industry adopted. These forms have, in recent years, tended towards greater standardisation, as a result of the relative growth of the heavy steel trade which has aided the process of unification of employers' federations and workers' unions. Unlike the coal mining industry, the relations between the national associations have been amicable and the history of mutual understanding and habit of joint action has earned for the industry the reputation of being the "brightest spot in the country's industrial relations."[1]

This is partly attributable to the high proportion of skilled men in the industry who earn comparatively big wages and fear, more than anything else, the invasion of the unskilled which might result from industrial dislocation. Equally, but by no means unconnected with that feature, industrial peace has been assisted by the use of the selling price sliding scale to adjust wages automatically with the prosperity of the trade.

Although not unique to iron and steel in early years the selling price sliding scale survived only in this industry and in certain minor quarrying work up to 1940. Prior to that date it played a prominent part in all branches of the industry with the exception of the specialised work at Sheffield and the steel sheet trade, and controlled the wages of over 80 per cent. of all

[1]British Wages, Trade Promotion Series, No. 42, Washington, D.C., 1928, p. 10, referred to in Chang : *British Methods of Industrial Peace*, p. 257.

iron and steel workers. It can, therefore, be treated as a general feature of the industry.

SELLING PRICE SLIDING SCALES

The earliest scales based on selling price seem to have come from the Staffordshire district.[1] From their inception they were attacked by the unions, who suspected them of being new weapons directed against them by the employers. The workers' objections were, in the main, threefold. Firstly, they accused the scales of paying no attention to important factors influencing returns, such as increased consumption of the product, leading to increased profits, without affecting prices. Secondly, they contended that, besides the whole basis of the scale being arbitrary, the employers had the rise and fall about the normal wage in their own hands. For when at their quarterly meetings they fixed the future price of iron, they did so, not really as the price at which they would sell it, but the price at which they would purchase labour. Finally, the workers rebelled against fluctuations in wages, preferring regularity to higher but less stable earnings.

The introduction of sliding scales was, therefore, effected in the teeth of opposition from organised labour. But when the basis of the scales began to be negotiated and not arbitrarily imposed, these objections disappeared.

The pre-war agreements embodying scales usually provided that every three months or less, the books of certain key firms, or if need be of all firms, would be examined by independent auditors pledged to secrecy, and the net average selling price for the previous quarter of some specified product, usually the standard output of the process, be ascertained. So the average for January, February and March was ascertained in April to fix the wages for April, May and June. The agreements provided for wages to be increased or decreased by a specified amount for a specified rise or fall in the selling price, but these

[1]Schulze-Gaevernitz: *Social Peace*, p. 221.

fluctuations only affected wages above a fixed rate, that rate being payable as a minimum wage.

The changes in individual wages were made without reference to the parties. Giving evidence before the Industrial Council in 1913, the chairman of the northern board of conciliation and arbitration described the application of the scale changes, as follows :[1]

> "The sliding scale works quite automatically. We never tell the men when there is an advance or reduction. We simply alter the books. They are informed by their secretary and we by ours. The books are automatically adjusted from that certain pay day and never questioned."

The advantage of this was that it avoided constant bickering over wage changes with each alteration in the prosperity of the industry. But it did not eliminate the need to negotiate regularly on wage matters. The individual wages were ascertained by mathematical processes, but the scale itself must first be fixed by the associations and varied by them, from time to time, according to their respective strengths in collective bargaining. These negotiations must settle, firstly, the question of the normal or basis wage rates and selling price to be adopted and, secondly, the proportionate changes of wages to selling price. In practice, the fixing of basis rates was dominated by historical rather than by economic or abstract reasoning as shown by the custom of accepting as basic, the wages of a certain year. The fixing of the actual scale involved greater difficulties. The proportions which were agreed upon were not always constant. Many agreements provided weighted or graduated scales designed to increase the lower out of proportion to the higher wages.

The adoption of a selling price scale, therefore, necessitated a considerable amount of joint action. But once fixed, it gave stability to joint action by reducing the number of general wage disputes which required settlement.

The selling price sliding scale has potential dangers both for

[1]Reply to question 8875, Cmd. 6952 of 1913.

the consuming public and, over the long term, for the workers themselves. It is a device which has for some time been generally frowned upon by the trade union movement. It was, however, not on this account but because of the difficulties of maintaining the technique during wartime conditions which influenced the negotiations early in 1940 resulting in agreements in most districts and sections of the industry for the selling price sliding scales to be stabilised for the war period and cost of living scales to be introduced.

NEGOTIATION AND CONCILIATION

The so-called iron and steel industry is an aggregation of a large number of different processes which begin with the mining of iron-ore and end with those specialised trades more strictly of an engineering nature but which the growth of integration in recent years has associated with steel production.[1] From the point of view of negotiation and conciliation practices, however, the industry can be divided into five processes. These are :

(1) Iron ore mining and ironstone quarrying.
(2) Manufacture of pig iron.
(3) Manufacture of wrought iron.
(4) Steel production.
(5) Tin plate and sheet manufacture.

Each process has its own specialised workers, who formerly were organised in separate unions. Since the formation of the Iron and Steel Trades Confederation in 1917, the workers in the manufacturing side have been largely united into two bodies, the Confederation and the National Union of Blastfurnacemen.

(1) *Iron Ore Mining and Ironstone Quarrying*

Prior to the change in technique in iron smelting and steel manufacture, brought about by the Thomas-Gilchrist process,

[1]See diagram on p. 2 of Survey of Metal Industries by the Committee on Industry and Trade, 1926. Also Report on Socialisation of the Iron and Steel Industry, at p. 189 of the 1934 Trade Union Congress Report.

which developed the phosphoric fields of Northamptonshire and Lincolnshire, the main sources of iron ore were the Cleveland district of Yorkshire and the County of Cumberland and it was these fields that pioneered joint action for the settlement of disputes.

Cleveland

In this district, the proximity to the large coal mining area was responsible for the reproduction in iron mining of the conciliation practices of the Durham coal industry. This was undoubtedly assisted by the fact that, until the end of the last century, a large proportion of iron ore mines were owned by Durham mine owners.[1]

The joint committee for the ironstone mining industry of Cleveland and North Riding was established in 1873. Its objects were, and for that matter still are, "to arbitrate, appoint arbitrators or otherwise settle all questions (except such as may be termed district questions or questions affecting the general trade) relating to wages, practices of working or any other subject which may arise from time to time at any particular mine and which shall be referred to the consideration of the committee by the parties concerned."[2]

In its working, it differed little from the Durham coal mines committee apart from the absence of a permanent independent chairman. The Cleveland chairman was appointed at each meeting from among the employers' representatives, and was without a casting vote. The committee consisted originally of 12 members, six appointed by the Cleveland Mine Owners' Association and the same number by the North Yorkshire Cleveland Miners' Association (now merged into the National Union of General and Municipal Workers, the local branch of

[1]See evidence of H. Bell in replies to questions 1430 and 1432 in Minutes of Evidence taken before Group "A" of the Royal Commission on Labour, Cmd. 6708 of 1892.

[2]See Rules and By-laws of the Joint Committee of the Cleveland Mine Owners' and Miners' Associations in Appendix II to the evidence taken before Group "A."

which continues the functions of the Association in respect of the committee). In the case of equality of votes which occurred in about a third of the cases up to 1893,[1] the matter was referred to two so-called arbitrators, one chosen by the members of each side present at the meeting. The arbitrators, if unable to agree, appointed an umpire whose decision was final.

Though the rules of the committee provide for the hearing of local questions, leaving general matters to direct negotiation, in practice, any matter, whether local or general, was, until recently, dealt with by the members of the committee. The same routine has been observed in dealing with difficulties at a mine or quarry as prevailed in the coal mines, viz., the receiving of a deputation by the owner or manager accompanied, if desired, by the local union secretary, and upon refusal of the demand an application filed for the summoning of the joint committee, seven days' notice being sent to the owners' secretary.

The ironstone mining industry of Cleveland worked well under this procedure, there being a record placed before the Royal Commission on Labour in 1892 of no strike or lockout since 1874.[2] The problems confronting the joint committee were not nearly as numerous as in either of the nearby coal mining centres. On an average, the committee met five times a year, and in 1890, disposed of 29 cases, five being referred to the joint secretaries, two withdrawn, four remitted to individual firms for adjustment and the remaining 18 being settled after discussion or arbitration by miners and owners. On two occasions only was it necessary to call in the services of an umpire.[3]

The success of the committee was due to the comparative compactness of the area and a continuity in officials and membership of the committee. The rules of the Miners'

[1]Schulze-Gaevernitz : *Social Peace*, p. 208.

[2]Evidence of J. Toyn.

[3]Evidence of J. Dennington before Royal Commission on Labour, 1892.

Association which was founded on January 13th, 1872, gave the most prominent position in its objects to peaceful activities rather than strike action, and in furtherance of this policy conducted a minute examination of complaints by its members before they were submitted to the committee.

A selling price sliding scale was first adopted by agreement between the two associations in 1879, and regulated wages until 1899. After 1901, wages were varied in accordance with the price of pig iron, and though no formal conciliation board was formed, quarterly meetings of the executives of the two associations considered wage questions and other general matters without the need to resort to arbitration. On the Minimum Wage Act becoming law in 1912, the joint committee referred to above was recognised as a Joint District Board and proceeded to fix basis rates per shift for men on time work in each occupation. The practice prior to 1940 was for the officials of the owners' association and the local branch of the National Union of General and Municipal Workers to hold their quarterly meeting immediately following the ascertainment of the selling price per ton of pig iron, which regulates the wages of blastfurnacemen in the district, and in the light of this ascertained price, to fix the percentage addition to the abovementioned basis rates established by the Joint District Board.[1] The procedure was entirely informal and required no set machinery since the price of pig iron was already ascertained by the independent accountants for the purpose of the blastfurnacemen's scale.

Cumberland

Here, the association with coal mining has been less complete. From the 'nineties, a board of conciliation for the Cumberland iron ore trade has existed "to consider and decide all questions affecting the interests of the employers and employed constituting the board with regard to wages, due

[1]Ministry of Labour Report on Collective Agreements, 1934, p. 86.

consideration being given to the locality of each mine and to its condition and character."[1]

The board consisted of a workers' representative and a managerial representative from each mine or quarry. The managerial representatives provided a president and one secretary and the workers a vice-president and a secretary. A neutral chairman was elected to exercise a casting vote if required. For handling local disputes, the board, at its annual meeting, appointed a joint committee with power to delegate to sub-committees in special cases.

The rules of the board elaborated the procedure to be adopted in the event of a difficulty arising, as follows :

> "On a local dispute arising at any mine it shall be the duty of the employers' and workmen's representatives at such mine to meet and discuss the same with a view to mutual settlement. Should they fail to agree, the party aggrieved shall then communicate with the secretary representing their side on the board, requesting a meeting of the joint committee to consider the matter in dispute. Should either party to a local dispute feel aggrieved by the decision of the committee, or should the committee fail to agree, the matter in dispute shall be referred to the neutral chairman for settlement."

The joint committee or the neutral chairman had power to appoint an independent inspector approved by both parties to examine and report on the conditions bearing upon the dispute.

Questions respecting the adjustment of district wages were dealt with by the full board at its annual or at special meetings or, in the event of disagreement, by the neutral chairman who, after considering the evidence from both sides, gave his decision either "by his casting vote or in the form of an award which shall be final and binding on both parties."

In the case of both bodies, voting was by show of hands, the decision of the majority binding all parties. But if there were

[1]1907 Report on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees (Cmd. 3788).

more members present on one side than the other, the rules precluded the extra members from voting.

The board having lapsed during the 1914-1918 war, a similar body was formed by agreement entered into in December, 1919, by the Cumberland members of the West Coast Haematite Iron Ore Proprietors' Association and the Cumberland Iron Ore Miners' and Kindred Trades Association (since amalgamated with the National Union of General and Municipal Workers). The functions of this board included deliberations not only of wages but of all conditions of employment, with the following limitations :

> "Neither the board nor the joint committee shall have jurisdiction over questions relating to the owners' methods of working and managing the mine or mines."

Except where thus enlarged, the rules and constitution of the older board and its joint committee were taken over in whole.

Some new rules have, however, been added, as for example, rule 16, which reads :

> "If any manager or foreman stop a workman or workmen from working without legal notice and it is afterwards decided by the board that he was not justified in doing so, the employer shall make good the wages of such workman or workmen, provided the application by the workman or workmen is made to the board within 10 days after the dismissal, but it must be clearly understood that all workmen carry out the foreman's or manager's instructions as to mode of working so as to secure the best results from the mine."

The same rule also penalises unwarranted action by the workmen :

> "If any workman or body of workmen represented on this board throw down his or their tools, or suddenly cease working without having given a proper legal notice, he or they shall be fined 20s. or be immediately discharged and be liable to prosecution at the option of the employer, but in no case shall a man or men be both fined and prosecuted."

The Union undertakes to give no support whatever in such

cases, but will "afford all such assistance as may be possible to secure the efficient carrying out of the rules."

In addition to the rules and constitution of the board, the 1919 agreement introduced the selling price sliding scale for the regulation of wages. This part of the agreement has naturally been altered from time to time, sometimes by agreement but more often as a result of an award by the neutral chairman. Each agreement or award, however, has been similar in providing for bi-monthly ascertainments of the open market price of certain qualities of ore upon which price the wages of all workers in iron mines within the board's jurisdiction are determined above the minimum wage per shift.

Other Mining Areas

In districts outside Cleveland and Cumberland where iron ore mining or quarrying is carried on, the regulation of working conditions and the settling of disputes is mostly within the scope of the various agreements for blastfurnacemen in the district. This is so in the case of Northamptonshire and North Lincolnshire, while iron ore miners of the rest of Lincolnshire and Leicestershire are included within the scope of the Nottinghamshire blastfurnacemen's agreements.[1]

(2) *Pig Iron Manufacture*

The process workers in this branch of the industry, the blastfurnacemen, are strongly organised throughout Britain in the National Union of Blastfurnacemen, Ore Miners, Coke Workers and Kindred Trades, and to a small extent by local unions.

Towards the end of the last century, in a few of the iron manufacturing districts, wages of blastfurnacemen were determined by the conciliation boards dealt with in the next section. In most cases, however, pig iron manufacture remained a separate unit, and independent tribunals were evolved to deal exclusively with wages and other conditions of work at blast-

[1]See below under (2) Pig Iron Manufacture.

furnaces. Because of the early unionisation of blastfurnacemen, this joint action, unlike the wrought iron boards, has been of association rather than of furnace representation.

Wages in all districts have been regulated since the beginning of the present century, and in many cases much earlier, by selling price sliding scales fixed, in all but one district, on the price of pig iron ascertained by quarterly audits. The exception is South Wales, where the price of steel rails and steel tin bars have been used as the basis, because in that district blastfurnacemen as well as iron and steel workers are covered by the same series of agreements.[1]

Except in South Wales, each district is regarded as a separate unit in regard to the settlement of disputes which is usually provided for in the local agreements by appointment of *ad hoc* joint committees. The rules of the National Union of Blastfurnacemen require their members who have a serious cause of complaint to work under protest until the matter has been dealt with by the joint machinery available in the district, and under no circumstances to down tools before exhausting this machinery.

Cleveland and Durham

Up to 1879, wages, and all other matters, were negotiated independently in each works. In that year, a sliding scale was introduced. Like most early scales considerable adjustment and alteration was needed before some degree of stability was reached. Seven scales were tried between 1879 and 1897 before a basis was fixed which remained practically unchanged until after the 1914-1918 war. Each scale was initiated by agreement between the Cleveland Ironmasters' Association of the one part, and the representatives of the members of the Blastfurnacemen's Association (now the local branch of the National Union) employed at the associated works, of the other part.

[1]See below under (4) Steel Manufacture.

These agreements invariably contained a general clause in the following words :[1]

> "Should any dispute arise as to the carrying out of any of these arrangements or as to the rates of wages at particular works, the question in difference shall be submitted to the decision of a committee comprising not more than six iron masters and not more than six blastfurnacemen, who, if they cannot agree, shall appoint an umpire to settle the matter, but no alteration shall, during the currency of this agreement be made in the rates now prevailing at any of the works of the iron masters, parties hereto, unless such alteration is sought on the ground of the working conditions or the working appliances having changed."

This clause was repeated in the agreement dated November 16th, 1919, under which the Cleveland-Durham district worked in the period between the two world wars.

Cumberland and North Lancashire

The West Cumberland joint committee was the result of agreement between the West Cumberland Iron Masters' Association and the Cumberland division of the National Federation of Blastfurnacemen. It was in existence before 1892,[2] but it was not until the sliding scale agreement of 23rd April, 1903, that it received written constitution. Under that agreement, it existed "to settle all questions relating to wages or matters of dispute arising at any works." In the latter function, it only came into operation upon the breakdown of discussion at the works itself between the manager and workers' agent, but successful arrangements were reported to, and registered by, the committee. Wage disputes were sent direct to the joint committee.

[1]See, for instance, Agreement dated 7th December, 1897, Report on Collective Agreements, 1910, Cmd. 5366, pp. 63-5.

[2]See evidence of P. Walls on behalf of the Cumberland Branch of the National Association of Blastfurnacemen given before the Royal Commission on Labour, 1892.

This committee consisted of an equal number of representatives of each side, varying from time to time according to the number of works or furnaces affected, with a chairman, vice-chairman and joint secretaries elected annually. Questions had to be raised seven days before each meeting except in the cases of emergency when the chairman and secretaries might bring foward a matter without prior notice. The interpretation of emergency was a question for the committee, but any matter so raised could not proceed further than discussion unless half the works having furnaces in blast were represented at the meeting.

The chairman had no casting vote, and on equality of votes each side nominated an arbitrator with power to call in an umpire if necessary. Applications by operatives for wages for wrongful dismissal must be made within ten days and in the event of a claim being upheld by the committee, the employers collectively undertook to make good the wages lost. On the other hand, the worker ceasing to work without legal notice might be fined by the committee 5s. or be immediately discharged at the employers' option. The National Federation of Blastfurnacemen undertook to give no support to such defaulters but to assist the efficient operation of the works.[1]

A similar body existed until 1919 in the Barrow-in-Furness district. By an agreement dated December 12th of that year, the two districts united and have since worked under one scale and one joint committee. An agreement dated January, 1923, made the ascertainment of selling price by the joint auditors, previously performed quarterly, a bi-monthly function and thereby increased the regular meetings of the joint committee to six each year.[2] The position existed up to the commencement of the general agreement for blastfurnacemen in May, 1940, referred to later.

[1]See Rules of Joint Committee extracted from the 1903 Agreement at pages 146-7 of the Second Report on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees, Cmd. 5346 of 1910.

[2]Ministry of Labour Report on Collective Agreements, 1934, p. 133.

Nottingham District

A board of conciliation for the furnaces and ironstone quarries in the Nottingham District regulated wages by means of a sliding scale as from April 1st, 1906, at certain blast-furnaces around Nottingham. Its operations have been limited to wage determinations only, and for this purpose appoints a standing independent chairman or, on disagreement over the appointment, requests the Speaker of the Commons to nominate a chairman.[1]

Questions are first considered by the board without the presence of the chairman, and only on failure to agree persisting at an adjourned meeting held within 21 days after the first reference to the board, is the chairman called upon to give a casting vote or, if he thinks fit, to refer the matter back to the board with or without any expression of his opinion. Upon a matter being so returned, either party may submit amended proposals at the next meeting held within seven days, and in the event of continued deadlock, the chairman is again called in.

The basis of the working of this board prior to 1940 has been an agreement made between the individual owners and the National Union of General and Municipal Workers in 1919, which, in addition to continuing the rules of the board, set out a fresh scale applicable to both quarrymen and blastfurnacemen as from February 1st, 1920. At that date, it applied to the blastfurnaces of four firms and the quarries belonging to six firms "and such other blastfurnaces and quarries as, with the consent of the board, may desire to come within its jurisdiction."[2] Though under it ascertainments of price and adjustments in wages were to be made quarterly, since January, 1925, the reductions warranted by the auditors' reports have not always been enforced.

[1]See Rules in 1910 Report on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees, p. 148.

[2]1934 Report, p. 138.

Scotland

The board of conciliation for the regulation of wages in the pig iron trade of Scotland regulated furnacemen's wages in that country from 1st May, 1900, until 1938. Its constitution remained materially unchanged over the thirty-eight years. It is the one case where works representation was exclusively adopted in pig iron manufacture. The representatives of the owner and of the furnacemen at each iron works were elected annually in December and were paid for their services. The board had jurisdiction in respect of two matters, wages and questions of friction between workers likely to lead to a stoppage of work. The latter jurisdiction arose from the following rule:

> "The owners will employ union and non-union men impartially and no union member or official shall use threats or violence to influence any other workman to join the union who has conscientious objections against doing so. Every union workman who elects to work in any ironwork shall on giving the usual notice be free to leave the employment, but while he remains in the employment he shall work in harmony with the non-union men. In the event of friction arising between workmen from any cause, the parties reserve freedom of action, but before any collective action is taken on the part of workmen to leave the employment, the matter shall be brought before the board and an attempt made to have it adjusted."

Questions within the board's province were referred directly to it. The rules required the secretaries, who were jointly appointed, to convene a meeting within fourteen days of receipt of the written application of the chairman and vice-chairman (the one an employer and the other a furnacemen's representative). If the parties failed to agree at the first meeting it was adjourned for fourteen days to allow the matter to be discussed by the constituents. At the second meeting a neutral chairman might be nominated if both parties agreed to such course. Within fourteen days thereafter a third meeting was held, presided over by the neutral chairman and his decision,

given in the event of continued disagreement, was "final and binding on both parties."

When a vote was taken on any matter, each representative had as many votes as works represented by him but no vote was recorded for any works unless the vote of the representative of that works on the other side had also been given.

Notice to terminate their connection with the board was given by the workers towards the end of 1938. This involved also the termination of the sliding scale agreed upon in December, 1920. So far no alternative standing machinery has been adopted, and wages have been fixed by direct negotiation with the union and varied in accordance with the cost of living scale.

Northamptonshire

It was stated[1] by the Secretary of the National Federation of Blastfurnacemen before the Industrial Council in 1913 that Northamptonshire was the only district not covered by agreements or arrangements for conciliation and arbitration in the case of disputes involving furnacemen. Since then, however, this district has been brought into line with the more important areas. The principal agreement in force prior to 1940 was dated October 20th, 1930, and although made nominally between representatives of employers and of employed as such, it is countersigned on behalf of the Northamptonshire Blast Furnace Owners' Association, the Northamptonshire and District Mine Owners' Association, and the National Union of Blastfurnacemen and the National Union of General and Municipal Workers.

That agreement was primarily a sliding scale agreement covering all classes of workers about the furnaces and in the ironstone mines and limestone quarries including "Locomotive men and men engaged on slag breaking plant, and also men engaged in maintenance work." The scale was applied after quarterly ascertainments made by a firm of accountants

[1]P. Walls : Minutes of Evidence, Cmd. 6953, 1913, at p. 125.

who were named in the agreement or by some other firm mutually agreed upon or, in default of agreement, by a firm nominated by the Board of Trade.

Any differences arising out of the agreement were referable to "the existing (or any substituted) sliding scale committee composed of an equal number of employers and workmen appointed or to be appointed by the employers and workmen, respectively, who if they cannot agree shall appoint an arbitrator whose decision shall be final and binding on both parties. If the parties cannot agree upon an arbitrator he shall be appointed by the Board of Trade." Clause 9 of the agreement stipulated that "there shall be no lockout or strike either by the employers or workmen during the continuance of this agreement."

North Lincolnshire

The sliding scale agreement dated October 2nd, 1918, made between representatives of ten firms and of all classes of their employees contained a general clause for the settlement of any disputes arising under it by reference to *ad hoc* joint committees whose composition was to be determined by the parties.

North Staffordshire

Reference of disputes in this area is to a standing joint committee of three employers' representatives and three operatives' representatives in manner similar to the Cleveland-Durham procedure. This procedure was outlined in an agreement dated October 9th, 1899, which has not been superseded, between the North Staffordshire Ironmasters' Association and representatives of the blastfurnacemen at their works. It embodied the usual sliding scale which was, of course, replaced in 1940.

South Staffordshire

Prior to 1920, blastfurnaces in South Staffordshire fell within the working of the Midlands iron and steel wages board.

As a result, however, of an arbitration by the president of that board, a separate scale was fixed for this district on the 18th June, 1920, and, as amended by agreement on the 25th August, remained in effect subject only to alterations from time to time in base rates until the recent war period.

(3) *Wrought Iron Manufacture*

Until the replacement of iron by steel at the end of the last century, the manufacture of wrought iron was the largest branch of the industry. It was also the most adequately covered with conciliation machinery. This took the form of large boards representative not of associations but of the employer and workers at individual works. Each board covered a whole iron manufacturing district and appointed one or more smaller standing committees to deal with questions before they came before the board. The arrangement covered non-unionists and unionists alike, but the form of the representation did not imply the non-recognition of the unions which took a leading part in the workings of the machinery and up to 1907 signed the disciplinary "blue bills" issued against individuals refusing to accept a board's decision.[1]

At the start of this century there were ten boards operating in the wrought iron trade controlling directly some 50,000 workers. Of 342 disputes handled by them between 1897 and 1906 only three resulted in an actual stoppage of work.[2] The principal boards existed in the North of England, the Midlands, South Wales and Scotland.

(*a*) *The North of England Trade*

The history[3] of iron boards begins in Middlesbrough in the 'sixties of last century. The North of England iron trade which

[1]See evidence of W. Thackray before the Industrial Council, reply to question 8999, Cmd. 6955 of 1913.

[2]1907 Report on Rules and Regulations of Conciliation Boards and Joint Committees.

[3]J. Stephen Jeans: *The Iron Trade of Great Britain*, L. L. F. R. Price, *Industrial Peace.*

centres round that town dates from about 1860, but had grown in a few years to the extent of rivalling the older industry of the Midlands. Being new, however, it had no local supply of iron workers and depended largely upon specially imported Irish labourers who picked up the trade as they worked. The absence of loyalties of friendship, of local patriotism and of long service, influential factors of moral restraint, was not counteracted by strong organisation. Such unionism as had existed was annihilated during a four months' stoppage in 1866. During these years the history of the North became one of endless disputes with deeply-ingrained suspicion on the part of the men and complete lack of sympathy and understanding by the masters. To Sir David Dale, an ironmaster of Middlesbrough, the position created by the bad feeling, and perhaps the prospect of lost trade, was intolerable. On his own initiative and at his expense, he sent men to Nottingham to study and report on the working of the board of conciliation established in the hosiery trade by Mundella. Being a man of influence among the ironmasters, Dale was able, upon receipt of a favourable report, to persuade them to repeat Mundella's experiment in the iron trade.

As a result, in March, 1869, a board of arbitration and conciliation for the manufactured iron trade of Northern England was set up. It was composed of two representatives of each works joining the board, one being the employer or his manager and the other a workman, elected directly by all his fellow workmen. After an initial period of suspicion, the local unions which began to spring up supported the authority of the board, and as their strength increased with improved trade, the men's representatives became union officials and it was soon recognised by men and employers alike that the board did rest on union agreement. By 1875, the board was representing 35 iron works and its decisions affected some 13,000 operatives.[1]

In the first instance, questions of difficulty were not referred

[1]H. Crompton : *Industrial Conciliation*, Ch. IV.

to the board, but to a standing joint committee, which investigated and then endeavoured to settle them, but until 1883, had no power to make an award without the consent of the parties, having to refer even local matters back to the board for final decision. Nevertheless even before 1883 the majority of disputes were settled by this standing committee, and appeals to the board were few. With the experience of fifteen years' operation, it was realised that the matters which required the consideration of the board invariably related to the fixing of principles of general import and in particular wage rates, while disputes arising as to the particular application of general rules were best dealt with by the smaller body, especially if that body consisted of men technically acquainted with details of the workings. In 1883, therefore, the rules of the board were altered to give the standing committee full power in all matters not connected with general wage determinations. An umpire was appointed with a casting vote and from committee decisions no appeal could be made to the board.

The immediate effect of the establishment of the Northern board in securing peace and goodwill was little short of miraculous, helped though it was by the prosperity of the early 'seventies. Whereas prior to 1869, stoppages were of annual occurrence, between that year and 1876, the most difficult problem, the wages regulation for the district, had been settled without resort to strike or lockout. In a case submitted to arbitrators in 1876, the employers recorded their satisfaction with the working of the board and, in the words of the document, "most readily accord their opinion that with a few local exceptions which did not affect the general principle, the operatives as a body had been loyal to the rules laid down by the board."[1]

The first sliding scale was adopted by the board in 1872. At first, frequent changes were made in the actual relation between

[1]Quoted by the President of the Board, W. Whitwell, before Labour Commission, 1892.

wages and prices but once the period of experiment was over the scales proved extraordinarily stable. In 1889, a scale was fixed which outlasted the board itself.

By the 'nineties the board had extended its jurisdiction over all the iron works in the Cleveland area, including North Riding as well as the whole of Durham. In West Cumberland and North Lancashire, its authority extended only to general questions, local disputes being dealt with not by the standing joint committee but by local joint committees established either at individual works or in connection with localities. Typical of these was the joint committee formed in 1890 at the Barrow Works, which consisted of three representatives of each side with powers identical to those of the standing committee of the board.

The Northern board met, other than for special purposes, twice a year, in January and July. At the January meeting it elected its officers, namely, a referee, president (from among the employers) vice-president (from among the operatives), joint secretaries, auditors and treasurers, all of whom held office until the following January meeting when they were eligible for re-election. At the same meeting, the standing joint committee was appointed by the nomination of five operatives' representatives and ten employers. Of the latter, five only could attend and vote at any meeting. To these ten ordinary members were added, ex officio, the president and vice-president of the board. At the January meeting, also, any desired alterations to the rules were discussed, provided one month's notice of the alteration had been given in writing to the secretaries.

The rules provided for the disqualification of both employer and operative representatives at the end of one month from the start of a total stoppage at any works, and at the same time they automatically ceased to hold seats on the standing committee and on any other committee connected with the board.

The standing joint committee met once a month, and the average number of cases dealt with per annum between 1882

and 1892 was about 20. In all matters it acted as the executive of the board and had power under the rules to make by-laws not inconsistent with the rules. Under this power, the committee fixed the contribution of the operatives towards the board's expenses at 1d. per head per fortnight to be deducted from wages of all operatives earning 2s. 6d. or more per day, and the contribution of the employers at the sum corresponding to the total amount collected from the operatives.

To its rules, the board appended instructions to be observed in dealing with local grievances. These instructions were reproduced in the case of similar boards formed in the Midlands and in Scotland. Their main sections were as follows :[1]

> "If any subscriber to the board desires to have its assistance in redressing any grievance, he must explain the matter to the operative representative of the works at which he is employed. Before doing so, he must, however, have done his best to get his grievance righted by seeing his foreman or the manager himself. The operative representative must question the complainant about the matter and discourage complaints which do not appear to be well founded. Before taking action, he must ascertain that the previous instruction has been complied with.
>
> "If there seem good grounds for complaint, the complainant and the operative representative must take a suitable opportunity of laying the matter before the foreman or works manager or head of the concern (according to what may be the custom of the particular works). Except in case of emergency, these complaints shall be made only upon one day in each week, the said day and time being fixed by the manager of the works.
>
> .. ..
>
> "If, however, an agreement cannot be come to, a statement of the points in difference shall be drawn out signed by the employer representative and the operative representative and forwarded to the secretaries of the board with a request that the standing committee will consider the same.
>
> ....

[1]The full text of Rules, By-laws and Instructions of the Board revised up to January 28th, 1890, appear as Appendix XXVII to Minutes of Evidence before Group "A" of the Commission on Labour, 1892.

> "It will be the duty of the standing committee to meet for this purpose as soon after the expiration of seven days from receipt of the notice as can be arranged but not later than the first Thursday in each month.
>
> . . . . . .
>
> "Above all, the board would impress upon its subscribers that there must be no strike or suspension of work. The main object of the board is to prevent anything of this sort and if any strike or suspension of work takes place, the board will refuse to enquire into the matter in dispute till work is resumed, and the fact of its having been interrupted will be taken into account in considering the question."

With the rise of the steel industry towards the end of last century, the North of England iron trade began to decline rapidly, and with it went the importance of the board. In 1892 only 12 works were actually members representing the majority of iron works in the North. The works outside the board invariably followed wage-determinations by the board without bearing the financial burden of its upkeep.[1]

Between 1869 and 1892 there were 60 wage settlements, 7 by conciliation, 20 by arbitration and 33 by the automatic operation of the sliding scale. During the remaining years of its existence, there were 20 further arbitrations on wage disputes, and over the whole period on every occasion the arbitrator's award was accepted by employers and employed without question.

The developments in steel manufacture during the 1914-1918 war years practically completed the annihilation of the Northern iron trade. Up to 1922 the board continued to exist and to regulate the wages of puddlers and millmen at the few remaining plants in accordance with its 1887 scale amended in 1919, while local disputes were still settled by the joint committees. The last meeting of the board was held in 1922 but its scale was still being applied to operatives' wages in the two remaining wrought iron works in the North of England at the

[1]Evidence of W. Whitwell and Others before the Labour Commission, 1892.

end of 1939. In the event of a dispute arising in either of these works now, the procedure adopted in the heavy steel industry is followed by mutual consent.

The working of the North of England board is probably the best example of the spirit of co-operation which manifested itself in industry in the last half of the nineteenth century. Despite its partiality in enabling an employer to join up or withdraw his operatives by joining or withdrawing himself without reciprocity, the board did not function as an instrument of the employers. The fact that the vast majority of the employers on it were members of the Iron Manufacturers' Association of the North of England, and the men of the Iron Workers' Union or the Steel Smelters' Union, made the board a genuine instrument of collective action.

(b) The Midlands Trade

The Northern board was soon copied in other regions. In 1872 an attempt was made to repeat the experiment in South Staffordshire. But since here, unlike the North, there was a strong branch of the Iron Workers' Union, the board was formed as a joint body of that union, and the South Staffordshire Ironmasters' Association. For the first years, the board was not an unqualified success.[1] Wage questions seemed inevitably to go to arbitration or to end in dispute. From its start, the board adopted a selling price sliding scale, but it was not until 1889 that the device worked with smoothness and a degree of permanency was reached in its basis. Up to 1876 the proceedings of the board were quite informal, 12 members of the union meeting the same number of the masters' association, as occasion required. In that year the basis of the board was widened to include non-unionists, and it received the name of the South Staffordshire Mill and Forge Wages Board. In 1888 the sphere of operation was further extended to the whole iron-making district of the Midlands, including South Staffordshire, East Worcestershire, North Staffordshire,

[1]H. Crompton: *Industrial Conciliation*, p. 64 *et seq.*

Shropshire, Lancashire, South Yorkshire and Derbyshire, and was renamed the "Midlands Iron and Steel Wages Board."

It no longer consisted of 12 representatives of the union and 12 of the employers' association, but of one owner representative and one operative representative of each works which joined it. Its objects have remained the same to the present time, being "to discuss and, if necessary, to arbitrate on wages or any other matter affecting the respective interests of the employers or operatives, and by conciliation means to interpose its influence to prevent disputes and put an end to any that may arise."

Constitutionally, there was little difference in the working of the Northern and Midlands boards up to the First World War. The president of the Midlands corresponded to the referee in the North, and like him was expressly prohibited from having any connection with the trade. He took no part in discussion beyond seeking explanation for his own guidance, and if no settlement was reached gave his "adjudication."

The standing joint committee consisted of the chairman and vice-chairman of the board, ex officio, and 13 employer representatives and 13 operative representatives, one of each being nominated by the members of the Welsh sheet trade committee which was a member of the board. Seven days' notice was required to be given before a dispute could be brought forward to the joint committee except in the case of routine business or matters, the investigation of which was considered necessary by the standing committee itself.

There was the same division of functions between the board and its standing committee, and the board's rules ended with the instructions which have already been set out in the case of the Northern board.

Unlike the Northern board, the Midlands iron and steel wages board maintained its existence between the two World Wars. Until the scale was stabilised in 1940 for the duration of the war, the wages of all workers connected with iron puddling and iron and steel rolling in South Staffordshire, South York-

shire and parts of Lancashire were determined by the sliding scale controlled by the board. The 1889 scale ceased to give satisfaction in 1905, and was replaced by a fresh scale operating from 1906. In 1919, upon the universal turnover to the already fairly uniform eight-hour shift, a fresh agreement was made which established the basis of its working until 1940.

Since the end of World War I the constitution and rules of the board, as distinct from the sliding scale agreements, have been revised at periodic conferences, the most important being the Birmingham Conference of 1933. The main objects of the recent changes were to give recognition to the part played by officials of the Iron and Steel Trade Workers' Confederation in conciliation procedures especially in relation to local disputes, and to adjust representation on the joint committee to take account of the four geographical areas covered and the three types of operatives affected, namely, forgemen, millmen and ancillary workers.

(c) South Wales

In addition to the Welsh committee already mentioned, there existed, after 1890, a South Wales iron and steel board. This body was set up by the sliding scale agreement[1] of that year to regulate and apply the scale and to deal with any disputes arising from the agreement. The agreement was made between certain iron companies and their employees, but in fact all the employees were members of the South Wales Iron and Steel Workers' and Mechanics' Association, which was recognised by the board and the employers as voicing the wishes of the men both on the board and in negotiations.

This board consisted of ten representatives exclusive of the two secretaries, five representing each interest. It appointed annually two accountants to ascertain for each quarter from an audit of the employers' books the average selling price in the district of iron bars of a certain standard. Any local difficulties

[1]Agreement dated at Cardiff 18th September, 1890. See Appendix XXIX of Minutes of Evidence taken by Group "A" of Labour Commission, 1892.

in regard to the application of the scale were heard by the board at its monthly meetings provided the employer and employed had first endeavoured to settle the matter between themselves. But it had no power under its rules to call in an independent chairman though it was tacitly accepted by both sides that such would be done in the event of deadlock.[1]

In 1895, upon the alteration of the scale, the board was continued with certain amendments. In addition to the five voting representatives of the workmen, four non-voting representatives might attend and take part in discussions. But in every case, the operative representative must be employed by an employer signatory of the agreement.

This board has now ceased to exist and its functions are within the direct arrangements made by the Confederation and the employers.

(d) The Scottish Trade

The first board in Scotland was formed for the steel trade. The board of conciliation and arbitration for the manufactured steel trade of the West of Scotland was formed in 1890,[2] and the Scottish manufactured iron trade conciliation and arbitration board in 1897. A third board, the board of conciliation and arbitration for the steam, electrical and hydraulic service of the steel trade of the West of Scotland, was also formed at the end of the century. All three boards were constituted in the likeness of the English iron boards.[3] Local disputes were investigated and if possible settled by *ad hoc* sub-committees of which the chairman and vice-chairman were ex-officio members. All representatives were paid for attendances, the board's funds being raised as in England.

The iron board adopted a scale at its inception, the steel

[1]Evidence of H. Jones and Others before Labour Commission, 1892, especially question 15,693.

[2]Evidence of J. Cronin before Group "A" of the Labour Commission in 1892.

[3]See Rules in Appendix XIII to Minutes of Evidence taken before the Industrial Council, Cmd. 6953 of 1913.

board not until 1905. The boards annually appointed a referee, but in the event of a deadlock, he was not always called upon to give a decision, the parties preferring, up to 1914, to seek the help of a conciliator from the Board of Trade.[1] The two steel boards ceased to function some years ago. The iron board continued an informal existence up to 1940, its main purpose being to control the audits upon which the quarterly adjustment of wages was dependent under the scale.

(4) *Steel Manufacture*

With the exception of Scotland, the various iron boards were created before the rise to importance of steel production, which was, therefore, for the most part, outside their operations. The new steel workers were organised in the existing unions, principally the Smelters' Union, and the steel concerns in the old iron and steel associations. As these organisations were mutually recognised and accustomed to collective bargaining, the relations in the new trade were, from the start, satisfactory. As a result, the steel trade has tended to evolve less formal procedure of direct negotiation rather than follow the pattern of standing boards representing individual works.

Steel production in the sense of heavy steel manufacture has been located principally in the Midlands and the North of England. Two specialised branches of steel production, however, cannot be ignored, the one in South Wales, where the Siemens process produces mild steel for use in the tinplate industry, and the other around Sheffield.

(*a*) *The Heavy Steel Trade*

The sliding scale which regulated wages in the various branches of steel production was first adopted as a melters' scale in 1905 by agreement between the Steel Ingot Makers' Association and the British Steel Smelters' Union.[2] It applied to melters, pitmen and teemers in melting shops in both

[1]Evidence of D. Colville before Industrial Council.

[2]Subsequently merged in the Iron and Steel Trades Confederation.

England and Scotland. Later it was used in a modified form to regulate the wages of subsidiary workers such as gas-producemen and charge wheelers. In their case, only half variations on basis rates was made until 1920 when the full fluctuations were adopted. A further agreement in 1920 extended the scale to steel millmen and other workers employed in production departments of rolling mills on the North-East Coast, while in 1921, a similar agreement was signed in respect of Scottish mills. Since two further agreements of 1921, known as the "Brown" and "Green Book" agreements brought semi-skilled men and labourers, including maintenance men, under the scale, practically all workers in and about steel melting shops and steel rolling mills have been working under the same scale. That is to say, the scale percentages have been the same throughout but not necessarily the basis rates which were a matter for each district and branch of workers to negotiate within the framework of the national organisations. Considerable amendment of the various basis rates was made by a national agreement made in July, 1936, between the Iron and Steel Trades Employers' Association[1] and the Iron and Steel Trades' Confederation.

There is almost equal uniformity in the methods adopted to settle other questions. A common routine has grown up as a result of practice and experience and the unifying force of the national organisations. The procedure is still for the most part unwritten custom, although its main outline has been incorporated in written agreements affecting some parts of the trade.

The most exhaustive of these is a document dated March 3rd, 1925,[2] signed by the Iron and Steel Trades Employers' Association and the National Union of General and Municipal

[1]The National Association of Employers formed in 1922 by the amalgamation of the Steel Ingot Makers' Association, the North of England Iron and Steel Manufacturers' Association, the Midlands Steel Rolling Mills Employers' Association, the Scottish Steel Makers' Wages Association, and the employer members of the conciliation boards in the West of Scotland and the North of England.

[2]Report on Collective Agreements.

Workers. The part relating to dispute procedure is prefaced by the explanation that the machinery outlined has been built up by custom and practice as the result of experience, and that whilst the details are set forth for the purpose of explanation and guidance, they are not to be regarded as exhaustive. The agreement describes the machinery for both local and general questions.

Local Matters[1]

Disputes arising at individual works are to be dealt with whenever possible by the works' management and the men concerned, the latter having the right "to call in the shop representative and/or the permanent official of the workmen's union." Failing a settlement, the matter is then referred to the employers' association by the firm. At the same time, it is taken up on the workmen's side by the permanent official of the union who communicates directly with the secretary of the employers' association giving particulars of the difference and of any negotiations that have taken place with the firm and asking that the matter be dealt with according to the usual practice.

The whole question is then brought before the employers' association and if the difference is not of general principle, the association refers the matter to a neutral committee. The association, however, reserves the right, after consideration of the matter, to decide that the services of a neutral committee are unnecessary. The neutral committee consists of two employers' representatives appointed by the employers' association, and two representatives selected by the workmen concerned from associated works. The officials of the employers' association and of the workmen's union are present at the hearing of the case, and also (at the discretion of the neutral committee) at the time of deciding the case, although only in an advisory capacity if called upon. In the appointment of the neutral committee, neither the employers' nor the men's representative may be appointed from the particular works where the difference exists.

The procedure adopted at the meeting of the committee is as follows :

One of the employers' representatives is chosen as chairman.

[1]Part VI, Clause 1.

The official of the workmen's union then states the case on behalf of the workmen and calls any evidence he may consider necessary. The case on behalf of the employers is then stated and likewise any evidence given.

The decision of the neutral committee is then recorded in a short memorandum which is signed by each member and by the permanent official of the employers' and workmen's organisations. It is subject to confirmation by the employers' association and by the headquarters of the trade union.

Failing a settlement, the neutral committee either refers it back to the association and the union to be dealt with otherwise, or submits the matter to arbitration.

It is the general practice, although not obligatory, for the neutral committee to meet for the disposal of a case at the works at which the difference exists.

General Questions[1]

When a dispute arises of a general nature, it is open to either side to request the calling of a conference. The constitution of this conference as regards members, etc., is left to the employers' association and the trade union to settle according to the question to come under discussion. Failing a settlement by the conference, it "may take such steps as it may deem advisable for dealing therewith, but failing an agreement, the difference is generally submitted to arbitration."

The parties to the 1925 agreement expressly accept this machinery of conciliation and undertake "to use their influence for the prevention of disputes and to operate the machinery under the agreement to effect without delay a proper adjustment of those that may arise." The agreement provides that in the event of members of the union striking work, no meeting or conference between the association or its members and representatives of the union or their members shall take place until the men are at work under the conditions prevailing when they left off. Both parties agree to give plenary powers to their representatives in all negotiations on neutral committees, local, district or national conferences and on the other hand the executive of the union undertakes to control its districts so that

[1]Part IV, Clause 2.

local autonomy will not prejudice national settlements or local or national negotiations.

In one district, South Wales and Monmouthshire, the practice so outlined for steel manufacture had already been put into written agreement in a wider branch of production.

The blast furnaces as well as iron and steel works of South Wales are covered as far as negotiation and settlement of disputes are concerned by a single agreement entered into on 1st December, 1919, between the South Wales and Monmouthshire Iron and Steel Manufacturers' Association of the one part, and the Iron and Steel Trades' Confederation, the South Wales Blastfurnacemen, the Transport and General Workers' Union, the National Union of General and Municipal Workers, the Iron and Steel and Metal Dressers' Society and the National Union of Enginemen, Firemen, Mechanics and Electrical Workers, of the other part.[1] According to the custom in South Wales already noticed in the case of the coal mining industry, a copy of the agreement is placed in the contract book at each of the associated works, and is signed by or on behalf of the owner and by each workman employed.

Similar procedures involving neutral committees for works disputes and district and national conferences for wider issues have also regulated negotiations between the Iron and Steel Employers' Association and the Amalgamated Union of Building Trade Workers in respect of bricklayers and masons in the heavy steel industry. These procedures were committed to a memorandum annexed to an agreement made between these bodies in May, 1938, and amended in 1943. Disputes affecting maintenance men are the subject of numerous district agreements. Thus the Iron and Steel Trades Employers' Association made an agreement in 1941 (superseding earlier agreements) on behalf of their North-East Coast members with the Amalgamated Engineering Union, the United Society of Boilermakers and Iron and Steel Shipbuilders, the Electrical Trades Union and the United Patternmakers' Association. Works

[1]1934 Report on Collective Agreements.

dispute procedure under this agreement differs only in minor respects from the procedures already described with the exception that matters unsolved by a joint sub-committee (a form of neutral committee) are referred to a standing joint committee which may seek the aid of a "neutral conciliator" without voting powers. In the last resort the Minister of Labour and National Service is asked to appoint a board of three arbitrators under the Industrial Courts Act, 1919.

Up to March, 1926, the Welsh committee had regulated wages in the steel sheet trade in Wales as a constituent part of the Midland iron and steel wages board, while exercising full control in local matters as a joint committee. On that date, however, the committee was replaced by the sheet trade board which now operates in respect of workers engaged in steel sheet rolling throughout Britain. Until the end of 1927, it regulated wages in accordance with a sliding scale incorporated in the constituting agreement. Since January, 1928, however, it has dropped the scale and has drawn up a schedule of piece rates and extras in the form of minimum percentages on basis rates varying according to earnings. The rules and regulations[1] of this board show the original connection with the Midland board, being a reproduction with only the necessary change of terminology to fit the sheet trade, of the rules of that board as they existed in 1926.

(b) South Wales Siemens Steel Trade

The main steel production in South Wales is by the Siemens process. In 1898, the first conference of Siemens steel makers and representatives of the Steel Smelters' Union was arranged to fix standard rates of wages throughout the trade. It was not until 1906, however, that the employers united in the South Wales Siemens Steel Association. From then on, although there was no agreement before World War I, it was well understood by both the association and the union that whenever there was a demand for an increase or reduction of wages

[1]Dated 16th March, 1926.

or any change of conditions which the management of any works was unable to settle with the workmen, a committee of two employers and two representatives of the men would be appointed by the association and the union.[1]

In 1920 this arrangement was formally incorporated in the sliding scale agreement made between the association and the Iron and Steel Trades' Confederation to operate from March, 1921.[2] The joint committee became a standing body and was given the administering of the scale. Relations between the two parties are so harmonious that it has not been felt necessary to have joint auditors as was usual elsewhere but one firm was jointly selected to make the quarterly ascertainments and expenses were shared equally.

(c) Sheffield

Wages in steel production in Sheffield have never been subject to the automatic control of a selling price sliding scale. Formal association between labour and management in this area has been handicapped by the multiplicity of employers' organisations, and, until 1915, by the absence of one union able to speak for a majority of the men. The cumbersomeness of concerted action frustrated efforts to set up joint machinery in the 'nineties of last century.

After the formation of the Iron and Steel Trades' Confederation, unity was achieved on the workers' side, but the difficulty still remained in respect of the owners. Wage settlements and other matters of general dispute which become the subject of conference may require the attendance of the Confederation on one side and on the other the Sheffield and District Engineering Trades Employers' Association in regard to Siemens departments, the Sheffield and District Engineering Trades Employers' Association and the Crucible Steel Makers' Association in regard to electric furnaces, the Crucible Steel Makers' Association in regard to crucible furnaces, and

[1]Evidence of F. Gilbertson before Industrial Council, 1913, Questions 5,690 to 6,004.

[2]1934 Report on Collective Agreements, p. 174.

the Sheffield and District Engineering Trades Employers' Association and the Sheffield District Rollers and Tilters' Association in regard to rolling mills, forges and press shops.[1]

For matters of less general concern the negotiations with each of the employers' organisations follow the lines already described for the heavy steel trade elsewhere. In the case of the most important organisation, the Sheffield and District Engineering Trade Employers' Association, the procedures have been recognised by formal agreement since 1914.

(5) *Tinplate and Tinsheet Trade*

This trade, which is located in South Wales and Monmouthshire, is an extension of the South Wales steel trade upon whose output it is dependent. It has been little troubled by industrial disturbances and since the beginning of the century has had adequate facilities for regulating conditions of labour and for settling disputes. Employers and workers have been well organised for over 40 years, and this has been the greatest factor in ensuring stable relations.

The first tinplate union, the Independent Association of Tinplate Makers, began a short career in 1871. It was solely a strike society, a form of combination ill-suited to the skilled occupations in the trade. Its one success before dissolution was the establishment of uniform rates of pay, known as the 1874 rates and the basis of subsequent bargaining. A masters' association formed in the same year as a defensive alliance against union pressure, was equally transitory, ceasing to exist in the 'eighties.[2]

More lasting associations appeared at the close of the nineteenth century. In 1899, the Welsh Plate and Sheet Manufacturers' Association was formed. By that time, four unions had members in the trade. These were the Tin and Sheet Millmen's Association, the Steel Smelters' Union, the Dock, Wharf, Riverside and General Workers' Union, and the

[1] 1934 Report, p. 176.

[2] J. H. Jones: *The Tinplate Industry*, Chs. VIII and IX.

National Union of Gasworkers and General Labourers, and they controlled between them over 85 per cent. of all workers in and about the tinplate works. They were all well organised and their officials enjoyed the confidence of the employers. From such circumstances permanent conciliation machinery emerged. In June, 1899, a joint conference of the five associations agreed to the adoption of the 1874 wage list with 10 per cent. permissible concessions, and established a conciliation board to regulate disputes involving "direct labour," i.e., men engaged in the mills and tin houses.

This board was handicapped in its early years by lack of unanimity among the workers' representatives and by inter-union rivalry. In 1901, however, a conference of the four unions established a tinplate and sheet mill workers' wages and disputes board composed of the union executives "to watch over the general interest of its members, to consider all demands for increases of wages, altered conditions of labour or demands made by the employers, and to decide upon the course and policy to be adopted."

Although unilateral, the disputes board, as long as it lasted, proved itself an efficient custodian of industrial peace. Its rules provided that "in any grievance arising out of any department connected with the trade no one society affiliated shall be allowed to hand in notices or stop work before first submitting such grievance for the consideration of the board." All claims, therefore, had first to be sifted through the disputes board and then through the conciliation board and hasty action was eliminated.

The disputes board also proved useful in enforcing agreements made at the conciliation board upon non-associated employers and upon individual workers. It existed until the end of 1904, by which time inter-union relations had improved sufficiently to permit of its dissolution.

The conciliation board was of a very simple nature, each association sending along as many delegates as it thought fit, usually the officials and from three to six others. Adequacy of

discussion was the essential of the meetings, questions never being referred to a vote. It had no written constitution but a number of rules were inserted in the wage agreements made by it each May with duration from July to July, during which time it formed the basis of the individual contracts of employment.[1] The meeting in May was the only regular one, and at it any matters could be discussed which had been notified to the secretaries by the 1st of the month.

The success of the board largely depended upon its sub-committees of which there were three types :

1. In 1902, although the board succeeded in fixing the general terms of the wage agreement for the following year, a number of minor differences remained. To deal with these, a sub-committee upon which the two sides were equally represented, was appointed. This method of adjusting details of an agreement thenceforth became the custom. Failing agreement at the board, settlement of the terms was left to three employers and three union delegates. When this committee failed to agree, appeal was made by them to an independent umpire. In practice this rarely happened.

2. The annual wage agreement, though binding upon all, fixed the precise rates paid to "direct workers" only. To cover others, the agreement provided for a second type of committee. "If any dispute arises in case of employees not included in the wage agreement a committee of three masters and three men shall discuss the matter and failing to agree the matter shall be reported to the conciliation board for settlement. All disputes shall be settled within a reasonable time." Though this clause required a reference to the board in the event of a deadlock, this committee usually adopted the same procedure as the first committee, viz. : reference to an independent arbitrator.

3. Disputes upon questions of customs, interpretation and application, failing settlement by the parties concerned, were submitted to an interpretation committee provided for in each agreement. "In case of dispute at any works, a committee of

[1]See typical wage agreement operative from July 1st, 1911, to June 30th, 1912, appearing as Appendix III to Minutes of Evidence of Industrial Council Enquiry, 1913.

three masters and three men shall visit such works and report to the conciliation board for settlement." Again, in practice, this committee did not report to the board but on very rare occasions resorted to arbitration when unable to reach a settlement.

All three committees were *ad hoc*, with personnel selected for their convenience to the works affected and their knowledge of the circumstances.

The following conditions appeared annually in the wage agreement: "That the rates paid and the conditions observed must not be more favourable than the foregoing to works outside the employers' association." By 1908, the unions had enrolled practically 100 per cent. of all workers, so that this clause meant in effect that the board "legislated" for the whole trade.

The conciliation board continued to function with few hitches until the end of World War I, when, prompted by the Whitley Reports, the board was converted into a joint industrial council in 1919. The title of this body is now the Welsh Tinplate and Sheet Trades Joint Industrial Council.[1] The employers are represented on it by 32 members of the Welsh Tinplate and Sheet Manufacturers' Association and the workers by 32 representatives of the Iron and Steel Trades' Confederation, the Transport and General Workers' Union, the National Union of General Workers, the Amalgamated Engineering Union and the Welsh Artizans' Association, in proportions fixed by them and approved by the Council. In addition, the permanent officers of the employers' and workmen's organisations are ex-officio members without voting power. The objects of the council on its conciliation side are "to act as a medium for settling disputes arising between employers and employed in the works connected with the council, to use its influence to prevent disputes, and to endeavour to adjust those that may arise." Like the board, the council meets annually in May to receive notice of the appoint-

[1]A pamphlet containing Constitution, Rules and Procedure of the Council was published in 1924.

ment by each side of its chairman, vice-chairman and secretary, and to receive the report by the retiring secretaries on the work of its joint standing committee, as well as to consider any matters referred to it by the joint committee and any other matters of a general character only referred to it by any agency other than the committee.

The joint standing committee appointed annually consists of 18 members, 9 representing employers and 9 the workmen's unions, of whom 3 are drawn from the Iron and Steel Confederation, 3 from the Transport and General Workers' Union and one from each of the other three unions.

The council's rules set out procedures for dealing with both works and general disputes, the former being referred to the joint standing committee after local negotiations have failed. In the final resort the committee decides upon the form of arbitration to be used. For general questions, the rules do not refer to arbitration. However, in the event of a difficulty arising at the council which could not be solved by conciliation, it is probable that resort would be had in normal times to the Industrial Court or to an *ad hoc* arbitrator appointed by agreement or by the Minister of Labour. The joint standing committee found it necessary, in the years before the last war, to meet twice monthly to deal with questions as they arose and to hear reports from its sub-committee.

A sliding scale adopted by the council for all tinplate workers in 1921 continued to regulate wages until stabilised in 1940.

DEVELOPMENTS SINCE 1939

The main industrial relations developments in the industry after the outbreak of war were centred round the suspension of the selling price sliding scale in 1940, the application of Essential Work provisions in 1941 and the introduction of female labour in 1942.

During 1939 the trend in wages regulated by selling price

sliding scales was downward. In November a decrease due in the steel melting and rolling mills was waived by the employers and future increases were anticipated to the extent of 10 per cent.[1] With increasing government control and rising cost of living the selling price sliding scale was obviously becoming an unsuitable medium. In March, 1940, an agreement was signed between the Iron and Steel Trades Employers' Association and the Iron and Steel Trades' Confederation under which the melters' sliding scale was stabilised at a stated percentage and a cost of living additional payment was introduced. These provisions were expressed to be "made due to war circumstances" and without prejudice to future regulation of wages in accordance with the scale. Similar agreements followed between the Association and other unions subject to the melters' scale. The stabilisation of the district scales used in pig iron manufacture was effected in May, 1940, by agreement between the National Council of Associated Ironmasters and the Blastfurnacemen's Unions.[2]

These stabilisation agreements were revised in 1942, 1943, 1944, and subsequently in respect of base rates.

Iron and Steel undertakings were not scheduled under the Essential Work (General Provisions) Order but, after consultation with representatives a special order was signed by the Minister of Labour and National Service on 5th August, 1941, applying a modified scheme to most branches of the industry.[3] This order scheduled the various wage agreements already existing in the industry and prescribed their rates as the guaranteed minimum rate for the purposes of the order. As these agreements were revised from time to time and new agreements were concluded so the Order was amended to cover the new rates. The employers' desire to participate in the protection of labour supply afforded by it was a stimulus

[1] *Ministry of Labour Gazette*, January, 1940.

[2] Ministry of Labour and National Service : *Industrial Relations Handbook*, pp. 77 and 80.

[3] Essential Work (Iron and Steel Industry) Order, Statutory Rules and Orders, 1941, No.1,167.

to collective bargaining. When these agreements were covered by the Order the effect was to give statutory sanction to the wage rates voluntarily negotiated.

Early in the war the need to supplement the labour supply in most branches of the industry was recognised and various "dilution" agreements were made with the craft unions for modification of the strict rules of entry into the trades. In 1942 more comprehensive agreements[1] were negotiated to permit the employment of women and girls for the duration of the war on work previously the exclusive province of men and boys. The agreement in heavy steel manufacture was signed in April, 1942, by the Iron and Steel Trades Employers' Association, the Iron and Steel Trades' Confederation and the National Union of General and Municipal Workers.

In pig iron manufacture the agreement, which was signed in September of the same year, was made between the National Council of Associated Ironmasters and the Blastfurnacemen's Union. Both agreements provided for the payment, after a preliminary period, of the full rate for the male labour replaced, provided the woman or girl was capable of performing the work without additional supervision or assistance. In the case of labouring work, however, it was recognised that individual assessment of relative efficiency was impracticable and a method of fixing a common rate for women replacing men on labouring work was, therefore, specified in the agreement.

The Essential Work (Iron and Steel Industry) Order continued to operate until the end of July, 1946.[2]

There has, therefore, been little time as yet for variation of the industrial relations pattern in this industry in the after-war period. In any case as the industry ranks high in the present Government's priority list for nationalisation, there is little inducement to either side at present to undertake revision of the conciliation arrangements in the light of wartime experiences.

[1]Ministry of Labour and National Service : *Industrial Relations Handbook*, pp. 77 and 80.
[2]*Ministry of Labour Gazette*, 1946, p. 207.

In 1934 the Iron and Steel Trades' Confederation prepared for the Trade Union Congress proposals for the reorganisation of the industry as a public utility structure.[1] It is significant that these proposals contained detailed suggestions with regard to conciliation practices, viz., the establishment of regional joint conciliation boards to deal with questions local in character and a national joint conciliation board to settle those of a national type. On the analogy of the industry already nationalised this is likely to be the pattern adopted by the Government when the time comes. In fact, of course, such development in conciliation machinery would almost surely have resulted, even under continued private ownership. It is the pattern which has been taking shape in the more advanced industries as a result of the emergence of national federations of both employers and unions and the desire to unify and integrate conciliation arrangements. Nationalisation in this industry, as in coal mining, is, therefore, unlikely to involve really radical changes in the form of conciliation. The 1934 proposals are significant in this regard in revealing the value attached to the voluntary method of conciliation as a result of the Confederation's experience in the past and the absence of desire to replace that method by the compulsory arbitration of state tribunals.

[1]Trade Union Congress Report, 1934, p. 189, *et seq.*

CHAPTER IV

Engineering and Shipbuilding

ENGINEERING PRESENTS special difficulties to the student of industrial relations being both an industry in itself and a group of occupations within most industries. In the former sense it employed from one and a half to two million workers in 1938; in the latter it included some two and a half million workers. While this chapter will be primarily concerned with conciliation arrangements in the industry, the occupational aspect cannot be ignored since it is occupationally that trade unionism has developed.

This craft aspect has resulted in a multiplicity of organisations which is avoided where unionism follows industrial lines. Amalgamations and federations are continually being resorted to in an endeavour to reduce the number of separate negotiating organisations, but the total is still formidable. In 1926, there were 109 unions catering for engineering and shipbuilding trades, with a membership of 573,000. This compared with 203 in 1910 with 316,000 members, and 268 in 1897 with 288,000 members.[1] Competition amounting at times to bitter rivalry has often been a greater obstacle to industrial peace than conflict between the interests of employers and employed. It will be seen later how many of the local boards and committees, especially in shipbuilding, were concerned less with questions between employers and men than with demarcation questions between rival crafts.

The most powerful single unit on the workers' side is the Amalgamated Engineering Union, with a membership at the end of 1937 of 331,953, and over 900,000 during the peak

[1]Survey of Metal Industries, being Part IV of the Survey of Industries by the Committee on Industry and Trade, 1928.

period of the last war. It is the result of a series of mergers which began in 1851, with the creation of the Amalgamated Society of Engineers, Machinists, Smiths, Millwrights and Patternmakers. On a further merger with nine other engineering craft organisations in 1920 the present title, Amalgamated Engineering Union, was adopted. Until 1926 it catered, almost exclusively, for craftsmen, principally fitters and turners who had been apprentices. Since that date, however, its ranks have been open to all males employed in engineering processes, although its main strength up to 1939 still lay among the skilled craftsmen. The dilution of labour during the recent war years and the acceptance of female members after January, 1943, has now altered this balance and with further mergers in 1944 and 1945 the Union occupies a position of predominance in most engineering processes.

Next in importance and numbers come the National Union of Foundry Workers, which was formed by an amalgamation of three unions in 1922 and represents moulders and other foundry workers; the United Society of Boilermakers and Iron and Steel Shipbuilders and Electrical Trades Union; and the United Operative Plumbers and Domestic Engineers' Association.[1] Unskilled workers are represented by the Transport and General Workers' Union and the National Union of General and Municipal Workers which also cater for women. Altogether there are over 40 unions with an interest in the industry although many of them have their centres of gravity elsewhere.

For purposes of national negotiation most of these unions (excluding the Amalgamated Engineering Union) are linked together in the Confederation of Shipbuilding and Engineering Unions (prior to 1936 the Federation of Engineering and Shipbuilding Trades) whilst the Amalgamated Engineering

[1]For details of union organisation in engineering see *Survey of Industrial Relations by the Committee on Industry and Trade*, published in 1926, and for more recent developments an essay by G. D. Miller of the Research Department of the A.E.U. in *British Trade Unionism Today* and *The Story of the Engineers* by James B. Jeffreys.

Union and the Confederation are associated in the Engineering Joint Trades Movement. The unions catering for unskilled workers are further associated in the National Federation of General Workers.

On the employers' side, there is more centralisation. Since 1896, the majority of local engineering employers' associations have been linked through the Engineering Employers' Federation which, in 1918, became the Engineering and Allied Employers' National Federation. Forty-nine local associations of firms, large and small, engaged in various branches of engineering throughout the British Isles are now affiliated with the Federation and the number of employees of Federated shops probably exceeds the total number of trade unionists in the industry.

CONCILIATION IN ENGINEERING

(*a*) *Local Machinery*

Prior to 1898 there had been few attempts to set up conciliation machinery of any sort in the engineering trades. The scattered nature of the industry and consequent lack of compact units of employers and workers in localities was largely responsible for this. Another factor of importance, however, was the continuous expansion and prosperity of the industry which, until near the end of the century, made it more profitable for the employers to concede sufficient of the workers' demands to prevent serious conflict rather than risk a stoppage of work.

It was because of this, no doubt, that after a disastrous lockout in 1852, which nearly wrecked the young engineering organisations, the various craft unions tended to concentrate more on the development of substantial benefits of union, than on militant objectives. The need for local dispute machinery, therefore, was less urgent than would otherwise have been the case.

The North East Coast was the only region where conciliation and arbitration machinery was developed to any extent.

The earliest joint tribunal seems to have been the North East Marine Engineers' Conciliation Board established in 1892 for the purpose of "the amicable settlement of wages and other questions arising out of or connected with the employment of marine engineers on steamships owned or managed in ports" of that district, which was defined as extending "from the Port of Whitby to the Port of Blyth, both inclusive."[1] The board consisted of an unspecified but equal number of shipowners and marine engineers. In addition to the original signatories to the 1892 agreement, membership was open to "any Society or organisation of steamship owners or marine engineers within the limits of the North East Coast."

An interesting feature of this board was the method of annual appointment of arbitrators. In November each side appointed its official referee who must be of "impartial character not in any way pecuniarily interested either in shipowning or in the trade or profession of a marine engineer unless otherwise mutually agreed." The two referees were required, before the 15th December, following their election, to agree upon an umpire equally impartial to act as chairman and umpire of any meeting he was required to attend. Where the parties failed to agree at any meeting, it was adjourned to enable the referees and umpire to be summoned, and, on disagreement persisting at the adjourned meeting, to give a decision.

The decisions of the board and of the arbitrators bound all parties, and the respective members, on joining the board, pledged themselves to "use their influence and best endeavours to have such decisions carried out and respected by their respective constituents," it being recognised "that without such loyal and absolute adhesion to the decisions of the board its usefulness is practically at an end and its very existence imperilled."

A second board of conciliation was formed on the North

[1]Board of Trade Report on the Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees, Cmd. 5346 of 1910, pp. 191-5.

East Coast two years later in the iron founding trade. The agreement[1] was signed by the Associated Employers of the Tyne, Wear and Tees and Hartlepool Districts, and the Friendly Society of Iron Founders of England, Ireland and Wales. Its expressed objects were "to regulate general advances and reduction in the wages of moulders but any other question not involving other trades may be brought before the board." It consisted of 13 employer representatives and 13 moulders' representatives, with a standing committee of ten, five being chosen from each side with the chairman (an employer) and vice-chairman (a union representative) ex officio. A claim or complaint was considered in the first instance by a standing committee, which investigated the circumstances and endeavoured to settle the matter and only on default of settlement handed it on to the board. Both on the committee and on the board, a vote could only be taken by mutual agreement. If the board also failed to arrange a settlement, the question might be referred by common consent to "three disinterested gentlemen mutually approved by the board, the decision of whom or of the majority of whom shall be binding and conclusive." If the board failed to agree on the choice, each party elected its own referee and these two nominated the third. If both parties agreed upon one referee, he had the powers of the three. The rules of the board prohibited any "stoppage of work in the nature of a strike or lockout," and pending a decision, all working conditions were those current at the time of raising the question.

In 1896 a similar board was established on the North East Coast by agreement between the North East Coast Engineering Trades Employers' Association, and the United Pattern-makers' Association.[2] The only difference between this and the iron founding board was in the allocation of the costs of references to arbitration. In the case of the iron founding board these costs were part of joint expenses, but under the

[1] *Ibid*, pp. 188-190.

[2] 1910 *Report on Rules, etc.*, p. 185.

rules of the patternmakers' board, they were left to the discretion of the referees "who may order that the same shall be paid equally by both or that either party bear the whole or any particular part or parts of the entire costs."

The Friendly Society of Iron Founders was not a party to the 1898 national agreement.[1] Unlike the other boards, therefore, the iron founders' board continued to operate after that date. In 1908, a second iron founders' conciliation board was established by agreement between the Society and the Lancashire and District Engineering Employers' Association. The two boards continued in operation until the merger of the Society in 1922 into the National Union of Foundry Workers, which became a party to the national agreement of that year.[2]

Any other local conciliation machinery, other than shop machinery, that has existed in the engineering trades has been of an informal or *ad hoc* nature or existed only for the settlement of demarcation disputes.

(*b*) *National Machinery*

Although there was, outside the North East Coast area, no standing conciliation machinery before 1898, the principle of local collective bargaining was widely accepted on both sides through fairly well-defined procedure of conference.[3] It was this practice that was taken as a basis for the "Provisions for Avoiding Disputes" which were incorporated in the settlement of a national dispute in 1898.

That dispute had been brewing for some years before it actually came to a head. The growing strength of the unions, particularly the Amalgamated Society of Engineers, and the persistence of their claims was the cause of the formation of the Employers' Federation of Engineering Associations in 1898. One of the first actions of that Federation was to suggest

[1]See below (*b*) National Machinery.

[2]See below (*b*) National Machinery.

[3]See evidence of employers' and employees' organisations before Group "A" of the Royal Commission on Labour in 1892.

a joint conference with the unions for the discussion of all matters at issue. At this meeting the unions raised the already contentious question of unskilled men being employed on machines which the unions claimed should be used by skilled men only, and they suggested the formation of local joint committees in each district in the Federated area with an independent referee to settle the rate of wages to be paid for the working of machines in dispute, no changes likely to lead to dispute to be made without the consent of the committee. These proposals were rejected by the Federation on the ground that their acceptance would have the effect of superseding the members of the Federation by outside bodies in the control and management of the works. They declined to make counter proposals stating that the organisations on both sides already afforded adequate means of negotiation. The conference concluded without accomplishing anything.[1]

In the following year a strike broke out in the London area over a demand for an eight-hour day. The dispute became a national affair, and the matters that had been raised at the earlier conference became the real issues. The lockout which ensued ended with the enforcement of the employers' point of view. The settlement which was signed on January 28th, 1898, on the one hand by representatives of the Federation, and on the other by the Amalgamated Society of Engineers, the Steam Engine Makers' Society, the United Machine Makers' Association and on behalf of seven Societies united for the purpose of the dispute as the London Joint Committee, established the employers' right for the time being, to man the machines with any grade of labour deemed suitable by them. Clause 1 read :

> "The Federated Employers while disavowing any intention of interfering with the proper functions of Trade Unions will admit no interference with the management of their business and reserve to themselves the right to introduce into any Federated workshop at the option of the employer concerned

[1]Board of Trade, Report on Strikes and Lockouts in 1897, Cmd. 9018 of 1898.

> any condition of labour under which any members of the Trade Unions here represented were working at the commencement of the dispute in any of the workshops of the Federated Employers."

Part 7 of the settlement under the heading "Procedure for Avoiding Disputes" set down the procedure for dealing with other disputes. Where these arose at individual engineering shops, the first step was the receiving of the deputation by the employers. Failing settlement, the question was to be made the subject of negotiation between the local officials of the trade union concerned and the local association of employers. From there, the matter might be referred to the executive board of the Federation and the central authority of the trade union. Pending the question being dealt with, the parties undertook that "there shall be no stoppage of work, either of a partial or a general character but work shall proceed under the current conditions." The dispute provisions might be put into action either by the workman or workmen concerned as individuals, or by the representatives of the union or unions interested.

Part 7 of the 1898 agreement did little more than formalise the existing practice. It had the disadvantage of being incorporated in a settlement which had been forced on the unions by defeat. To remove this stigma, a separate provisional agreement was negotiated between the Federation and the signatory unions in 1901 but was rejected by the rank and file on a ballot vote. In 1907, however, a new agreement was accepted and replaced the settlement as from 1st October.[1] It contained the same provisions in a slightly more amplified form but removed the patronising tone of the earlier agreement by establishing the mutual right to use the provisions in place of the earlier privilege to the unions. Of more practical importance was the insertion of definite checks on delays in dealing with a dispute at any stage. The party receiving an application for a local conference was required to arrange a

[1]For the full text of the 1898, 1907 and the rejected agreement of 1901, *see* Appendices A and D to *Thirty Years of Industrial Conciliation.*

meeting within 12 days, while a central conference was to be held "at the earliest date which can be conveniently arranged by the secretaries of the Federation and of the Trade Union or Trade Unions concerned." A central conference was composed, as before, of the executive board of the Federation and of members of the central authority of the union or unions. And an employer refusing to employ union labour now became ineligible to sit in either local or central conference whatever position he held in the Federation, whilst any members of the executive council or the general secretary of the Amalgamated Society of Engineers or an organising delegate were to attend only those local conferences which were held within the division represented by them.

The primary parties to this agreement were the Engineering Employers' Federation and the Amalgamated Society of Engineers, the Steam Engine Makers' Society and the United Machine Workers' Association. Similar provisions, however, had been agreed to by the Federation and the Electrical Trades' Union in 1906, and the National United Society of Smiths and Hammermen, the Society of Amalgamated Toolmakers, Engineers and Machinists, and the Scientific Instrument Makers' Trade Society, became parties to a parallel agreement in 1908 and the United Kingdom Society of Amalgamated Smiths and Strikers a year later. Until replaced in 1914, these agreements were faithfully adhered to by both sides and placed collective bargaining in engineering on a more satisfactory basis.[1]

In 1914, most of the unions which were signatories to the 1907 and similar agreements gave the requisite notice terminating the agreements with a view to amending other provisions not affecting the settling of disputes. The York Memorandum, which was signed on 17th April, made certain alterations in the dispute procedure designed to speed it up. It provided, as

[1]See Appendix XXXII of the Report of the Industrial Council in 1913, which includes among the reasons for the amicable relations in the engineering industry "the incorporation in the agreements of specific 'provisions for avoiding disputes'."

before, that, in the case of local difficulties, an endeavour should be made by the management and workmen concerned to settle the matter at the works or place of dispute. Where it was necessary for deputations of workmen to wait on the employers collectively, this should be done by appointment and the deputation be received without delay, the men being accompanied, if so desired, by the organising district delegate of their union. If no settlement was reached, a local conference was required to be held within seven working days unless otherwise mutually agreed upon. Central conferences were to be held at York on the second Friday of each month, but only matters referred to the conference not later than 14 days prior to that date might be considered. On any matter, whether referred or not, the central conference might, if it thought fit, issue a "joint recommendation" to the constituent parties. Until the central conference had broken down, no party was free to declare a stoppage of work either of a partial or general character.

During the years following the negotiation of the York Memorandum, the engineering industry fell almost entirely under the wartime legislation for the compulsory settlement of disputes. Until 1919, the procedure of the 1914 agreement became, in most cases, a mere preliminary to arbitration by the Committee on Production and the Interim Court of Arbitration.[1]

The voluntary provisions of the 1914 agreement once again regulated relations unaided after 1919, but failed to avoid a major dispute in 1922 which was itself connected with the method of adjusting differences. The immediate cause of the stoppage was the rejection by the Amalgamated Engineering Union of a memorandum of agreement drawn up at the end of 1921 in conference between the executive council of that union and the Engineering and Shipbuilding Employers' Federations. The particular clause to which exception was taken provided that instructions of the management in con-

[1]See Part II, Ch. III.

nection with conditions of work should be observed pending any questions being discussed in accordance with the provisions of the 1914 agreement. The question in dispute was, in effect, whether, when any changes in workshop conditions were sought, they should be introduced pending consideration by joint action, as claimed by the unions, or whether the matter should be held up until after the operation of the "procedure for avoiding disputes" which might be a period of six weeks or more. As in 1897, the Federations regarded the union claim as an interference with the normal functions of management and proceeded to lock out members of the Amalgamated Engineering Union and of all other unions refusing to sign the agreement.[1]

In the settlement which terminated the lock out in June, 1922, the difficulty was overcome by adopting the suggestions of Sir W. W. Mackenzie who had been appointed by the Minister of Labour as a Court of Inquiry under the provisions of the Industrial Courts Act, 1919.[2] These suggestions included the notifying of workers' representatives beforehand of any changes about to be made in working conditions. General alterations in wages, alterations in working conditions the subject of agreements officially entered into, or alterations in the general working week, which are contested, are not to be given effect to until the appropriate procedure between the Federations and the trade unions concerned has been exhausted. In all other matters the alterations apply until varied under the procedure for settling disputes.

With regard to this procedure the agreement incorporated the 1914 provisions with only minor alterations. They were made equally applicable, as far as appropriate, to the three general questions of alterations in wages, in working conditions which are the subject of formal agreements, and the general working week, as well as to local disputes.

In respect of the last-named, the agreement continued some

[1] *The Ministry of Labour Gazette*, 1922.

[2] Cmd. 1833 of 1922.

wartime provisions. A national agreement had been signed with various unions, but not the Amalgamated Society of Engineers, on 20th December, 1917, for the appointment and functioning of shop stewards in individual workshops. This agreement was superseded on 20th May, 1919, when regulations were agreed to regarding the appointment and functions of shop stewards and works committees. To this agreement[1] the Amalgamated Society of Engineers did become a party. Its provisions require the shop stewards appointed from the members of each of the unions, parties to the agreement, and employed in the establishment, to "be afforded facilities to deal with questions raised in the shop or portion of a shop in which they are employed." They are subject to the control of the unions and act in accordance with the rules and regulations of their unions and agreements with the employers, so far as these affect the relation between employers and workpeople. But except in so far as their duties as stewards and members of works committees necessitate special privileges, they conform to the same working conditions as their fellow workers.

A works committee consists, under Part II of the 1922 agreement of "not more than seven representatives of the management and not more than seven shop stewards representative of the various classes of workpeople employed," and acts as a preliminary procedure of conciliation in shop differences preceding the application of the more general "Provisions for Avoiding Disputes." In this duty, the functions of shop stewards and works committees are required to be "exercised in accordance with the following procedure :

(*a*) A worker or workers desiring to raise any question in which they are directly concerned shall, in the first instance, discuss the same with their foreman.

(*b*) Failing settlement, the question shall be taken up with the shop manager and/or head shop foreman by the appropriate shop steward and one of the workers directly concerned.

[1]Appendix D of the Report.

(*c*) If no settlement is arrived at, the question may, at the request of either party, be further considered, at a meeting of the Works Committee. At this meeting, the O.D.D. may be present, in which event a representative of the Employers' Association shall also be present.

(*d*) Any question which affects more than one branch of the trade or more than one department of the works may be referred to the Works Committee.

(*e*) The question may thereafter be referred for further consideration in terms of the Provisions for Avoiding Disputes.

(*f*) No stoppage of work shall take place until the question has been fully dealt with in accordance with this Agreement and with the Provisions for Avoiding Disputes.

With the exception of the introduction of shop stewards and works committees, the essential features of the national procedure have remained the same since 1898. Discussion in conferences, local and central, is still the keynote and the industry has consistently refused to adopt provisions for arbitration in any form. Reference to a third party as a final resort is not included but is a matter for mutual agreement at the central conference. In this the industry varies from others which have made provision for the automatic application of arbitration on the failure of conciliation.

The 1922 Agreement was signed by the Federation of Employers and by 48 workers' associations headed by the Amalgamated Engineering Union. Agreements with separate though similar conciliation provisions (but without provision for shop stewards) were signed by the Federation and the Amalgamated Society of Scale, Beam and Weighing Machine Makers (now the National Union of Scalemakers) on August 12th, 1919, the National Union of Clerks and Administrative Workers (now the Clerical and Administrative Workers' Union) on December 15th, 1921, and the Association of Engineering and Shipbuilding Draughtsmen on March 11th,

1924. By agreement dated November 24th, 1932, with the National Union of General and Municipal Workers and the Transport and General Workers' Union, women in those unions (and in the Amalgamated Engineering Union since 1943) have been brought under the 1922 provisions.

In 1937 agreements between the Federation and the Confederation of Shipbuilding and Engineering Unions and the Amalgamated Engineering Union prescribed somewhat more limited negotiation machinery for apprentices and junior males (under 21 years) in manual work in the industry. Similar arrangements were made in respect of apprentices and young persons under 21 years in drawing and tracing offices by an agreement made in 1939 between the Federation and the Association of Engineering and Shipbuilding Draughtsmen.[1]

Although these conciliation arrangements have worked smoothly on the whole, with only two disputes of national importance, and probably less than ten of district extent up to 1939, strong criticism of various aspects was voiced by the unions at the York conferences held in the 'thirties.[2]

The first criticism was that the negotiation process was too protracted. The only time limits imposed by the provisions were for local conferences to "be held within seven working days unless otherwise mutually agreed upon," and for central conferences to meet monthly to hear questions raised fourteen days before the meeting. These times were adopted in the slower-moving days before the First World War, and no attempt, up to 1939, had been made as in shipbuilding[3] to speed them up. Moreover, in the stages preliminary to the local conference, it was pointed out that the only requirements as to the time of hearing matters was that deputations of workers "shall be received by the employers by appointment without unreasonable delay." The second complaint related

[1]Ministry of Labour and National Service : *Industrial Relations Handbook.*

[2]G. D. Miller in *Trade Unionism Today*, p. 363.

[3]See below.

to the exclusion of union officials from shop negotiations. The requirement that the individual workman shall himself first attempt to settle a grievance with the management was attacked on the grounds that it exposed the individual to those with the power of dismissing him, especially in cases of complaint against a foreman, and in any case was a denial of the unions' right to protect members in all dealings with their employers. The third criticism was of practices in engineering establishments which were obstacles in the way of shop stewards and works committees. The early promise of the wartime expedient of shop stewards and works committees was not maintained in the inter-war period. The appointment of shop stewards did become general but committees of the kind contemplated were less common. And even where stewards were appointed their task was often not made easier by the attitude of the management. The whole blame, however, does not rest with the employers. The multiplicity of unions in the trade has often resulted in the existence of a number of unco-ordinated shop stewards representing different unions, whilst in times of trade depression it was sometimes difficult to find men willing to serve, so that when union organisation weakened the entire shop steward system was liable to lapse in a particular factory.[1] Lastly, the unions have not willingly accepted the formula that settled the dispute in 1922 in respect of changes in working conditions while the dispute procedure is in operation.

Many of these difficulties have been removed by the changes in the industry after the outbreak of war and agreements entered into since 1939 as discussed later. Whatever may be said against the 1922 procedure it must be admitted that it has been a powerful factor in standardising working conditions which, in an industry so scattered as engineering, is of considerable importance both from the unions' and the national economic viewpoints.

[1]See essay by G. D. H. Cole on "Engineers and Shipbuilders" in *British Trade Unionism Today*.

Non-Federated Districts

The provisions of the 1922 and similar agreements now cover all branches of the industry in respect of federated firms. But the Engineering and Allied Employers' National Federation is not all-embracing. There still exist a few districts in which the local organisations of employers have not affiliated, and separate local arrangements have been made between these and the engineering trade unions. The most important of these districts is Wales.[1] The employers' association there is the Welsh Engineers' and Founders' Association which has concluded agreements with the unions for the establishment and maintenance of an engineers' and founders' conciliation board with the object "to prevent disputes by making arrangements regarding the wages and working conditions of the journeymen, apprentices and all other classes of workmen who shall be members of the appropriate trade union on the one hand and the employers on the other." Ten unions have representation on this board, viz. : Amalgamated Engineering Union, Electrical Trades Union, United Patternmakers' Association, British Iron and Steel Trades' Confederation, Transport and General Workers' Union, National Union of General and Municipal Workers, Boilermakers, Iron and Steel Shipbuilders' Society, National Union of Foundry Workers, Associated Society of Moulders, and British Roll Turners' Society. The representation on the board is left to each side to arrange, but a chairman and vice-chairman are jointly elected annually, the former from among employers' representatives and the latter from among the unions' delegates. Five representatives on either side, inclusive of chairman or vice-chairman and respective secretaries, form a quorum.

Four weeks' notice in writing to the secretary of the other

[1]Portsmouth and District Engineering and Shipbuilding Employers' Association and Wolverhampton Engineers Employers' Union are the only associations of any size apart from Wales which are outside the Federation. Although collective agreements have been made by them with the unions on most matters, special arrangements for the settling of differences have not been made.

side is necessary before a matter can be dealt with by the board except in the case of domestic questions or claims which have failed to be adjusted at the works where they arise, in which case they may be referred to a meeting for settlement without the requisite notice. Rule 16 provides that on failure to settle, the dispute may "by common consent be submitted to a third party mutually agreed upon." Pending a decision by the board, rule 9 prohibits any "stoppage of work in the nature of a strike or lockout" and provides that "all wages and conditions shall be those current previous to the proposed change."

Civil Constructional Engineering

Since the First World War, and indeed even before it, constructional engineering tended to develop into a specialised and somewhat separate branch of engineering. On the Tees-side, for instance, many of the engineering firms whose undertakings were usually of a constructional nature, left the Engineering and Allied Employers' Federation to form a local organisation of their own. In Federation establishments, of course, the 1922 agreement applied, the Constructional Engineering Union being a party to that agreement in respect of members normally employed inside engineering establishments.

Separate conciliation machinery, however, has been established in civil engineering, to which, of course, the agreements of the Engineering and Allied Employers' Federation do not extend. Since 1919, conditions of work in this branch have been regulated by the civil engineering construction conciliation board for Great Britain. The decisions of this board are applicable to men engaged for such work as the construction of railways, docks, waterworks, roads, sewers, etc., by public works contractors or directly by public authorities, but do not apply to the permanent staff of authorities who are subject to agreements made by the district joint industrial councils for local authorities non-trading (manual) services.

The agreement constituting the board was signed by the Federation of Civil Engineering Contractors and, between December, 1919, and July, 1921, by eight unions which have since amalgamated as the National Union of General and Municipal Workers and the Transport and General Workers' Union. The agreement is in three parts. The first sets out the preliminary procedure for dealing with disputes arising on individual contracts or works. The second provides for the establishment of the conciliation board, and the third details rules to be observed by the board in dealing with disputes submitted to it.

The procedure prior to the hearing of a local difficulty by the board is more elaborate than that observed elsewhere in the industry under the 1922 arrangement. It comprises first the receipt of a deputation of workmen by the employer or manager on the work within two days of a request for an interview. On failure of settlement, the matter may be taken up by the official delegate of the union to whom an interview must be granted within a further three days. If no settlement has then been reached and both parties agree that the question affects only the particular work of construction under consideration, the question is, by notice to the secretary of the Federation and to the secretary of the union, brought, within seven days, before a joint committee of not more than three employers appointed by the Federation and not more than three representatives of the union or unions concerned, none of whom may be connected with the work of construction involved. If this joint committee agrees, its decision is binding on the employer and workman or workmen concerned, but does not necessarily form a precedent in any other case.

If the committee fails to agree or the parties do not consider that the question affects only that particular work of construction, the matter must be referred to the conciliation board in London prior to a stoppage of work occurring. The board consists of:

(*a*) A fixed number (not exceeding six) of representatives of trade unions engaged on civil engineering construction, and

(*b*) the same number of employers of labour on civil engineering construction nominated by the Federation, whether members of it or of corporations or public bodies engaging direct labour on civil engineering construction or of corporations or public bodies which by reason of the terms of any contract for civil engineering construction are concerned in the loss of work of a similar nature to that under discussion.

But except in the case of general strikes or lockouts no person other than the president of the Federation or secretary of a union may sit on the board if he has any direct interest in the dispute. The two sides remain separate entities, each electing a secretary and president and meeting its own expenses.

At its first meeting in each year, the board appoints an independent chairman from without its members. His duties are to preside and he has no arbitral powers by way of casting vote or otherwise. Meetings may be called by either section of the board subject to certain procedural requirements. The secretary of the section desiring a meeting must give notice to the other secretary and may require him to meet and agree upon an agenda within three days. If the agenda cannot be settled, the meeting may nevertheless be summoned by notice stating that fact but then the consent of both sections is necessary before any matter can be raised. Three form a quorum for each section, and a quorum on both sides is necessary at a board meeting. Each section votes separately, the majority binding the minority of the section, and in the event of equality of votes, the chairman of the section casts a second vote.

Failing agreement between the sections, the question may be referred for final determination by arbitration to an independent person agreed upon by both sections but only if the parties to the dispute as well as a majority of each section of the board agrees.

The board is terminable on six months' written notice from either side. It has drawn up the conditions of work in this branch of the industry with considerable success, including the introduction of a cost of living sliding scale for wage regulation. In 1940 the members of the board, together with the parties to the national joint council for the building industry,[1] entered into a uniformity agreement for the establishment of a joint board to deal with wages and other questions on large sites where work of national importance is being carried out.

Railway Workshops

A large number of workers engaged in engineering occupations are employed in the construction or repair of railway locomotives, rolling stock and other accessories to the railway industry. The running of workshops is not, of course, a major object of railway concerns and the companies have not, therefore, been members of the Engineering and Allied Employers' National Federation, and within their premises the Federation agreements have no operation. The men are partly organised in the industrial union, the National Union of Railwaymen, partly in the various engineering unions, while some belong to the unions of general workers, principally the Transport and General Workers' Union.

In 1914, these unions began agitating for their members employed by these companies to be paid "district rates," that is to say, the rates agreed upon by the organised employers and workers in engineering occupations outside the railway shops. After the war, these demands were renewed, and in February, 1922, the whole question of rates of pay and conditions of employment of railway shopmen in England and Wales was referred to the Industrial Court.[2] This was a preliminary to the establishment of machinery of conciliation and arbitration which was accomplished by agreement on August 15th,

[1] See Chapter VI.

[2] 1934 Report on Collective Agreements, pp. 240-257.

1927, between the main line railway companies and 35 trade unions.

The scope of the agreement is summed up in its first clause:

> "The object of the scheme is to afford full facilities for the discussion and settlement of all questions relating to the rates of pay, hours of duty and general conditions of employment (other than matters of management and discipline which will continue to be dealt with as at present) of male wages staff employed by the railway companies of Great Britain signatories hereto under shop conditions on constructional, repair, and maintenance work."

It provides in the first place for the appointment of shop committees in every shop in which not less than 75 persons are employed. These are joint bodies, the workers having one representative for every 100 men or part thereof employed, with a minimum of two, and the company appointing an equal number. Shops in the same department at any works or depot with less than 75 workers are grouped for the purposes of appointing one shop committee.

Where there are two or more shop committees at any works or depot, the agreement provides for the establishment of a works committee composed of not more than ten representatives elected by the various shop committees and the same number of company nominees as there are employee representatives. Line committees may be established where men are employed in detached bodies in the same department at various centres on a railway, if the number at any one place is not sufficient to form a shop committee. In this case, the employees' side consists of representatives elected by the men concerned on a whole line basis, in the ratio of one for each 150 employees or any part thereof, with a minimum of three and a maximum of ten.

In the case of all three committees, the arrangements provide for representation on a proportionate basis of certain wages grades which had been enunciated in the award of the

Industrial Court issued on July 8th, 1922.[1] The committees work on a rotation system, that is to say, at the first election one-third of the employee representatives are elected for one year, one-third for two years and the remaining third for three years, and thereafter all hold office for three years. For administrative purposes, the two interests on the committees are separate entities electing their own chairman and secretary.

A workman or group of workmen in a shop desiring to raise any question within the scope of the agreement must, in the first instance, make representations to the shop foreman. If his answer is regarded as unsatisfactory, the matter may be referred to the shop committee, or, where there is no shop committee, to the representative in the combined shop committee or line committee who discusses it with the local management. Matters not settled at this stage may be taken to the works committee, or, where there is no works committee at that place, may be discussed between the district staff officer of the union concerned and the local railway management or may be referred to the head of the department. Where a representative of a departmental line committee has failed to obtain a satisfactory answer from the local management, he may refer the matter to the departmental line committee.

If employees at two or more shops wish to raise a general matter applicable to both shops they may do so in writing to the local management, and on default of satisfaction may take it direct to the works committee. Similarly, a general question affecting any class of men in a department employed in detached bodies along the line may be raised in writing to the head of the department, and on default of satisfaction a meeting of the departmental line committee will be held at the request of either side to deal further with the matter. Disputes not settled by works committees or departmental line committees are adjusted between the district staff officer of the union and the local railway management or between the

[1]Decision No. 728.

headquarters officials of the unions concerned either jointly or severally, and the general management of the company.

So far the agreement only deals with local matters applicable to one or more shops or to one class of men in a department. Sections 13 and 14 provide for matters of a national character. Trade unions wishing to raise such a matter within the scope of the agreement, may take up the question with the general managers of the railway companies. Subsequent negotiations must then be conducted through a national railway shopmen's council consisting, on the employers' side, of the railways' staff conference and on the unions' side of ten delegates appointed by the whole of the unions concerned, such delegates being representative, as far as practicable, on a proportional basis, of all classes of wage-employees engaged in railway workshops.

A company wishing to raise a matter not of national scope may do so by referring it to the secretary of the employees' side of the relevant shop, works, or departmental line, committee. If the matter is of a national character, the companies may communicate their proposals to the secretary of the union delegates acting for railway shopmen on the national council.

The agreement provides certain times within which questions must be dealt with. By section 15, a company's answer to an application from an individual or group of employees must be given as early as possible and generally within seven days. Meetings of the shop, works or line committees are held as and when mutually agreed upon by the chairmen and secretaries of the two sides, having due regard to the nature and extent of the business to be dealt with. Failing agreement upon the time of meeting, the committee must be summoned within fourteen days of the disagreement.

On any matter, whether local or national, where the parties are prepared to submit to arbitration any matter within the agreement on which a settlement cannot otherwise be reached, the reference is to the Industrial Court. This provision does

not ensure automatic reference upon a final breakdown. It merely indicates the tribunal to be used should the parties mutually agree to arbitration.

A condition of the companies' participation in the scheme was that pending the complete exhaustion of its processes, there should be "no withdrawal of labour, nor any unauthorised action." The agreement was worked as an experiment until 15th August, 1929, and since then has been terminable on twelve months' notice.

Government Works

Since 1919, Government engineering establishments have been working under the separate conciliation machinery of the Whitley scheme comprising works committees, departmental industrial councils and trade joint industrial councils.[1]

CONCILIATION IN SHIPBUILDING

Since the replacement of wood by iron and steel as the materials most extensively used in ship construction, shipbuilding and repairing has become really a branch, though one of the most specialised branches, of the engineering industry. A very high proportion of shipbuilding employers are members of local associations affiliated with the Shipbuilding Employers' Federation which is a parallel body to the Engineering and Allied Employers' National Federation.[2] In all collective agreements affecting work in engineering in its widest sense, the two Federations collaborate. On the workers' side, 24 unions catering for shipyard workers are members of the Confederation of Shipbuilding and Engineering Unions. In addition, many of the engineering unions such as the Amalgamated Engineering Union have members employed in

[1]See Part II, Ch. IV.

[2]Until 1928 many of the more important associations in the ship-repairing trade remained outside the Federation. In February of that year, however, the River Thames Dry Dock Proprietors' and Ship-repairers' Association, the Mersey Ship-repairers' Federation, and the Bristol Channel Engineers and Ship-repairers Employers' Association Limited, became members.

docks and yards. This Union and the United Society of Boilermakers and Iron and Steel Shipbuilders are the most important workers' organisations not included in the Confederation with which, however, they invariably co-operate in national negotiations with the shipbuilders on questions of common interest.

The history of conciliation arrangements in shipbuilding is very similar to that in engineering proper. Practices tended to approximate in general to the lines of the 1898 settlement, so that when in 1908 the industry drew up its own arrangement, the provisions were largely a reproduction of the dispute provisions of the engineering agreement of 1907.

(*a*) *Local Machinery*

As with engineering, prior to the adoption of national conciliation provisions, there was little progress in the formation of permanent conciliation boards or joint committees, with the exception of the local bodies set up to adjust questions of demarcation of work.

From 1892, there existed on the Wear,[1] a rather complicated conciliation board which operated in respect of most shipyard workers in that area, but not the important section represented by the Society of Boilermakers and Iron and Steel Shipbuilders. Any questions of dispute might be referred to this board, the principal matters being "wages, piece rates, hours of work or other working conditions."

The board was composed of three parts, departmental boards, a general board, and a board of independent referees.[2] Departmental boards consisted of six representatives of the employers and a like number from each branch of the workers. They acted as committees of first hearing, and failing a settlement of any matter, referred it to the general board

[1]An arbitration board existed on the Wear in respect of shipwrights' disputes in the days of wooden ships. See above Chapter I.

[2]First Report on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees, Cmd. 3788 of 1908, pp. 146-8.

unless the parties agreed to the matter proceeding direct to the third stage, the board of referees. The general board was made up of three representatives from each section of workers and a number of employers equal to the total number of workers' representatives. The general board was a permanent body elected annually. It sat within three and seven days after failure of the departmental board or boards to settle any dispute. A three-fourths majority of those present was necessary to carry any proposal by vote. On the departmental boards and the general board an equal number of each side must vote irrespective of the numbers present, but two-thirds of each side was necessary as a quorum in the one case and three-fourths in the other. If the general board failed to agree to a settlement by the three-fourths majority, the matter was required to be sent to the board of independent referees. This was constituted by each side of the referring board nominating a referee from a list already agreed upon, and these two naming a third person "of sufficient standing and not interested in the question to be decided," to act as chairman. The majority decision of these three was "final and binding on the parties." The Wear machinery is reported to have worked well and to have avoided many stoppages despite fluctuations in wage rates which occurred at that time. Largely due to its work, the Wear ceased to be regarded as the "cockpit of the North."[1]

The only other early conciliation arrangement of any importance in shipbuilding was that arrived at by agreement dated 5th July, 1894, between the Tyne, Wear and Tees and Hartlepool Shipbuilders and the Boilermakers and Iron and Steel Shipbuilders' Society. This agreement provided for one month's notice to be given of any claim for alteration of wage rates, but such notice might not be given before the lapse of six months from the last alteration and no single reduction or increase might exceed 5 per cent. of the existing wages. As regards questions other than the reduction or increase of wage rates, the agreement provided that these should be a matter

[1]S. B. Bolton, *Labour Disputes, Nineteenth Century*, June, 1890.

for settlement between the Society's officials and the individual employer or his representative. Failing a settlement, a joint committee representing all the employers in the district and the Society was set up within 14 days. If the matter affected more than one river, the local committees sent delegates to a central joint committee. This agreement was adopted for a trial period of five years but remained in force until 1907, when it was terminated on the commencement of negotiations for a national agreement.

(*b*) *National Machinery*

In the most important centre of the industry, the Clyde Valley, no conciliation machinery had been established. The occurrence of a series of disputes which stopped work on that river in 1906 and ultimately spread to other shipbuilding centres, requiring the intervention of the Board of Trade, brought home the need to outline generally applicable principles for guiding negotiations in the event either of a national or a local dispute. After renewed outbursts in 1907[1] the Shipbuilding Employers' Federation and the various trade unions, representative of all workers in the shipyards with the exception of labourers, met in conference and by December 16th, 1908, had adopted a provisional agreement which was ratified after a ballot vote had been taken by the unions on 9th March, 1909.[2]

As stated earlier the fundamental principle of this agreement was the same as that of the engineering agreements, the piling up of stages through which a difference must be discussed before a stoppage of work might occur. Like those agreements, it was largely confined to conciliation, mutual agreement being necessary, on the final breakdown of discussion, not only to a submission to arbitration but also to the form of that arbitra-

[1]During that year, engineering and shipbuilding stoppages accounted for one-fourth of the total disputes in progress, for 13 per cent. of the workpeople involved in strikes and lockouts, and 22 per cent. of the aggregate duration of all stoppages. 1908 Report on Strikes and Lockouts.

[2]1910 Report on Collective Agreements, Cmd. 5366, p. 2.

tion. The shipbuilding agreement, however, showed a big advance on the engineering agreements both in setting up more precise machinery and in defining the procedure at each stage including the times within which action must be taken.

The agreement dealt with three types of questions : general fluctuations in wage rates ; local matters affecting one or more workmen or branches of workmen in a particular year ; and questions of a general nature affecting more than one district but not concerning general alterations in wages.

Part I dealt with the first type which it defined as arising from "changes due to the general conditions of the shipbuilding industry." When an application was made for an amendment of wage rates, provided six calendar months had passed since the date of the previous general alteration, a conference of the Federation and the unions must be held within 14 days of a request in order to discuss the situation. This conference could not be adjourned for more than a further 14 days. But should agreement be reached immediately, the alteration did not take effect until six weeks had elapsed since the date of the application. Moreover, these general fluctuations were limited by the agreement to 5 per cent. in the case of piece work rates and in the case of time rates to 1s. per week or $\frac{1}{4}$d. per hour.

Part II set out procedure applicable to the second type of questions, the yard or district disputes. It applied whenever a question was desired to be raised by or on behalf of either an employer or employers or a workman or workmen. As usual, the first stage was a meeting between the workman or deputation of workmen and the employer, held by appointment in the yard or dock concerned. Failing the conclusion of a satisfactory arrangement, an endeavour might then be made to negotiate a settlement in a meeting between the employer, with or without an official of his local association, and the official delegate of the union concerned, with or without the workman or workmen involved as deemed necessary. In default of agreement, the next step was reference to a joint committee of three employers and three representatives of the union or

of each union directly concerned, such representatives having no connection with the yard or dock where the dispute arose. From this committee, the matter might be taken to a local conference of the employers' district association and the responsible local representatives of the union or unions. If the local conference failed, it became competent for either party to demand a central conference between the executive board of the Federation and of the union or unions.

Where the question was of a more general nature affecting more than one yard or dock, it was competent to raise it direct in local conference or, where it affected the Federated firms or workmen in more than one district, in central conference, without, in either case, going through the prior procedure as above. A further reference was possible upon the breakdown of a central conference, to a grand conference of the Federation and of all the unions who were parties to the agreement.

Where local arrangements already existed for dealing with piece prices or piece work, these arrangements were an alternative in such matters to the procedure of Part II for local differences, but upon a failure to reach settlement under such arrangements, the provisions of Part II must be applied. Local arrangements for the settlement of questions of demarcation of work were not affected by the agreement which stated that they were "to continue meantime."

Any stoppage of work whether over a local or a general question was in contravention of the agreement if it preceded the exhaustion of the whole procedure. Once such a stoppage occurred or no settlement had been reached after invoking the full machinery the parties reserved entire freedom of action but in respect of that one dispute only.

The agreement was expressed to remain in force for three years certain and then to be terminable on six months' notice. While the three years were still running, trouble arose from alleged violation of its provisions by the men. To provide for these cases and to penalise ascertained breaches by the organisations on both sides, a supplementary agreement was signed

in December, 1910, by the Federation and by the 17 unions parties to the principal agreement.[1]

The new document made it clear that it in no way detracted from the provisions of the main agreement which the parties again "individually and collectively undertake to carry out." But when the parties were in disagreement as to whether or not a stoppage of work had occurred in breach of the agreement, the supplementary agreement enabled reference of that question only to be made to a committee of six representatives not concerned in any way with the particular yard or dock where the question arose, three being appointed by each side. This committee had no power to meet until work had been resumed. If it could not agree, the question was submitted forthwith to an independent referee, previously selected by the committee from a panel mutually agreed upon by the Federation and the unions, and his decision was final and binding on all parties. Where the committee or the umpire came to the conclusion that a stoppage in breach of the agreement had taken place, the offending parties were dealt with, "in the case of the workmen by the executive council of the Society in accordance with the rules of the Society, and in the case of an employer by the executive board of the Federation in accordance with the rules of the Federation." Proof of the enforcement of the rules might be required by the committee or referee.

The supplementary agreement did make some additions to the specific machinery of the main agreement in respect of piece work questions. It required, for instance, that a claim in connection with piece work must be considered by the joint committee within seven days of a written request, by a local conference within 14 days of notice of appeal, and by a central conference at the first meeting held after notice of appeal or within three weeks if either side so desired. Where the claim was in respect of repair work, the procedure was required to

[1]See evidence taken by the Industrial Council in 1913 and Agreements in Appendix V of the Council's Report.

be "so expedited that the joint committee shall meet before the first pay day, if practicable, or within three working days." Where both parties were agreed at a prior meeting that a piece work dispute to be determined by local conference was distinctly local in character, the union concerned might select from amongst the members of the Employers' Federation and alternately the local association of employers might select from the union affected, a chairman to preside at such local conference and to give a decision in the event of deadlock. This decision, however, did not become a precedent for any other yard or dock.

One of the beneficial results of the introduction of uniform procedure, especially for wage fluctuations, was the levelling of wages in the same grades throughout the country. Thus whereas in March, 1909, there was a difference of 3s. in the wages of ship joiners on the Tyne and ship joiners on the Clyde, by July, 1912, the greatest difference was not more than 1d. to 1½d., while at the same time wages in the former higher paid districts had increased.[1] Another result was the curtailing of the volume of local bickering that formerly preceded any change in wage rates. Instead of the owners having to meet and negotiate with 17 different and distinct trades and associations in each district, after 1909 one set of meetings was sufficient. In 1913, therefore, when the provisions came under review, satisfaction with their working was expressed on both sides and they were incorporated without amendment in a fresh agreement dated 18th February, 1913.

The First World War history of shipbuilding conciliation is similar to that of engineering in general. The end of 1919 saw the return of pre-war working conditions, including the 1913 provisions for settling disputes. It was not, however, a return to pre-war prosperity in this trade. First the cessation of war-time contracts and then the slump in naval replacements in accordance with the Washington Naval Treaty, reduced the

[1]Evidence of Secretary of Amalgamated Union of Cabinet Makers before Industrial Council, 1913.

industry to a position where it was largely dependent on contracts for ships for the mercantile marines. Moreover, the war had fostered nationalism which now inclined foreign countries, backed by public moneys, to build their own requirements in cargo and passenger ships, irrespective of the economic disadvantages. As a result of these forces, the industry suffered from acute depression which in turn placed a heavy strain on the conciliation machinery and on the patience and tempers of those responsible for its smooth operation.[1]

In February, 1925, when the Engineering and Shipbuilding Trades' Federation invoked the procedure with a view to obtaining a general advance in wages, the employers maintained that the time was ripe for a general review of the dispute machinery, and suggested the establishment of a joint committee to negotiate a fresh agreement and to deal with the particular application at the same time. The result was the London Agreement which was signed by the two Federations on November 4th, 1926.

The main concern of the drafters of this agreement was to speed up the existing procedure to avoid complaints from both sides of deliberate delays in reaching settlements. While the agreement, therefore, retained the outline of most of the earlier provisions, it made one major alteration by removing the settlement of general wage questions from the scope of the machinery. Wage matters were to be the subject of a supplementary agreement, but this has not been made and general wage rates since 1926 have been directly negotiated by the Federation and the Confederation at *ad hoc* conferences.

In the case of other questions, the following speeding-up of the various stages of conciliation have been included in the 1926 agreement. The initial deputation must be received by the employer within two days of a request for an interview, and the subsequent meeting between the employer and local official of the union must be arranged within a further three

[1]Chapter on Shipbuilding in *Survey of Metal Industries*.

days. A local conference is held not later than seven days from the receipt of a request for one, or ten days where the question affects more than one yard or dock. The agreement provides for fortnightly central conferences on fixed dates and for all questions received not later than 10 days prior to one of these dates to be placed on the agenda of that conference and to be dealt with in the order of reference. In practice the dates of central conferences are arranged to suit the convenience of the parties. The "grand conference" of the pre-war agreements has now become a "general conference" and is held within 14 days of the receipt of an application by either party given within three days from the breakdown of the central conference. A general conference is presided over by a permanent independent chairman who was chosen, in the first place, and whenever a vacancy occurs, by a joint committee of three persons representing the unions and three representing the Employers' Federation. He has no vote in the proceedings or determining vote, and unless a settlement has been reached, or the matter is referred to arbitration, he must adjourn the conference to a date not later than 10 days thence.

In the case of piece work questions, the provisions of the supplementary agreement of 1910 in regard to arbitration on local matters are not repeated but arbitration is provided for at the local conference stage if the question to be determined

(*a*) is one that affects only the yard or dock where it has arisen, or,

(*b*) is a question of interpretation of a district price list.

The decision affects only the parties to the dispute and cannot be raised as a precedent on any future occasion. Local arrangements may be made for the composition of a panel of disinterested persons from whom the arbitrator is drawn, or the appointment may be made through the Ministry of Labour and National Service. Where the parties so desire, they may each appoint an assessor to assist the arbitrator.

An agreement similar to the 1926 Agreement has been signed by the unions not associated in the Engineering and Shipbuilding Trades Federation, with the exception of the United Society of Boilermakers and Iron and Steel Shipbuilders and the Association of Engineering and Shipbuilding Draughtsmen. Those unions, in fact, however, accept the practices of the agreements in their dealing with the Shipbuilding Employers' Federation.[1]

DEMARCATION MACHINERY

The prevalence of demarcation disputes in the engineering and shipbuilding works has already been mentioned. They arise "where one trade union claims from another work in which the latter is engaged."[2] Whilst in the majority of cases, two crafts only are contending for this work, in some instances the number has reached five or six. These disputes have been most prominent where the nature of particular work is changing, as, for example, the replacement of pipes made of lead by those made of copper and then by steel, so that lead workers, copper workers and steel pipe workers make an equal claim to the work. In the past, demarcation troubles usually of a local nature have led to many stoppages of work in engineering and more especially shipbuilding.

Of recent years, three factors have reduced the number of these disputes. The most important has been the introduction of more uniform wage rates, thus removing the wide gaps in wages between similar crafts. The second has been the increasing tendency on the part of the unions to work together, and, by settling their differences domestically, to present a more united front to the employers.[3] The third has been the

[1] Ministry of Labour Report on Collective Agreements, 1934, and *Industrial Relations Handbook*.

[2] J. Hilton and Others, *Are Trade Unions Obstructive*, p. 145.

[3] e.g., Mutual guarantees by unions in similar fields of occupation against "poaching" of members of rival unions. The Trade Union Congress provides facilities for the settling of inter-union differences. See T.U.C. Standing Orders No. 12, and various inter-union agreements in Milne-Bailey : *Trade Union Documents*, pp. 154-163.

establishment of demarcation machinery in association with the employers. At first this machinery operated locally only, but since 1912 it has been based on a national agreement, and now has application in all the main shipbuilding centres in England and Scotland.

(*a*) *Local Machinery* :[1]

The first demarcation committee was set up to resolve disputes between shipwrights and joiners on the River Tyne in 1893. It consisted of three joiners, three shipwrights, and three employers who were annually appointed and who selected at their first meeting "a gentleman to nominate twelve or fifteen disinterested gentlemen as referees." Either the committee itself or a sub-committee of three might hear the case, but the decision was open to review by three of the referees at the option of any party. One referee was chosen by each interest represented on the committee, and the referees' decision applied to all yards on the river for a period of twelve months, and thereafter until again brought before the committee.

An interesting innovation in joint machinery was the provision that in the event of the referees confirming the committee's decision, the party appealing became liable to pay the whole expenses of appeal. If the decision was set aside, these expenses became part of the general expenses of the committee and were shared by the three parties.

The success of this agreement led to the establishment of a general board for the adjustment of all demarcation disputes between trades arising in associated shipyards of the Tyne and Blyth districts. In this case, the joint committee consisted of three members of each society involved in the dispute sitting under the chairmanship of a single member of the employers' association. The board of referees to which appeal might be made from a committee decision within six days, consisted of

[1]1907 and 1910 Reports on Rules, etc.

three members of the Shipbuilders' Association, none of whom might belong to the firm in whose yard the dispute had arisen. In the event of disputed work being of an urgent nature (of which the management was sole judge), the management was at liberty to give a temporary decision without prejudice to final settlement. Under no circumstances were the men to cease work or be paid off through demarcation differences. The earlier experiment of penalising unnecessary appeals to the board of referees was not repeated, expenses being borne by each party as incurred and joint expenses being shared equally.

The Tyne shipbuilding demarcation board was copied in the Tees and Hartlepool ports by an agreement dated May 24th, 1898, made between the Tees and Hartlepool Shipbuilders' Association, and nine unions at Stockton-on-Tees, and rules were drawn up identical with those of the Tyne board. The majority of the disputes occurred between the shipwrights and joiners, and a meeting at Stockton on February 1st, 1900, drew up rules for a separate shipwrights', joiners' and employers' board in connection with disputes between these crafts at the associated yards at Hartlepool, Stockton, and Middlesbrough, and in particular to deal with questions of definition of any clause in the demarcation lists operating in those centres. No provision was made for the appointment of referees, the decision of the board being final and applicable to all yards for the following twelve months and thereafter until challenged. Before a demarcation dispute reached the board endeavours to settle it must have been made in the yard itself and at that stage non-urgent work might be suspended, if desired by either of the yard representatives, for not more than three days to allow the district delegates to confer jointly with the firm's representatives. In the case of urgent work, the firm had the right, pending the board's adjudication, to give a temporary decision to enable work to continue.

Another board was established in the same area and though

strictly not in the nature of a demarcation board, is yet worth mentioning as showing the desire of the employers to avoid friction of any sort between those employed on the construction or repair of ships which might lead to a cessation of work. The Tees and Hartlepool Platers' and Helpers' Reference Board consisted of three members of the Tees and Hartlepool Shipbuilders' Association (not belonging to the employing firm or firms) and existed solely to settle any dispute between platers and their helpers. Pending a decision, no stoppage of work might take place.

On the West Coast, a boilermakers' and shipwrights' demarcation board existed for some time in respect of the Mersey River yards. It consisted of three members annually elected from each of the trades, together with the paid delegates of each union ex officio. Three members of the shipowners' federation were annually selected to act as independent chairmen if, and when, called upon by the delegates. A board meeting was held within six days from notification of the existence of a dispute and on failure to agree the chairman selected by the delegates had power to decide within forty-eight hours. The decision either of the board or of the chairman remained operative for twelve months. Pending a decision suspension of work was prohibited and the two official delegates might give a temporary decision as to who should continue the work in the interim but without prejudice to the final adjudication of the board.

This was followed in 1900 by two demarcation committees in the Liverpool and Birkenhead districts for shipwrights and joiners. These consisted of four joiners and four shipwrights, with a representative of the employers as chairman, all being elected annually by the constituent bodies. When a committee failed to reach a settlement the chairman gave a ruling if unanimously requested to do so. Where the chairman was not so called upon, a referee was selected from a panel of four experts appointed at each annual meeting of the committees. If a claim was found to be "frivolous," the party bringing it

forward might be ordered to pay the whole expenses incurred. Otherwise, expenses were shared by the parties.

On the Clyde only one committee existed, viz. : the Clyde Standing Committee of Shipwrights, Joiners and Employers for the Demarcation of Work. This body was modelled on the original demarcation committee on the Tyne, and contained similar rules including provision for the payment by the unsuccessful party of the whole expenses of an appeal from the committee to the referees.

Three further demarcation committees existed prior to the national machinery ; one at Belfast in respect of joiners and shipwrights, one at Dundee for engineers and plumbers, and the third at Southampton, established by the mediation of Sir George Askwith acting for the Board of Trade in a serious dispute in 1911 between the Ship Construction and Shipwrights' Association and the Southampton United Trades' Committee of Carpenters and Joiners. These three committees, however, differed from the other demarcation tribunals in providing for no representation of the employers and, therefore, fall outside the scope of this book.

Of all the local demarcation committees, by far the busiest was, as might be expected, that on the Clyde. In 1898, it met thirteen times to deal with thirty-nine questions, fifteen being raised by shipwrights and twenty by joiners. Elsewhere the volume of claims varied proportionately to the importance of the district as a shipbuilding centre but nowhere did it reach the figure for south-west Scotland. In the same year, for instance, the Tyne shipwrights', joiners' and employers' committee had occasion to meet but four times to hear four claims whilst the Tees committee had only two references.

(b) National Machinery

The national agreement which in practice replaced these local arrangements was signed in July, 1912, by the Engineering and Allied Employers' National Federation as well as by

the Shipbuilding Employers' Federation and 23 trade unions[1] embracing workers in practically all branches of the industry. The Boilermakers' Society and one or two other unions whose members are rarely involved in demarcation disputes have not subscribed to the agreement but would probably follow its procedure should the need arise.

The agreement applies to the shipbuilding centres of Aberdeen, Dundee, East of Scotland (Edinburgh and Leith), Clyde, Tyne, Wear, Tees and Hartlepool, Barrow, Liverpool, Birkenhead, and Hull. Where a demarcation question cannot be settled amicably at any federated works at these centres, the parties agree to continue the recognised practice of the works until the matter has been investigated by a committee. Where there is no recognised practice, or a question exists as to the previous practice, the management may, after consultation with the workmen or their representatives, give a temporary decision to enable work to continue but that decision cannot be adduced in evidence or be used to prejudice the ultimate settlement. The committee to which the matter must then be referred consists of three representatives nominated by the employers' local association and three representatives of each of the crafts concerned. An employer is debarred from sitting on this committee if he has any interest in the works in question, and, where the local employers' association has a membership of less than four, either claimant may require that the employers' representatives be nominated by the committee of the Federation. A majority vote on the committee binds the parties for twelve months and until brought forward for review on three months' notice. Two employers and two representatives of each trade involved form a quorum, but the disputing trades must have an equal number of members present. Where the full committee is not available and an equality of voting has arisen, the decision must be left to a full meeting of the committee. The decision

[1]Ministry of Labour Report on Collective Agreements, 1934, pp. 279-281.

is limited in its application to the works where the question arose.

Once the committee has been formed, the secretary of the employers' local association who acts as its secretary, sends the claim of the union raising the matter to the union representing the workers against whom it is made, with a request for written observations and particulars of any counterclaim to be raised. The claim, answers and counterclaim are then submitted to the firm involved for their observations and for particulars of past practice, together with a sketch of the work in question if thought desirable. At the hearing before the committee each party may call three witnesses. Where more than two trades are claiming, only two are represented on the committee at one time, priority of hearing being determined by lot. The first two in their order submit their respective claims and the craft failing to substantiate its claim retires in favour of the third craft on the rota and so on until all the claims have been heard. Each party bears its own expenses at the hearing. The agreement, however, relates contribution towards other expenses to utilisation, by providing for joint expenses to be borne by the employers' association to the extent of one-third, and the balance by the respective societies according to the number of questions to which they have been parties during the past twelve months.

The 1912 agreement has remained in operation unchanged. In 1925, when an inquiry was undertaken by a joint committee of shipbuilders and trade unions into foreign competition and conditions in the industry, the employers raised the question of securing greater elasticity in employment of the various craftsmen and, in an interim report issued on October 14th, put forward criteria to be adopted to achieve this.[1] No formal agreement on these points, however, was reached at that time.

The only branch of the industry where demarcation disputes are still likely to be a menace to industrial peace is ship-repairing work, the transiency of which prevents effective

[1] 1934 *Report on Collective Agreements.*

organisation of labour. The 1912 agreement does not extend to the main ship-repairing areas but *ad hoc* local procedures, when necessary, do follow the 1912 arrangements and this, plus better inter-union understandings, are making demarcation stoppages, even in this branch, rare occurrences.

DEVELOPMENTS SINCE 1939

The 1939-45 war has with much justification been called "the engineers' war."[1] True it is that no other industry played a more vital role or underwent more radical changes in the cause of reversing the cry of "too little too late." Naturally, these changes, both in volume and importance of engineering and shipbuilding work and also in actual processes, were not without repercussions in the industrial relations within the industry.

Wartime requirements accelerated the movement already started toward process work and the introduction of large numbers of workers (including women) lacking the experience and skill of the craftsmen who had previously dominated both engineering proper and shipbuilding. This was assisted by government manpower policy and was accepted in the emergency by the trade union movement. From early in 1940 the Engineering and Allied Employers' National Federation on behalf of employers in engineering shops and the Shipbuilding Employers' Federation on behalf of employers in shipbuilding and ship-repairing yards negotiated "dilution" agreements with the respective unions whereby many of the customs and privileges safeguarding the employment of craftsmen were temporarily waived in order to permit the entry into skilled grades of semi-skilled labour. Changes in practice made under these agreements were required to be registered and employers undertook to revert to the pre-agreement practices as and when sufficient craftsmen became available.

[1] *The Story of the Engineers*, by James B. Jeffreys.

As regards women brought and drafted into the industry for war purposes it was also arranged to treat them as being, in general, only temporarily employed. In order to prevent the war need from being used as an excuse to get cheap labour the "extended employment of women" agreements signed in May, 1940, by the Engineering and Allied Employers' National Federation and the Amalgamated Engineering Union and the two general workers' unions provided for payment during the first eight weeks of employment at not less than the national female time rate and bonus with increases at fixed periods until after 32 weeks, when the full male rate and bonus must be paid to women able to perform work without additional supervision. The agreements provided for any question arising under them to be dealt with through the existing procedure for avoiding disputes except that in the event of failure to agree locally the matter would be dealt with expeditiously by a special central conference in London.[1] A similar agreement for the employment of women in shipyards was made between the Shipbuilding Employers' Federation and the Confederation of Shipbuilding and Engineering Unions in July, 1941, and later with some individual unions.

The special central conference in London referred to in the engineering agreement became, during wartime, a recognised addition to the general engineering arrangements for avoiding disputes and was provided for in several agreements, notably the "dilution" agreements of January, 1942, between the Federation and the United Society of Boilermakers and Iron and Steel Shipbuilders.

One of the most significant developments in this industry during wartime was the completion of the process of acceptance of unionism. Whereas from 1935 to 1938 the energies of unions were concentrated on rebuilding membership lost during the depression[2] and asserting their claim to speak for

[1]See A.E.U. agreement in Appendix to *The Rights of Engineers* by Wal Hannington.

[2]See high proportion of local strikes in 1937 motivated by opposition to working with non-unionists. *Ministry of Labour Gazette*, 1938, pp. 213-5.

the workers in the shops through stewards and over wider areas through officials, few unions had failed to achieve record membership by 1944 whilst each war year brought increasing recognition of the place of trade unionism in the industry.

The latter feature was evidenced by the extension of conciliation arrangements to the three groups of workers in engineering shops, viz., supervisory grades, technical and scientific workers and apprentices whom the employers had previously refused to accept within the normal machinery of joint negotiation. In 1940 an arrangement broadly based on the provisions for avoiding disputes but without shop stewards was entered into by the Engineering and Allied Employers' National Federation with the National Association of Clerical and Supervisory Staffs, a group of the Transport and General Workers' Union. In this agreement it was understood that "the word 'supervisory' in the Union's title having reference to other activities of the organisation shall not be construed in this agreement to connote application to any supervisory classes in the engineering industry."[1] In October, 1941, the Federation and the Amalgamated Engineering Union came to a mutual agreement with regard to the line of demarcation in the supervisory groups. Under this formula men such as chargehands employed under staff conditions but who are not responsible for engagement or dismissal of other workers and who work with tools or use instruments in the normal course of their work are treated as workmen for the purpose of representation by the union. On the other hand, men employed on staff conditions with full authority over other workers and not using tools are conceded as being outside "the category covered by the machinery of negotiations between ourselves and your organisation."[2]

Workers in supervisory and technical grades who are members of the Association of Supervisory Staffs and Engineering Technicians are covered by an agreement with the

[1]Ministry of Labour and National Service : *Industrial Relations Handbook.*
[2]Idem.

Federation whereby in the event of any difference between employees and management being unsettled the Association will be called into conference providing it has a majority membership in the particular employee's grade in the establishment concerned. Similarly, an agreement between the Federation and the Association of Scientific Workers provides for first discussion of differences between management and certain staff members employed in a scientific and technical capacity to take place at the works with ultimate recourse to local and finally central conferences.

Strong opposition has always been expressed by the employers to any proposal for identifying junior workers with adults in the procedure for settling disputes. In particular the Federation in peace-time refused to agree to shop steward intervention between junior workers and management or union activity in relation to apprentices. In 1937 a limited procedure was conceded in relation to juniors' grievances in agreements between the Federation and the Amalgamated Engineering Union and Confederation of Shipbuilding and Engineering Unions. Under these agreements a lad was required to raise any matter first with the management direct but failing settlement might refer it to the district official of the union. These agreements were revised in 1941 and 1942 when more effective provisions for juniors' disputes were made.[1] It is the spirit of the procedure that questions should be referred to the management by the junior male workers themselves. Failing settlement, however, the matter may be referred by the youths to the appropriate shop steward who is entitled independently to discuss the matter with management and failing agreement the matter may be referred to the divisional organiser or district secretary of the union. Alternatively, the youths may refer any question direct to the divisional or district official who may consult with the secretary of the local employers' association. There is provision for local

[1]See Amalgamated Engineering Union Apprentices Agreements of 1937 as revised in 1941 and 1942 in *The Rights of Engineers*.

conferences between the district employers' association and the union and beyond that for central discussion between the Federation and the national executive of the union or unions. The agreements, however, expressly exclude junior male workers from being associated with the discussion of any question raised by adult workers under their provisions for avoiding disputes. The agreements also expressly exclude apprentices serving under indentures or written agreements between employers and parents or guardians. In their case, however, the Federation undertakes to recommend its members to apply conditions not less favourable than those conceded to other junior workers by settlements made through the machinery of the agreements. The extension of conciliation arrangements to these special groups of workers has filled in some of the gaps which previously existed in the negotiation machinery.

A distinctive feature of all the engineering agreements is the absence of provision for arbitration. In this regard they differ from the national agreements in shipbuilding. Since the introduction of the Conditions of Employment and National Arbitration Order, 1940, however, there has been frequent recourse to the National Arbitration Tribunal.

Similarly in shipbuilding, since 1940 the provisions for general conferences have been in abeyance, an understanding having been reached between the parties to the conciliation arrangements that failing settlement at the central conference stage any matters would be reported to the Minister of Labour and National Service for reference to the National Arbitration Tribunal.[1]

Whilst this experience in wartime may result in a greater measure of arbitration in the post-war period, both in engineering and shipbuilding, there is little likelihood of abandonment of the predominantly conciliation structure resting on the foundation of local and national joint conferences. In the short period since hostilities ceased the wartime

[1]Ministry of Labour and National Service : *Industrial Relations Handbook.*

expedient of the special national conference in London shows signs of remaining as a permanent addition to the conference sequence both in engineering and shipbuilding. When other steps had failed it was through the medium of a special conference begun in London on 6th February, 1946, between the Engineering and Allied Employers' National Federation and the National Engineering Joint Trades Movement that a new agreement was negotiated for wage increases, holidays with pay and a guaranteed week to cover the earlier post-war period and especially the withdrawal of the Essential Work Order in May of that year.[1] This agreement only partially met the claims of the unions which, in addition to the three matters mentioned above, included an application for a 40-hour working week. The agreement made provision for a joint committee to be set up to investigate the wage structure of the industry and also to consider and report to the executive bodies on the problems involved in the adoption of a shorter working week.

A statement[2] by the spokesman for the National Engineering Joint Trades Movement at that conference shows quite clearly the unions' attitude to arbitration. In presenting the case on the national wages claim and doubtless with the none-too-popular "326 award" of the National Arbitration Tribunal in mind, Mr. Tanner pleaded: "We hope you are not going to dispose of it (the claim) as you have done with others during the war period—refusing our applications and leaving us no alternative but to go to arbitration."

Simultaneously, a special conference between the Shipbuilding Employers' Federation and the Confederation of Shipbuilding and Engineering Unions considered conditions of employment in shipyards and was followed by a similar meeting early in 1947.[3]

This chapter would not be complete without mention of the

[1] *Ministry of Labour Gazette*, 1946, p. 90.
[2] Printed Minutes of Proceedings on 6th February, 1946, p. 10.
[3] *Ministry of Labour Gazettes*, 1946 and 1947.

experiments in joint action for matters of national concern not usually associated with the employer-employee relationship which hitherto had been the sole concern of joint machinery.

Reference has already been made to the works committees provided for in the engineering agreement of 1922. Prior to 1941 these committees were concerned only with shop disputes on matters which might ultimately become the subject of the more general conciliation provisions. In other words they had no say in matters of management and discipline which the employers had never failed to assert must remain their sole responsibility. Under an amendment of the Essential Work (General Provisions) Order early in 1942[1] these committees were given the wartime function of considering cases of alleged absenteeism or persistent lateness provided the National Service Officer was of opinion that a committee was an "appropriate committee" for this purpose. The Order did not provide for their establishment but, if already established, as in engineering, by voluntary action, the State vested in them this new function.

Concurrently with State extension of the functions of works committees the shop stewards and unions were waging a campaign against inefficient production methods and for the right to a voice in production in the national interest. Suggestions from the unions for the establishment of special production committees met at first strong opposition from the Engineering and Allied Employers' National Federation. Such a proposal seemed to the employers to threaten the very basis of industry. The response, therefore, was, in the words of the Director of the Federation, that employers would be "no party to handing over the production of the factory and the problems concerning production to shop stewards or anyone else" and that "there could be no divided authority in running the works."[2]

The Government, however, was quick to realise the contri-

[1]Essential Work (General Provisions) (Amendment) Order of 25th March.

[2]Quoted by Wal Hannington in *The Rights of Engineers*.

bution which could be made by the workers in the field of production and even more important, the morale-value of the identification of labour with national objectives. Following discussion initiated by the Ministry of Supply an agreement was signed by that Ministry and the unions concerned on February 26th, 1942, for the establishment of a "consultative and advisory committee" in each Royal Ordnance Factory for the regular exchange of views between the management and the workers on matters relating to the improvement of production to increase efficiency for this purpose, and to make recommendations thereon.[1]

The Federation could no longer maintain opposition in the face of such a direct lead from the Government. On 18th March, 1942, an agreement was signed by the Federation and the Confederation of Shipbuilding and Engineering Unions, the Amalgamated Engineering Union and the National Union of Foundry Workers for the constitution of joint production, consultative and advisory committees in factories employing not less than 150 workers. This agreement[2] provided for committees of not more than twenty members, one half being workers elected by ballot conducted jointly by the management and the shop stewards and representing, so far as possible, the various shops, departments or sections of the factory, whilst the other half were to be nominated by the management. All adult workers could participate in the election of representatives but only unionists with two years' continuous service in the factory could be candidates. The management appointed the chairman and each side selected members who acted as joint secretaries. Regular monthly meetings were provided for as well as special meetings when necessary. Workers' representatives were entitled to their time rate of wages, including national bonus, for time spent at meetings. The agreement set out the functions of the committees as being "to consult and advise on matters relating to

[1]See text of agreement in *Ministry of Labour Gazette*, 1942, p. 61.

[2]See text in Appendix to *The Rights of Engineers*.

production and increased efficiency for this purpose, in order that maximum output may be obtained from the factory. Illustrative of the questions to be considered and discussed were (*a*) maximum utilisation of existing machinery; (*b*) upkeep of fixtures, jigs, tools and gauges; (*c*) improvement in methods of production; (*d*) efficient use of the maximum number of productive hours; (*e*) elimination of defective work and waste; (*f*) efficient use of material supplies; and (*g*) efficient use of safety precautions and devices." Subjects normally dealt with by the regular machinery of negotiation were excluded from the discussions. The agreement was expressed to terminate at the cessation of hostilities, with continuance thereafter being the subject of mutual discussion.

In actual practice the joint production committees set up did not always follow the prescribed pattern. It was accepted on both sides that flexibility was necessary and desirable. Whilst many employers still refused to co-operate on joint production committees others went further than the Federation agreement required and, as the war circumstances changed, took the initiative in broadening the discussions to cover difficulties arising from the scaling down in government contracts. By no means all federated firms accepted production committees, whilst some of the most satisfactory production committees were in non-federated concerns and many in both groups operated in establishments with fewer than 150 employees. An unofficial survey made by the Amalgamated Engineering Union in November, 1942, covering a thousand establishments, both federated and non-federated and employing over a million and a quarter workers, showed that approximately 55 per cent. had joint production committees.[1] Whilst new committees were formed in later years (and some of the earlier ones disappeared) it is unlikely that joint production machinery covered more than 60 per cent. of the industry. The same unofficial inquiry also revealed that of the firms reporting more than 100 per cent. increase in output over the

[1]See Ch. VII of *The Rights of Engineers*.

previous six months, nearly 60 per cent. attributed the increase to suggestions made by workers.

Somewhat parallel developments occurred in shipbuilding and ship-repairing establishments.[1] With the application of the Essential Work Order to the industry in March, 1941, agreement was reached between the Shipbuilding Employers' Federation and the Confederation of Shipbuilding and Engineering Unions for extension of the functions of yard committees, where such already existed, and for their establishment, in other cases. The Essential Work Order for shipbuilding and ship-repairing gave recognition to these yard committees from the start as part of the machinery of the Order by empowering National Service Officers to refer to yard committees for advice, reports of absenteeism, persistent lateness, failure to obey lawful orders or behaviour impeding production. In addition, District Shipyard Controllers were required to refer to the yard committees any question arising as to the services which a worker could reasonably be asked to perform outside his normal occupation. In 1942, by agreement between the Shipbuilding Employers' Federation and the Confederation of Shipbuilding and Engineering Unions, the functions of yard committees were extended, for the period of the war, to include consultation and advice upon matters affecting the increase of production and improvement of efficiency in the establishments. This agreement was similar to the engineering agreement for joint production committees and, like it, excluded from the discussions wages, and other matters covered by agreements or normally dealt with by the conciliation procedures.

These developments in engineering and shipbuilding were wartime expedients. Whilst, with the return of peace and the discontinuance of Essential Work provisions, they have tended to become of less immediate importance, the joint production and the yard committees in many establishments have remained and seem likely to continue as a permanent extension of joint activity.

[1]Ministry of Labour and National Service : *Industrial Relations Handbook*, Section IV.

CHAPTER V

The Cotton Industry

THE COTTON INDUSTRY comprises three main sections, spinning, weaving (or cotton cloth manufacture), and finishing. Each is virtually a separate trade and few firms attempt to carry on work in more than one of them. The finishing trade, which includes dyeing, bleaching and pattern printing, is not limited, like the other two, to work on cotton, and for that reason is not included in this chapter.

In its local segregation, the industry is similar to that of coal mining. For climatic and historical reasons, it is mainly confined to Lancashire and the neighbouring counties, Cheshire, Derbyshire and the West Riding of Yorkshire, with Lancashire far surpassing in output the other three combined.[1] As between the two branches of spinning and weaving, there is considerable localisation. Spinning, with its accompanying processes of carding and blowing, is carried on mainly in South-East Lancashire in a ring of towns all of which are within a dozen miles of Manchester. The main weaving zone lies chiefly north of the Rossendale Fells in the valleys of the Ribble and its tributaries.[2] In each of these areas until recent years, as much as 80 per cent. of the inhabitants of towns and villages were connected with the same type of cotton work. The effect of this has been to narrow the interests of the members so that those engaged in one occupation are not always in sympathy with the movements and claims of those working on other processes.

This local and conservative outlook is reflected in the cotton

[1]In October, 1939, over 95 per cent. of the operatives engaged in cotton spinning and 90 per cent. of those engaged in cotton weaving were employed in this area. See Board of Trade Working Party Reports—Cotton, 1946.

[2]A. Wilmore: *Industrial Britain* (1939), Chapter XXI.

unions which have always refused to yield up sufficient powers to enable the formation of an effective unifying organisation for the whole of the cotton operatives.[1] Such co-ordination as there is between the local unions is achieved through loose federations in which the local bodies retain a considerable degree of autonomy. By far the largest of these federations in the spinning section are the Amalgamated Association of Operative Cotton Spinners and Twiners, with a membership in 1938 of approximately 45,000 and the Amalgamated Association of Card, Blowing and Ring Room Operatives, with about the same number in that year, 37,000 of whom were women. These bodies were formed in 1853 and 1886, respectively. Among the weavers, the largest organisation is the Northern Counties Textile Trades' Federation, which originated in 1884. Its main component, the Amalgamated Weavers' Association had a roll of approximately 95,000 members in 1938, some 76,000 of whom were women. The only single organisation which embraces all these larger federations is the United Textile Factory Workers' Association, which, however, until recently has dealt only with the more general interests of the operatives in legislation and political matters and was not involved in industrial negotiation. In dealings with the employers, sectional interests predominate, and working agreements and negotiation machinery have been framed separately to meet the requirements of each branch of the industry, or even of each part of localities engaged in the same work.

The leading employer organisations are the Federation of Master Cotton Spinners' Associations Ltd., uniting eleven local associations of firms representing about 75 per cent. of the spinning capacity of the industry and the Cotton Spinners' and Manufacturers' Association, which comprises 23 local associations of firms operating nearly two-thirds of the weaving looms in the industry.[2]

[1]There are about 200 cotton unions with a membership in 1937 of 230,000 to 240,000.

[2]Board of Trade Working Party Reports—Cotton, 1946.

The history of conciliation in this industry reveals the early evolution of standard practices for the adjustment of wage disputes and the negotiation of piece-price lists. For many years these practices remained substantially unchanged, and were regarded by both workers and employers alike as safeguarding the stability of industrial relations in the industry. In 1897, they were described by Sidney and Beatrice Webb in their *Industrial Democracy* as approaching "the ideal."[1] Even twenty years later, the Commissioners for the North-Western Area in the Report of the Inquiry into Industrial Unrest were able to state that they were satisfied "that the machinery set up by agreement between the two sides for dealing with disputes was speedy, efficient and satisfactory." There appeared to them "to be the most cordial relations between the employers' organisations and the operatives' unions, with the result that very little difficulty is experienced in dealing with and settling the vast majority of disputes in their initial stage."[2]

Yet this system which operated with such success whilst the industry was prospering, practically collapsed with the approach of adversity in the trade. By 1932, industrial relations had deteriorated to such an extent that the Minister of Labour felt bound to intervene. In a letter to the parties in the weaving trade, he drew attention to the position. "While one isolated issue may appear to be the immediate cause of the stoppage it is clear," he wrote, "that it has arisen from the virtual breakdown of the system of collective bargaining in this section of the cotton industry. For the past three years there has not been a single object of any importance upon which it has been found possible to reach general agreement. Such agreements as have been made have been made independently of the normal machinery."[3] The outcome of this intervention was the remodelling of the dispute machinery in both spinning and weaving, and two years later, the passing of the Cotton

[1] p. 203.
[2] Cmd. 8663 of 1917-18, para. 16.
[3] *Ministry of Labour Gazette*, October, 1932, p. 360.

Manufacturing Industry (Temporary Provisions) Act for the weaving section.

INDUSTRIAL RELATIONS AND JOINT ACTION BEFORE 1893

The first attempt to organise the settlement of disputes between the cotton operatives and their masters was made not by the industry itself but by parliament. The Cotton Arbitration Act was passed in 1800 in response to the operatives' appeal for some remedy to relieve their oppressed condition, particularly as outdoor workers.[1] The failure of the arbitration provided to do this and the increase of factory work, finally transferred the workers' hopes for assistance from the legislature to mutual self-help in union.

The cotton operatives' struggle for the right to combine was, in its early stages, coincident, and confused, with the revolutionary movements of the times which discredited all workers' associations in Lancashire in the eyes of the public. Agitations for the Reform Bill in the early 'thirties were followed by Chartist insurrections a decade later, while revolutionary movements in France usually produced an echo from the new factory districts of the North of England. Between these political disturbances were innumerable strikes, aptly termed by Harriet Martineau "aimless revolts of the belly," characterised like those in the mining areas at the same period, by violence and excess on both sides.[2]

Towards the end of the 'forties, however, a change came over this industry. The final collapse of Chartism threw new energy into the organisation of the industrial unions. The result at first was an increase both in the number and compass of strikes. But because they were no longer random outbursts of bitterness but well-planned contests, they more often ended in favour of the strikers. This wrought a new self-respect in

[1] See below Part II, Chapter I.

[2] T. H. Ward: *Reign of Queen Victoria*, Vol. II, p. 166.

the men and the unions, and from that time the strikes lost their lawless character and became purely economic disputes. This, in turn, induced a change in the masters' attitude towards the unions, which they began to recognise as a moderating influence. At the same time, however, the successes of the union compelled them to form counter-organisations. The compactness of the area facilitated this process, and by the 'sixties Lancashire was better organised on both sides than any other district. Probably because of a strong personal relationship between master and men this lining up of organisations did not involve the development of feelings of irreconcilable interests. Far from that, we find the early rules of the local unions setting out such objects as "to promote that reciprocity of good feeling which is so conducive to the interests of both employer and employed."[1]

The industry, however, remained indifferent to the experiments in conciliation tribunals which went on around it in the 'sixties and 'seventies, in the hosiery and lace trades of Nottingham, the building trades of Wolverhampton, pottery in Staffordshire and iron manufacture of Middlesbrough. But the unions and the masters' associations were beginning to establish their own less formal methods of co-operating to remove grievances and settle disputes. Some idea of the anxiety of the unions to prevent actions by their members likely to be detrimental to the co-operation can be gained from an early communique issued to its members by the committee of one of the strongest weavers' combinations, the Blackburn and District Power Loom Association. On the question of strike action, it directed :

> "We also wish to impress upon our members not to take part in individual strikes without first consulting the committee and thereby avoid future unpleasantness not only to themselves but to ourselves likewise ; but should there at any time be a grievance at a mill do not of your own account let this be the means of stopping the machinery, but forward your case or cases as the

[1]Article 1 of the early Rules and Regulations of the Oldham Spinners' Union.

affair may be to the office, and the same shall be attended to on the earliest occasion. We are on friendly terms with the employers, fully recognised by them as an association capable of managing our affairs and their representative offers to accompany us on all occasions where any grievance is complained of, in order to bring about a satisfactory settlement; therefore, for that reason alone, we feel that there ought to be an end of strikes unless sanctioned by the Society. We are not asking this for any purpose of our own but in order to facilitate that which we consider to be justifiable to all concerned and further strengthen the relationship existing between us, i.e., the employers and ourselves."[1]

(*a*) *The Settlement of Mill Disputes*

Except for those arising in connection with the price lists, no formal provisions were made for settling disputes. The above quotation, however, gives some idea of the usual procedure adopted to dispose of grievances arising at individual mills where the operatives were members of a union and the employer of an association. The first step was usually an approach to the management, either through the services of a foreman or older workman respected by both sides, or by deputation. When the question was not disposed of to the satisfaction of the workers, they were expected to submit the matter to their union office. The matter could then be taken up with the firm by the local secretary. Unless the matter could be adjusted without inquiry into the actual facts, it was referred to the two local secretaries to investigate the facts of the case and dispose of the matter. This joint meeting of the secretaries was the most characteristic feature of the cotton procedure. Its value lay largely in the nature of the secretaries themselves. Brought together every day in the course of their business and, as likely as not in the smaller towns, in their leisure time as well, they were often personal friends. Moreover, even mill disputes involved, in most cases, some question of the complicated price lists which they had probably drawn up together or at least of whose application they were experts

[1]Quoted by Dr. Schulze-Gaevernitz in *Social Peace*, p. 150.

upon whom both sides were compelled to rely. In the working of these lists, they were predominantly technicians and their main duty whether acting for the employers or the employees was the same, namely, to secure uniformity in application as between mill and mill. After 1861, union secretaries were usually selected by competitive examination and the predominantly technical nature of their duties made it possible for them to transfer to employers' bodies without loss of prestige. In dealing with local disputes, their superior knowledge enabled them to exercise independence in judgment and, in practice, the two secretaries constituted a court of arbitration whose decision was rarely rejected.[1]

In every large cotton town the local secretaries were called upon to settle hundreds of questions of this type in the course of each year, yet, in one quarter for which precise figures are available, from December, 1888, to February, 1889, only 41 cases from the whole of Lancashire needed further reference in the spinning trade to the executive committee of the Amalgamated Association of Cotton Spinners.[2] Mill stoppages did sometimes occur without this further reference but the local associations more often preferred to submit to the further delay in order to secure the financial support of the central bodies in Manchester.

(b) The Settlement of Wage Lists and other General Disputes

Piecework has always been a feature of most sections of the industry—elaborate lists fixing prices for each kind of work, with complications in the form of special allowances for extra duties. The lists are of great complexity and usually make provisions for all conditions of work. Their origin goes back to the period before effective organisation, being then drawn up by the individual masters alone for their own advantage.[3]

[1]See S. and B. Webb: *History of Trade Unionism*, p. 477 *et circa*, and *Industrial Democracy*, p. 195, *et seq.*

[2]*Social Peace*, Ch. XI.

[3]See the 1830-31 lists imposed in Ashton, Dukinfield and Stalybridge, leading to serious disturbances and the murder of one of the mill-owners. Home Office Papers, 40—26, 27.

The first jointly negotiated list was that of the Bolton Spinners of 1853, settled by the masters in conjunction with the newly-formed Amalgamated Association of Operative Spinners and Twiners. At the same time, a list was prepared by the Weavers' Society in Blackburn. The importance of jointly negotiated lists can hardly be exaggerated. They gave to the worker confidence that he was being paid the standard rate for his district for the class of work he was performing, while they insured the employers against unfair competition from rivals in the district in regard to wage costs. Moreover, their introduction brought into being an instrument which made possible the orderly and reasonable discussion between employers and employed of all matters affecting wage questions. In 1876, a spinning list was drawn up for the important centre of Oldham. This and the Bolton list as amended in 1887, in the spinning trade, and the Blackburn list in the weaving section, were gradually adopted in other areas so that in time the uniformity from being district tended to spread to each section of the industry.[1]

Alterations in the lists were necessary fairly frequently as new methods were adopted or new machinery introduced or conditions of living changed, and it was on such occasions that the danger of disputes was greatest. Almost invariably the lists themselves made provision for such amendments and for other difficulties arising from the lists. The following clauses from the Bolton list of 1892 are fairly typical of such provision:

> (Clause XIX) "Should any circumstance arise for which the list makes no provision, the same shall be sumbitted to the adjudication of the joint committees of the two associations."
>
> (Clause XX) "Three months' notice to be given by the one party to the other party to this agreement of any intention to increase or reduce the rates of prices, etc., provided for in this schedule."
>
> (Clause XXII) "In the event of a dispute arising between employers and employed regarding these notes, prices or

[1]For details of these lists see the Board of Trade Report on Collective Agreements, 1910.

general conditions of work or wages, the matter shall be referred to the secretaries of the two associations for adjustment, who shall take action within seven days from receipt of notice of complaint. Should, however, they fail to arrive at a settlement of the point in issue, the same shall be referred to the joint committees for their decision."

Until the formation of the Federation of Master Cotton Spinners' Association in 1887, which then took over the regulation of all wage questions and general disputes in the spinning trade with the central unions, these "joint committees" of the spinning section were district committees. Usually, they did not consist of the full membership of the two executive committees concerned, but a smaller number were selected from each side to negotiate, the question of equal representation not arising since the joint body had no powers to reach a final decision without reference back to the organisations.

In the weaving trade there existed one principal joint body, the North and North-East Lancashire Joint Committee. Unlike the spinning committees, whose composition and procedure were a matter of custom only, the constitution and procedure of this committee were elaborated in a written agreement made between the North and North-East Cotton Spinners' and Manufacturers' Association and the Amalgamated Association of Weavers. In 1881, it consisted of six employers and six operatives. Its main purpose was "to consider in their preliminary stages all trade disputes occurring in the weaving department and coming within the knowledge of the officials of the operatives' amalgamation within the district covered by the two associations and thereby endeavouring to preserve good feeling between employers and operatives." It could be summoned by either side at not less than ten days' notice to the joint secretaries, and unless so summoned, it met on one Tuesday in each month at the Mitre Hotel in Manchester. Unless the other side had agreed to the meeting within seven days of receipt of notice or any arranged extension

of that time, the side making the application was relieved from further obligation under the agreement and might take such action as it thought fit. In the event of a strike occurring, however, and lasting four weeks, the committee met without a request from either side at the end of the fourth week and at the end of every further four weeks during its continuance. By 1892 the North-East joint committee had had need to meet in this way for only one stoppage.

The committees in the spinning section were less successful in eliminating industrial upheavals, particularly during the depression years 1877-1880, when successive reductions in the list prices were accepted only after the mills had lain idle. With the return of better trade, the weaving section became more stable and in 1892 the evidence submitted to the Labour Commission showed that twenty out of twenty-three disputes resulting in strikes involved only employers who, for selfish reasons, had failed to join the employers' association and to accept the negotiated lists.[1]

Resort to arbitration, though not unknown, was far less frequent in both sections of this industry than elsewhere at that time. The explanation of the reluctance of the parties to rely on independent judgment lay in the complexity of the cases which arose. A knowledge of technical detail was required to comprehend the issues arising out of mill cases, while more general questions necessitated this knowledge as well as a grasp of the economic background of the particular section of the industry. Faced with these difficulties, outside arbitrators, it was usually found, adopted the expedient of "splitting the difference irrespective of the merits of the case."[2] To select them from within the trade was scarcely worth while once the two secretaries who were in the best position to reach a decision had failed to agree.

In the unsuitability of the industry for arbitration lay much

[1]Reply to question 1,708 by the Secretary of the Northern Counties' Amalgamated Association of Weavers, Group "C," Cmd. 6708.

[2]Reply to question 1,337 by the Secretary of the United Textile Factory Workers.

of the strength of its conciliation. The need to reach agreement undoubtedly moderated demands, whilst the considerable technical and economic understanding required, compelled each side to take the other into its confidence. Even more important, however, to the success of conciliation was the early complete recognition by the employers of the unions as the representative bodies of the operatives.

Both employers and unions seem to have been well satisfied with the industry's conciliation practices at the end of this period. The secretary of the United Textile Factory Workers (representing over 125,000 weavers, card-room workers and spinners) voiced an opinion given similarly by representatives of employers' associations when he informed the Royal Commission on Labour in 1892 that he knew of no system that was more satisfactory than "that in vogue in their trade for the settlement of disputes and arranging wages and all other matters."

1893 TO WORLD WAR I

(*a*) *Spinning Trade*

The year 1893 marks the first development of more formal machinery for the whole of one section of the industry. This resulted from the settlement of the first general strike in the cotton trades which broke out with little warning early in 1893 and closed the mills for no less than 20 weeks. Though all sections were involved in the stoppage, the trouble arose in the spinning trade. To the employers' demands for a 10 per cent. reduction in the prices lists, the spinning unions had urged that the depression in the trade should be met by placing all mills on short time.[1] The dispute was finally concluded by a settlement thrashed out in a 14 hours' continuous session of a committee representative of the Federation of Master Cotton Spinners, the Amalgamated Association of Operative Cotton Spinners, the Amalgamated Association of Card and Blowing

[1]Board of Trade : *Labour Gazette*, May, 1893, pp. 7-8.

Room Operatives, and the Amalgamated Northern Counties' Association of Warpers, Reelers and Winders. This agreement, usually termed the "Brooklands" agreement, made a reduction in rates of 7d. in the £1 (i.e., 2.916 per cent. instead of 10 per cent.).[1] Of more permanent importance were the provisions adopted for the future adjustment of wages and other differences in the trade.[2] These clauses were applicable alike to spinners' disputes and to those arising in connection with the subsidiary occupations of the carding and blowing room.

In regard to wage questions, the agreement provided that no alteration in the price lists should be sought before the expiry of at least one year from the date of the last advance or reduction. Moreover, any claim was to be limited to 5 per cent. of the current standard wages being paid. One calendar month's notice of a claim was required to be given by the secretary of the applicant association to the secretary of the local employers' association or local union as the case might be.

Apart from these special requirements as to amendment of price lists, the provisions for settlement applied equally to all disputes. They were set out in clause 6, as follows :

> "That in future no local Employers' Association nor the Federated Association of Employers on the one hand nor any Trades Union or Federation of Trades Unions on the other hand shall countenance, encourage or support any strike or lockout which may arise from or be caused by, any question, difference or dispute, contention, grievance or complaint with respect to work, wages, or any other matter, unless and until the same has been submitted in writing by the Secretary of the local Employers' Association to the Secretary of the local Trades Union or vice versa as the case may be : nor unless and until such secretaries or a committee of three representatives of the local union with their secretary and three representatives of the Employers' Association with their secretary shall have failed, after full inquiry, to settle and arrange such question, difference,

[1]Board of Trade Report on Wages and Hours of Labour. Part II of Standard Price Rates, Cmd. 7567 of 1894.

[2]The permanent clauses of the Brooklands Agreement are set out in these Board of Trade Report on Collective Agreements, 1910.

> etc., within the space of seven days from the receipt of the communication in writing aforesaid ; nor unless and until failing the last-mentioned settlement or arrangement, if either of the secretaries shall so deem it advisable a committee of four representatives of the Federated Association of Employers with their secretary and four representatives of the Amalgamated Association of the Operatives' Trade Unions with their secretary shall have failed to settle or arrange as aforesaid within the further space of seven days from the time when such matter was referred to them, provided always that the secretaries or the committee may extend the periods of seven days whenever they may deem it expedient to do so."

To assist the joint discussions, the agreement required every local employers' association or the federated association of employers and every local trade union or federation of trade unions to supply the other side without delay with full and precise particulars in writing of all matters bearing on the question in dispute.

When the provisions of the agreement began to be invoked, many gaps were found in the machinery contained in clause 6. Additional clauses and amendments of the existing ones were made at various times without changing the essentials of the agreement. At a conference on October 18th, 1900, for instance, a rider was adopted to enable a complainant to bring a question before the joint committee of the Employers' Federation and the Operatives' Amalgamation without further reference to the local association should that body have failed to call the joint meeting of the local associations within seven days. In the event of the Federation or Amalgamation failing to deal with the matter within a further seven days, the rider reserved liberty of action to both sides.

At the same time, a new clause was added setting up machinery for the hearing of mill disputes arising from complaints of bad spinning. Where the operatives failed to obtain satisfaction from the individual employer or employers in respect of these matters, provision was made for an examination into the complaint within three days of written notice

from the operatives' association, and failing agreement being reached by the officials of the two organisations, a joint meeting of the local committee must be held within seven days of the first reference of the matter to the local employers' secretary. Should this fail, the dispute might then be taken to the joint committee of the Operatives' Amalgamation and the Employers' Federation under the relevant provisions of clause 6.

Bad spinning complaints were the subject of a further amendment made at a joint conference on March 30th, 1906. This affected additional complaints of the same nature brought within three months of a settlement under the 1900 provision. In the case of these complaints, the Federation and Amalgamation were to appoint, from the joint committee which dealt with the original case, one or more persons to inspect the spinning within three days. If they failed to bring about a settlement, a joint meeting of the Federation and Amalgamation sub-committee must be called within three days of either party making a request; and should such joint meeting fail to adjust the matter, the operatives might tender notices to cease work on "any making-up day" within 21 days from the date of the joint committee meeting. After three months, however, further complaints were to be treated as new cases and dealt with according to the procedure adopted in 1900.

A large proportion of the disputes which occurred were due to the opposition of the operatives to the introduction by progressive managements of new methods of working or of factory organisation. Where any change, when completed, involved an alteration in the work or rate of wages of the operatives and was considered unsatisfactory by them, a clause, added after 1900, required the firm to place the matter in the hands of their association to take action according to clause 6. Failing such action, the operatives might tender notices to cease work without further notice to the employers' association. When a settlement was reached, it dated from the time the change was first made. At the same conference

the original clauses were amended to prevent more than one member of the local employers' association and one member of the local trade union, with their respective secretaries, from sitting on any joint committee of the Federation and Amalgamation, the rest of the joint committee to be persons who had not locally adjudicated upon the matter in question.

The use made of the Brooklands machinery may be judged from the following figures. In 1906, 455 cases were reported as having been settled by the secretaries or the local joint committees in Lancashire, while 23 cases required the attention of the central joint committee in Manchester.[1] In 1909, 251 cases were dealt with by the local machinery and 21 by the central body.[2] In 1910, it was estimated that the agreement covered in all some 150,000 operatives in Lancashire and the adjoining counties, that is to say, from a quarter to a third of the total number of workers in the cotton industry. From 1911 to the outbreak of World War I was a period of intense industrial unrest which affected this industry as much as any other. During these years it ranked second only to coal mining in the percentage of those employed in the industry who were involved in strikes and lockouts. In 1912[3] 201 cases of bad spinning disputes affecting mule spinners were brought before the local committees, 23 being ultimately referred to joint meetings in Manchester. Of other questions, 495 were brought before the local committees, including 236 card and blowing room workers' cases, while 26 (18 in respect of card and blowing room disputes) had to be referred to the higher bodies.

Such a volume of disputes involved a good deal of piling up and delay in settlement creating dissatisfaction among the operatives. On December 28th, 1912, the following resolution was carried and acted upon by the Amalgamated Association of Operative Cotton Spinners.[4]

[1] 1907 Report on Rules.
[2] 1910 Report on Rules.
[3] 1912 Report on Strikes and Lockouts.
[4] Ibid.

> "That this meeting of representatives knowing that there is a strong feeling among the members of the Amalgamation generally against the unsatisfactory manner in which the working of the Brooklands Agreement acts against the trade grievances being settled within a reasonable time, particularly so in regard to bad spinning complaints, hereby resolves to instruct our General Secretary to take the necessary measures for this Amalgamation withdrawing from the Brooklands Agreement."

The agreement ceased to bind them on January 31st, 1913. Shortly afterwards, the Amalgamated Association of Card and Blowing Room Operatives and the Amalgamated Weavers' Association (the other union signatories) also withdrew. Almost immediately, however, an understanding was reached with the Federation that, although no formal agreement should be drawn up, all cases other than bad spinning questions should be dealt with as formerly; and on September 9th, 1913, a temporary agreement was arrived at with the Operative Spinners' Association for dealing with bad spinning disputes. On January 4th, 1915, this temporary agreement was continued as a permanent measure. At the same time, it was agreed between the Federation and the Association "that in disputes, other than bad spinning disputes for which provision has already been made, notices shall not be tendered at any mill until the matter in dispute has been considered by the joint committees of the two associations, both local and central." This was identical, except as to the reference to bad spinning disputes, to an agreement made between the Federation and the Amalgamated Association of Card and Blowing Room Operatives on the 11th December, 1914. The effect of these two agreements was to continue in practice most of the provisions operating prior to 1913, with the exception of the restrictions on the alteration of wage lists.[1]

(b) Weaving Trade

The weaving section of the industry was not affected by the Brooklands settlement. Until 1909 conditions continued to be

[1]Board of Trade Labour Gazettes, 1913-1915.

regulated in the main by the North and North-East Lancashire Joint Committee and also by smaller district arrangements of a similar nature. On December 22nd of that year, however, "Joint Rules for the Settlement of Trade Disputes" throughout the weaving trade were adopted by a conference of the Cotton Spinners' and Manufacturers' Association and the Northern Counties Textile Trades' Federation representing the Amalgamated Weavers' Association, the General Union of Associations of Loom Overlookers, the Amalgamated Clothlookers and Warehousemen's Association, the Amalgamated Association of Beamers, Twisters and Drawers, and the Amalgamated Tape Sizers' Protective Society, covering 130,000 operatives in all branches of the trade.[1]

Though similar in outline to the Brooklands agreement, the joint rules took into account the greater number of federations of unions. They provided in the first place that a cause of dispute should be brought before a local meeting of representatives of employers and operatives in the branch of the trade concerned, within four days of request for the meeting by either party. If a settlement could not be reached at this meeting or any adjournment, a request might be made by the aggrieved party for a joint meeting of representatives of the Manufacturers' Association and of the Amalgamated Association of the trade unions in that section of the trade. This meeting was required to be held in Manchester within seven days of request. Even if a settlement failed to be realised at this stage, the parties were not at liberty to hand in notices terminating contracts of service, but must refer the matter to a final conference between the Manufacturers' Association and the Northern Counties Textile Trades' Federation. This meeting was also held at Manchester, within seven days of request, and if it failed the parties were free to take such action as they deemed fit. The rules included similar provisions to those adopted in the case of the East and North-East Lancashire joint board stipulating that whenever a stoppage of work did

[1]Report of Collective Agreements, 1910.

occur, whether after exhaustion of the machinery or for any other reason, a meeting of the Association and the Federation should be held at the end of the fourth week of the strike or lockout, and at the end of each successive four weeks until a settlement was concluded. This was designed to overcome the difficulty of resuming relations should they be broken off hastily in the event of a general strike in the trade. The meetings being automatic, neither side was faced with the danger of their action being taken as a sign of weakness by their own members or by their opponents. In the case of wage applications by, or in respect of, any section of the trade, the matter might be brought directly before the joint meeting of the Association and the Amalgamated Association of the unions in that section, and then before the joint meeting of the Association and the Federation.

The joint rules covered the great majority of the weaving centres of the North. Where the rules were not applicable, either because the millowners' association was not affiliated with the Cotton Spinners' and Manufacturers' Association or the operatives' union was not embraced by the Northern Counties Textile Trades' Federation, the only arrangements for resolving difficulties continued to be those contained in the price lists. Clause V of the Colne List may be given as an instance of this. It was inserted in 1911 by agreement between the Skipton Cotton Manufacturers' Association and the Skipton and District Branch of the Northern Counties' Amalgamated Association of Weavers, and provided that in the event of a deadlock arising between the Associations in regard to the lists, the Board of Trade should "be asked to appoint a conciliator or independent chairman to conduct further negotiations for a settlement."[1]

Inter-war Period

The basis of conciliation during the greater part of this period rested on the 1914 agreement in regard to card and

[1]Report on Strikes and Lockouts for 1912.

blowing room operatives, the 1915 agreement in respect of spinners and the 1909 joint rules in the weaving trade. These provisions remained materially unamended until the breakdown of relations led to the additions of 1932.

Prior to that breakdown, there seems to have been no indication that the arrangements would not continue to regulate satisfactorily the relations of the industry in which amicable relations were becoming a tradition. In 1917 the Commissioners inquiring into industrial unrest in the North-East had estimated that 90 per cent. of the disputes occurring in the industry were settled locally in their initial stage, and less than 1 per cent. resulted in a stoppage. In 1923, the secretary of the Master Cotton Spinners' Federation reported that whilst the number of disputes affecting that Federation aggregated in any one year from 600 to 700, not more than 20 of these ever reached the stage of having to be discussed between the central committees in Manchester. "It is remarkable," he is reported to have said, "that out of these hundreds of disputes not more than an average of two or three of these per year have resulted in a strike at individual mills ; that is a record which I think it would be difficult for any other industry to equal."[1] Three years later, the Balfour Committee on Trade and Industry found that the conciliation machinery in the cotton industry was successful in maintaining satisfactory relations between employers and operatives.[2]

In the subsequent failure of the system, it is easy to forget the industrial peace and goodwill which it secured prior to 1930. A large measure of the credit for the success of conciliation up to that time must be given to the central trade unions whose policy was one of moderation and restraint. By their control of central funds they were able to discourage strike action by the local associations until the full dispute machinery had been put into operation. Far from being militant, the

[1]Stated in an interview reported in *The Manchester Guardian*, 27th April, 1923.

[2]Survey of Industrial Relations.

cotton unions have endeavoured to avoid strikes except in a last resort and then only with the approval of the overwhelming majority of those affected. The rules drawn up for the Amalgamated Association of Operative Cotton Spinners and Twiners in 1921 illustrate the restraints imposed on hasty action.

> "A general cessation of work on the part of our members in furtherance of a demand for an increase or opposition to a reduction in the rates of wages or from any other cause, shall not be resorted to except with the consent of at least four-fifths of the members of the Amalgamation who took part in the vote as per this rule. To ascertain this, the following method of procedure must be adopted.
>
> The executive committee shall call a representative meeting and should the representatives by a majority of two-thirds or more decide in favour of submitting the question in dispute to a ballot of the members, then a vote shall be taken as provided for in this rule ; but should there not be two-thirds of the delegates present in favour of sending the question to the members, then the matter shall be dropped."[1]

The succeeding paragraphs then ensure the secrecy and adequacy of the ballot. If when a ballot is taken, less than four-fifths of the papers are in favour of a stoppage, the members are required to remain at work. The executive council may invoke this procedure at any stage of a general or mill dispute for the purpose of ascertaining whether the views of the members had changed as a result of fresh points that might have arisen since the previous vote.

In disputes at individual mills, of course, only the members who will be stopped are required to vote. "In no case whatsoever," declares rule 30, "shall any member of the Amalgamation be allowed any support from its funds who shall leave work without authority from the representatives in meeting assembled or the executive council."

[1]W. Milne-Bailey : *Trade Union Documents*, pp. 312-4.

Even before 1928 the shrinkage of foreign markets for cotton products was resulting in increasing unemployment and the adoption of short time for those still employed. After 1928 foreign competition was intensified and led the Lancashire mill owners to introduce economies of working with a view to reducing the cost of production per unit of output. It was this attempt that produced the impasse in industrial relations which proved so harmful to the industry and to Lancashire.[1]

The main trouble occurred in the weaving trade. There the accepted custom for many years had been for one weaver to attend to four looms, including incidental duties, such as cleaning and oiling. The employers now began to reduce these subsidiary tasks and to require the individual weaver to attend to a larger number of looms. This process was strenuously resisted by the unions in 1931 by strike action, and the experiment was abandoned for the time.[2] The export trade, however, continued to decline and within a year the employers' organisations had put forward a new scheme based on a six-loom working. When this was again opposed and after vain negotiations and innumerable joint conferences, the employers gave notice abrogating all existing wage agreements. In August, 1932, negotiations were terminated and a general stoppage began involving all the principal cotton manufacturing districts of North-East Lancashire and Yorkshire. About 145,000 operatives connected with the weaving trade were involved.

It was at this stage that the Minister of Labour intervened and addressed to the Cotton Spinners' and Manufacturers' Association and the Northern Counties Textile Trades' Federation the letter from which a quotation has already been given. The practical point of the letter was the paragraph in which he suggested that "to reach conclusions on the difficult subjects in dispute it might be desirable to appoint committees to make recommendations to the main body," and he

[1] See P. E. P.: *The British Cotton Industry* (1936).

[2] *The Ministry of Labour Gazette*, March, 1931, pp. 89-90.

commended to them for consideration the appointment of special committees for such matters as wages and conciliation which have operated with great success in other industries.[1]

Under the chairmanship of a Ministry of Labour official, a small joint sub-committee of the two organisations drew up an agenda for a joint conference. This included the question "how far and in what way the procedure for avoiding disputes could be amended by instituting new clauses in the existing joint rules." Finally, on the 27th September, 1932, an agreement was signed by the representatives of the Manufacturers' Association and the Federation and countersigned on behalf of the Ministry of Labour. It provides that the conciliation scheme under the joint rules shall remain unchanged, but makes certain additions "for the purpose of the more effective avoidance of stoppages of work."[2]

These consist of provisions for a prices committee and for a conciliation committee of from three to five representatives of each party to be appointed whenever the provisions of the joint rules have failed to induce a settlement. The chairman of the conciliation committee is an independent person nominated by agreement between the parties or alternatively by the Minister of Labour. He is chosen for a definite period as a standing chairman. With him are associated, for consultation, two independent members (one being appointed by each side), also standing members appointed for the same period. It is the duty of the secretaries of the employers' and operatives' main organisations who act as joint secretaries of the committee, to inform the standing chairman as soon as any difference has passed through the normal procedure without a settlement being reached. The chairman must thereupon convene a meeting of the conciliation committee. The committee first endeavours to settle the matter by agreement, but failing agreement, the chairman, after consultation with the independent members, may make a recommendation. If invited to

[1] *Ibid*, October, 1932, p. 360.
[2] *Ibid*, p. 361.

do so by both sides, he may make an award which is binding on all parties.

The prices committee consists of four representatives from each side "with full power to settle what prices have to be paid for new cloths and to deal with questions where interpretations of list prices and wages rates are in dispute." If the prices committee fails to agree, the ordinary procedure under the joint rules comes into operation. The agreement was expressed to remain in operation for the usual fixed period of three years and since the end of 1935 has been terminable by either side giving six months' notice.

The course of events in the spinning section was almost parallel. On the 27th November, 1931, the Federation of Master Cotton Spinners' Association served on the Amalgamated Association of Operative Cotton Spinners and Twiners and the Amalgamated Association of Card and Blowing Room Operatives, notice of intention to terminate the cotton trade hours and wages agreement of the 6th May, 1920, under which the spinning section was working. At the same time, they requested a joint conference of the parties with a view to concluding a fresh agreement which would enable their members to effect an economy in their wages bills. The conference failed to reach any conclusion and a deadlock ensued resulting in the spinning mills also closing down. A settlement was finally reached with the aid of the Ministry of Labour a month after the signing of the agreement in the weaving trade, which, it was generally recognised, was the real testing ground for the application of the proposed economies.

The spinning settlement in so far as it concerned conciliation was similar to that adopted by the weavers.[1] Again a conciliation committee was set up to supplement the existing machinery. The committee functioned only when a dispute had been unsuccessfully dealt with by the local and central joint conferences in accordance with the 1914 provisions in the

[1] *Ibid*, November, 1932, pp. 412-3.

case of card and blowing room disputes, and the 1915 provisions in the case of spinners' disputes. It was larger than the corresponding committee in weaving, being composed of from four to six representatives of each side in addition to the independent members. When requested to do so in writing, signed by both sides, the chairman might make an award binding on the disputants. This agreement also operated for the fixed period of three years and then indefinitely. At the end of the fixed period, however, the unions withdrew from it, and the earlier provisions again operated without the aid of a conciliation committee.

The immediate disputes which these agreements terminated had involved the loss of between five and six million working days amounting to seven-eighths of the total lost time recorded for the whole of British industry during 1932.[1]

In the weaving trade with fierce inter-firm rivalry for overseas orders, it was recognised by the parties to the 1932 settlement that the conciliation machinery could not produce industrial stability unless the working conditions agreed upon through the medium of that machinery could be effectively enforced in non-associated mills. The weaving agreement therefore provided that means should be considered whereby "the conditions agreed upon by the responsible organisations might be made generally operative," but left the question of the nature of these means to be "further explored in conjunction with the Ministry of Labour on the termination of this dispute."

The conditions which followed the adoption of the 1932 agreement made it necessary to undertake this exploration without delay. That agreement provided that all matters in controversy on the question of prices and conditions for the "more-looms-to-a-weaver" system should be referred for settlement under the joint rules and the new machinery. In December a fresh price list was agreed upon which established a six-loom working on a limited range of cloths.[2] Under it the

[1] *Ibid*, May, 1933, p. 160.
[2] *Ibid*, January, 1933, p. 11.

weaver working on six looms received a lower basic piece price for a given length than the four-loom basic price. Shortly after this list became operative, however, the six-loom piece rate began to be applied not only in its limited sphere but to cases where the weavers were still on a four-loom working and to cloths other than those scheduled. The first firms to abuse the agreement in this way were those in the outlying districts who were usually not members of the Cotton Spinners and Manufacturers' Association. This compelled many members of the Association to withdraw from it in order to be free from the conditions of the list. These movements were resisted at first by the operatives, but faced with an alternative of reduced earnings or closed mills, they began to condone departures from the list, at first in the less-organised districts, but then more generally. This in turn reacted on the membership of the weaving unions, which declined rapidly.[1] Once begun, the process of cutting rates gathered momentum, and ere long, some firms were paying lower piece prices for four looms than the agreed rates for six looms. In the words of the first Board of Inquiry subsequently appointed under section 1 (1) of the Cotton Manufacturing Industry (Temporary Provisions) Act, 1934, "a vicious circle of wage-cutting and price-cutting was set up and the industry was faced with the possible collapse of the whole principle of collective bargaining."

In these circumstances, the Cotton Spinners' and Manufacturers' Association and the Amalgamated Weavers' Association adopted a suggestion of the Ministry of Labour and in March, 1934, jointly petitioned the Minister for an enabling bill which parliament enacted as the abovementioned Cotton Manufacturing Industry (Temporary Provisions) Act, 1934. The detailed provisions of this legislation are dealt with later.[2]

[1]The figures given in the Annual Reports of the Ministry of Labour show that the membership of the cotton unions fell by 25 per cent. between the beginning of 1931 and the end of 1936.

[2]Part II, Chapter VI.

In general, it enables wage rates negotiated in the weaving trade to be given legal force throughout the trade by an Order of the Minister of Labour at the joint request of the negotiating organisations. Except to give greater effect to its working, the Act does not affect the conciliation machinery in any way. The initiative remains with the employers' and weavers' associations to reach agreement, and only after this has been achieved can the statutory provisions operate. The making of the Order does not necessarily prevent disputes arising on the question of future rates. So, for instance, in 1936, when an increase of 15 per cent. on the list prices (which were the subject of a Statutory Order made in 1935) and a minimum wage of 30s. was demanded by the Amalgamated Weavers' Association and rejected by the Manufacturers' Association, a threatened stoppage was only averted when the conciliation committee reached a compromise settlement. The new rates contained in that settlement were then substituted, on the application of the parties, for the existing statutory rates.

DEVELOPMENTS SINCE 1939

At the outbreak of war in 1939 consideration was being given to extension of the weaving experiment contained in the Cotton Manufacturing Industry (Temporary Provisions) Act, 1934. Arising out of the parliamentary debates during the passage of the Cotton Industry (Reorganisation) Act, 1939[1] an undertaking was given by the Government to examine the question of giving statutory effect to wage agreements in the industry as a whole. Arrangements were, in fact, made for submission of proposals, but owing to the war the matter was dropped and has not been revived.

The scheduling of undertakings under the Essential Work (General Provisions) Order, 1941, had, through the guaranteed wage provisions, virtually the same effect as that proposed

[1]This Act which was finally passed only a few days before the outbreak of war and was not put into effect, was designed to reorganise the industry by elimination of uneconomic internal competition and surplus productive capacity.

by the 1939 discussions. In the weaving trade the general provisions were modified by the Essential Work (Cotton Manufacturing Industry) Order[1] which came into force on 2nd January, 1942. This Order adopted as the "normal wage" the rates established by agreement concluded in November, 1941, between the Cotton Spinners' and Manufacturers' Association and the Northern Counties Textile Trades' Federation. Whilst the Order was applied initially only to undertakings within the areas covered by that agreement, the Order made provision for the scheduling of weaving undertakings covered by any other wage agreement approved by the Minister of Labour and National Service and for the "normal wage" to be calculated in accordance with that agreement.[2]

Almost all of the joint negotiation in this industry during wartime centred round wage rates. For several reasons, among them, the high proportion of women workers and family units, the relative immobility of labour through specialised skills and the absence of alternative avenues of employment, the wages paid to cotton workers, especially to men, have always been low in relation to wages elsewhere. This was so even before the collapse of the British export trade in cotton goods which, as already mentioned, resulted in widespread cutting of wage rates. The relative prosperity of war years afforded an opportunity to consider earnings in this industry and it is not surprising that the unions raised this question at every opportunity. As a result, by July, 1945, some improvement, not only in actual rates, but also in the relative standard, had been achieved. Whereas in 1935, out of 219 separate industries listed in the Ministry of Labour Census of Weekly Earnings, only five showed earnings for men below those in the cotton industry, in July, 1945, the Census revealed 23 industries out of a total of 94 below cotton in adult male earnings. The increase in average hourly earnings for all classes in the industry increased by 106 per cent. between October, 1938,

[1]See below Part II, Chapter VII.

[2]Statutory Rules and Orders, 1942, No. 90.

and July, 1945, whilst the average increase over all industries listed in the Census of Earnings was 77 per cent. Nevertheless, even at the latter date cotton wages were relatively depressed, the average hourly earnings for all cotton workers being 1s. 7.2d. as against the average for all industries of 2s. 0.3d.

Preparation for post-war re-establishment of the industry during a time of full employment raised the question of the need for a reasonable standard of wages and conditions of work in cotton mills. The Cotton Board Committee on Post-War Problems doubtless had this need in mind in its report submitted to the President of the Board of Trade in January, 1944, when it stressed the need for price management. "Price management," the committee stated, "is likewise a key feature of our report, since we believe there is no other policy by which the cotton industry can be restored after the war to the state of efficiency which is essential in the national interest, as it is for the provision of reasonable wages and good working conditions for the workpeople and for a fair return on the capital engaged."[1]

From early in 1945 negotiations were in progress between the Federation of Master Cotton Spinners' Associations and the Amalgamated Association of Operative Cotton Spinners and Twiners with a view to improving the status and remuneration of operatives in cotton spinning and thereby attracting new entrants to the industry. On 12th February an agreement came into operation for supplemental additions to wages for certain mule spinners.[2] The negotiations with regard to other operations continued and at a series of conferences on 11th August, 1945, attended by the President of the Board of Trade, the Federation of Master Cotton Spinners' Associations, the Amalgamated Association of Card, Blowing and Ring Room Operatives and the Amalgamated Association of Operative Cotton Spinners and Twiners reached agreement to set up a Commission "to review wages arrangements and

[1]Paragraph 48.

[2]*Ministry of Labour Gazette*, 1945, p. 45.

methods of organisation of work in the cotton spinning industry, and to make recommendations." This Commission consisted of four representatives of the Federation and two representatives of each of the operatives' amalgamations under the chairmanship of Mr. Justice Evershed, who was appointed as independent chairman by the Minister of Labour and National Service. Its report[1] was presented to that Minister on 26th October, 1945. The detailed recommendations in it were based on the following five conclusions of principle :[2]

(i) There should be one uniform list of rates for each section of the industry ;

(ii) All existing percentage bonus or flat-rate additions should be incorporated in the wage rates to be known as the "1945 wage rates" ;

(iii) Wages for all grades shall be fixed in terms of a time rate per week and per hour : in cases where piece-rates are properly payable the time rates should be a minimum capable of supplementation by the operation of piece-rates to enable the operative of average skill and industry to earn in a normal week of 48 hours, not less than 20 per cent. over the time minimum ;

(iv) The industry should be organised on the basis of providing primarily for adult occupations and so as to increase as far as possible the opportunities of employment of adult male operatives ;

(v) Skilled operatives should to the maximum extent possible be relieved of unskilled duties.

With regard to the first principle the Commission pointed out that the long history of the wages lists and their numerous revisions has made them unduly cumbrous. Whatever the historical justification for the several local lists and, however skilful and ingenious may have been their working out, the Commission felt that in the greater mobility of mankind in 1945 the perpetuation of local lists could not logically be defended and still less the anomalies produced by them

[1]Published by the Ministry of Labour and National Service, 1945.

[2]Paragraph 21.

between operatives of comparable attainments or grades. For mule spinning room operatives, for instance, the Commission found that there were still six separate lists in operation in Lancashire, namely, the Oldham and Bolton lists covering from 80 to 90 per cent. of the total, and the Ashton, Hyde, Preston and Blackburn lists.[1] The Commission recommended a single list for each section and except in the case of mule room operatives set out schedules of recommended wages.

Two of the detailed recommendations not connected with wages are worth mentioning. The first was that agreements between the employers' organisations and the unions should contain a clause providing that where in any mill new methods of production by new machines, fewer processes, or by organisation, are being introduced, representatives of the operatives should be invited to join in the conduct and supervision of all necessary trials and experiments.[2] The second related to the establishment of welfare councils to promote confidence and co-operation between the employers or management and operatives.[3] As the report was signed by the members of the respective organisations there was little doubt of the acceptance of the recommendations.

The Evershed Commission was concerned only with the spinning branch of the industry. In October, 1945, a Working Party was appointed by the President of the Board of Trade to inquire into and report on the steps which should be adopted in the national interest to strengthen the cotton industry and render it more stable.[4] Whilst matters concerning employment relations dealt with by the employers' federations and the unions fell outside the scope of this inquiry, the Working Party was concerned with the future labour force and recruitment of new labour to replace the wastage which had resulted from the unemployment of the 'thirties. The Working Party

[1]Paragraph 23.
[3]Paragraph 93.
[2]Paragraph 94.
[4]Board of Trade Working Party Reports—Cotton, 1946.

came to the conclusion "that the United Kingdom cotton industry of the future cannot be based on an abundant supply of relatively lowly-paid operatives with a very high proportion of juveniles and married women. It must maintain standards in wages, amenities and other working conditions at least equal to those of other industries which are now established in, or likely to come to, the cotton towns."[1] Accordingly, the Party recommended a review of wages arrangements and methods of organisation of work in all sections along the lines of the review undertaken in the spinning section by the Evershed Commission.[2]

Following this suggestion the Cotton Spinners' and Manufacturers' Association and the Northern Counties Textile Trades' Federation jointly agreed to establish a commission to carry out the review in the weaving trade. This commission comprising five members appointed by each Association with three independent members nominated by the Minister of Labour and National Service, one of whom, Mr. R. Moelwyn Hughes, K.C., is chairman, was constituted in November, 1946.[3]

In February, 1946, the Minister of Labour and National Service gave three months' notice of intention to withdraw cotton weaving from the Essential Work Orders. This meant, of course, the end of the guaranteed wage which in an industry previously plagued by short time and under-employment was a matter of some concern. It is noteworthy that the majority of letters received by the Evershed Commission from operatives and ex-operatives on the subject of wages were complaints "against instability of employment and uncertainty of earnings rather than the actual level of wages."[4] Before the expiry of the three months' notice the Cotton Spinners' and Manufacturers' Association and the Northern Counties Textile Trades' Federation reached an agreement for the replacement

[1]Chapter V, paragraph 26.

[2]Recommendation XIX.

[3]*Ministry of Labour Gazette*, 1946, p. 312.

[4]Appendix I of Report.

of all agreements made in connection with the Essential Work Orders. The new agreement came into operation on May 15th, that being the day for commencement of de-scheduling under the Orders. It provides for the observance of seven days' notice of termination of employment and, subject to certain conditions, for guaranteed minimum payments in event of unemployment or under-employment.[1]

On 4th November, 1946, a comprehensive agreement was made between the Federation of Master Cotton Spinners' Associations Limited and the United Textile Factory Workers' Association for the introduction, as from 2nd December, of a five-day week of 45 hours in cotton spinning and weaving with a *pro rata* adjustment of wage rates to compensate for reduced hours of earning.[2] Three sectional agreements for increasing production were entered into at the same time between the Federation of Master Cotton Spinners' Associations Limited and the Amalgamated Association of Operative Cotton Spinners and Twiners and the Amalgamated Association of Card, Blowing and Ring Room Operatives respectively for the spinning section and between the Cotton Spinners' and Manufacturers' Association and the Northern Counties Textile Trades' Federation for the weaving section. These sectional agreements, which are appended to and operate concurrently with the principal agreement, provide for all questions arising under them to be subject to the customary local and central procedure for settling disputes.

With the conclusion of these agreements and the completion of the process of de-scheduling of establishments which enabled the revocation[3] of the Essential Work (Cotton Manufacturing Industry) Order on 5th December, 1946, the cotton industry is again operating under normal conditions of industrial relations. The actual conciliation procedures existing in 1939 have remained unchanged but the industrial relations

[1] *Ministry of Labour Gazette*, 1946, p. 116.

[2] *Ministry of Labour Gazette*, 1946, pp. 309-310.

[3] Essential Work (Cotton Manufacturing Industry Order) (Revocation) Order, 1946, Statutory Rules and Orders No. 1921.

structure has undoubtedly been strengthened by the adoption of the guaranteed wage and the emergence of the United Textile Factory Workers' Association as a central negotiating body for labour in the industry.

The primary concern at the present time lies not in the efficacy of its conciliation arrangements but in the more fundamental question of the industry's ability to re-establish itself on a sound basis. Whilst it is not one of the industries marked for socialisation, its importance to the State, both from an export[1] point of view and in relation to full employment, precludes any return to the disastrous regime of uncontrolled production.

The history of industrial relations in this industry underlines the lesson that no conciliation arrangements and goodwill between parties can withstand the consistent onslaught of economic disaster with attendant wage-cutting and unemployment. On the other hand, its history fully justifies the faith that with the industry soundly based economically the present negotiation arrangements, which have remained fundamentally unchanged despite the Cotton Manufacturing Industry (Temporary Provisions) Act, will again function as smoothly, and relations will be as satisfactory, as in the first decades of the century.

[1]Cotton manufactures accounted for over 15 per cent. of total exports during the years 1931-1935.

CHAPTER VI

The Building Industry

BUILDING HAS BEEN one of the pioneer industries in the development of voluntary machinery for the settlement of industrial disputes. It was the first to set up local boards in considerable number and, through those building boards, pioneered voluntary arbitration as a support to conciliation. With time the joint machinery has developed along orthodox lines from local and district craft arrangements to the present national industrial scheme which makes provision for the adjustment of local, regional and general disputes. This scheme with its centralised control in matters of policy and local autonomy in application is well suited to the scattered building industry especially when combined with a relatively simple wages structure.

The main trades included in the industry are bricklaying, plastering, slating, masonry, carpentry and joinery, painting and decorating, and plumbing. The primary employers' as well as the workers' combinations follow these trade lines. The former are now mostly centralised in the National Federation of Building Trades Employers. The National Federation of Plumbers and Domestic Engineers (Employers) and the National Federation of Slate Merchants, Slaters and Tilers, are outside the principal federation, but have joined with it in the conciliation agreements. On the operatives' side, the leading craft unions are the Amalgamated Society of Woodworkers, the National Amalgamated Society of Operative House and Ship Painters and Decorators, the United Operative Plumbers' and Domestic Engineers' Association, the Amalgamated Union of Building Trade Workers, and the National Association of Operative Plasterers. These, and

eleven other unions are affiliated to the National Federation of Building Trades Operatives which claimed in 1937 to act for some 360,000 to 800,000 operatives in all matters pertaining to the whole industry, including the conduct of disputes and the control of the workers' side of the conciliation machinery.[1] Its effectiveness, however, is handicapped by the autonomy still retained by its constituent bodies, some of which have, on occasion of disagreement with the Federation policy, seceded from that organisation.[2]

Many of the building unions are among the oldest in the country. The General Union of Carpenters and Joiners, for instance, founded in 1827, maintained an unbroken existence until joining with the Amalgamated Society of Carpenters, Cabinet Makers and Joiners in 1921 to form the Amalgamated Society of Woodworkers. In the same year, the formation of the Amalgamated Union of Building Trades Workers put an end to the uninterrupted history of the Operatives Stonemasons' Society begun in 1833. Indeed in the 'thirties of last century there was already sufficient organisation among building operatives for Robert Owen to apply his theories of gild ownership. The Builders' Union formed for that purpose included all the building crafts and was the first attempt to form an industrial union in the modern sense of the term. Aiming at workers' control of industry, however, it had no interest in solving disputes between capital and labour. It lasted until 1834, after which the craft unions pursued their paths separately.[3]

About the middle of the century, the building unions had revived from the failure of the experiments of the 'thirties and began to achieve their first considerable successes as craft organisations. In a simple time-work trade, the establishment

[1]Hilton and others: *Are Trade Unions Obstructive*, Ch. I.

[2]The Amalgamated Union of Building Trade Workers and the National Association of Operative Plasterers both left the Federation in 1924 but rejoined in 1927 and 1933 respectively.

[3]For history of the building unions see R. W. Postgate: *The Builders' History*.

of a standard rate of pay was a fairly easy matter. Attention was then turned to the question of hours of work and maintenance of craft advantages by limitation of apprenticeship and the prevention of the use of half-finished goods. Concentration on these matters involved complex negotiations and gave rise to elaborate "working rules." During the 'fifties, the establishment of working rules spread slowly from one district to another. The union successes were not always achieved without conflict for there were many employers who maintained that "the code of rules proposed by the operatives is such an interference with the rights of employers and employed that they decline to adopt them."[1] In some districts, union pressure was countered by the "document" which employees were required to sign adjuring union membership. But trade was good and the unions and their working rules gained acceptance in most large centres of the industry. This acceptance was accelerated in the 'sixties by the better atmosphere which prevailed after the development of a pacifist conception of trade unionism. In this development, the building unions played the leading part.[2] The combination of these two factors, working rules and faith in peaceful activities, must inevitably have culminated in the formation of some sort of permanent conciliation machinery, but the precise form of that development was decided by events at Wolverhampton.

THE DEVELOPMENT OF LOCAL BOARDS

In March, 1864, a threatened strike at Wolverhampton was averted only through the intervention of the local mayor. A public meeting of the trade was held at his invitation as a result of which six representatives were appointed by each side to investigate the dispute. Both parties submitted a list of acceptable candidates for the position of independent chairman, and it was found that the first choice in each case was

[1]Applegarth, General Secretary of the Amalgamated Society of Carpenters and Joiners in evidence before the Trade Union Commission in 1868.

[2]See Sidney and Beatrice Webb : *History of Trade Unionism*, Ch. V.

Rupert Kettle, a local lawyer who had become a Judge of the Worcestershire County Court and who was known to be interested in the possibility of applying the principles of legal arbitration to industrial disputes.

Kettle first hoped to receive assistance from the existing legislation. He was soon convinced, however, that the Arbitration Act of 1824 was too limited in its scope and too dilatory in its procedure to be of any real value.[1] He was forced, therefore, to look outside the law for his remedy and suggested to the parties the formation of a permanent court of voluntary arbitration. This body, he believed, would be able to deal informally and expeditiously with any matters in dispute as soon as they were raised. Its main purpose would be the construction of written rules for the guidance of the parties in their relationship. Once this was done, he felt there would be less likelihood of future trouble. "One great advantage of arbitration," he wrote, "would be that disputes upon subsisting agreements would seldom arise under it, for an arbitrator would reduce the contract between the parties to writing."[2]

The success of the carpenters' and joiners' board which was the outcome of Kettle's persuasion was largely due to his tact as chairman. Wherever he could he refrained from using his powers of arbitration as umpire and endeavoured to secure unanimity, taking as small a part in the discussion as possible. "The umpire," he relates, "occasionally asked for explanation and assisted the speakers when necessary to define their meaning with accuracy. The umpire also, from time to time, referred to any well-settled economic laws bearing directly on the question, and applied them whilst the subject was under discussion."[3]

Before long, it was found expedient to set up a smaller committee to settle by "conciliation" all matters that did not

[1] See below Part II, Ch. I.

[2] *Strikes and Arbitration*, p. 22.

[3] *Ibid*, p. 35.

require the attention of the "arbitration" boards.[1] In 1866, the board was widened in another direction by the inclusion of the plasterers and bricklayers of Wolverhampton. When, two years later, the masons were also embraced, there remained outside it only the painters and labourers who were still too floating a population to be properly organised. Until 1875 the Wolverhampton board succeeded in preventing disputes. In that year, however, as a result of an adverse decision, all but the carpenters and joiners seceded from it. Even they were beginning to be less satisfied with the arrangement. The board's awards were made for three years. This was considered by the operatives to be too long a period, and on more than one occasion when an award was made for a small increase in wages at the start of a boom, they preferred to go on working at the old rates for another twelve months rather than bind themselves for the longer period.[2]

But before 1875 the fame of the Wolverhampton board had spread and its example was followed in other towns. Kettle himself was a keen propagandist, and after the publication of his book, *Strikes and Arbitration*, in 1866, was asked to assist in the establishment of similar boards in several Midland towns. Permanent boards were established in this early period at Malvern, Worcester, Birmingham, Manchester and the Potteries district. The most important of these was the Birmingham arrangement which approximated to an industrial, as distinct from a craft, board. Six operatives and six employers were chosen to represent each trade included, these being carpentry, bricklaying, plastering, and general labouring. The other arrangements were limited to one trade. They followed Wolverhampton closely in constitution, having six masters and six craftsmen as a rule, with an independent umpire and a small conciliation committee.

Even where permanent boards were not formed, the

[1]For details of the board and committee see evidence of R. Kettle, Eleventh Report Trade Union Commission, Vol. II, 1868.

[2]H. Crompton: *Industrial Conciliation*, p. 109.

influence of the Wolverhampton experiment was apparent in the adoption of *ad hoc* arbitrations. Arbitration in one form or another became a regular feature in most building trades in the last quarter of the nineteenth century. Even in the case of the painters, who were the least organised section apart from the labourers, there are records of successful arbitrations at Birmingham, Coventry, Leicester, Nottingham and elsewhere.[1] Some unions were more in favour of this remedy than others within the same trade. The Operative Bricklayers' Society, for instance, accepted arbitration on most matters of difficulty, whilst the United Operative Bricklayers were opposed to it on any matters, and in 1875 amended the rules of the society to limit their branches' participation in joint schemes to such as did not provide for ultimate arbitration.

Although by 1890 many of the early joint boards had lapsed entirely, others had gained an established place, whilst new boards were continually being set up in outlying districts. The Amalgamated Society of Carpenters and Joiners remained the most active organisation in this direction. Even the National Amalgamated Society of House and Ship Painters and Decorators began, towards the end of the 'eighties, to encourage its branches to set up local machinery and to insert an arbitration clause in the working rules.

The greatest activity in the establishment of arbitration and conciliation machinery, however, began at the end of the century. The years from 1895 to 1904 brought unprecedented activity and prosperity to the industry. By the end of 1906 there were estimated by the Board of Trade to be between 90 to 100 joint bodies in operation whose decisions covered approximately 112,000 workers.[2] In most cases prior to 1904, they were of a local character, and except at Bristol, Cheltenham, Malvern, Birmingham, Liverpool, and a few less-important centres, represented one branch only of the industry.

[1]Evidence given before Group C of Royal Commission on Labour, 1892.

[2]1907 Report on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees, p. XI.

An instance of national craft machinery during this period was the board of conciliation and reference formed for the plumbing trade in 1897. It was constituted by an agreement between the National Association of Master Plumbers (later the Institute of Plumbers Ltd.) and the United Operative Plumbers' Association of Great Britain and Ireland (now the United Operative Plumbers' and Domestic Engineers' Association). Its object was "to promote and secure, if possible, an honourable and equitable adjustment of any matter or question pending between employer and employed with a view to avoiding or preventing strikes, lockouts or other measures which prove disastrous to our mutual interests." It consisted of two executive officers and three local members of the Associations, the chairman being the senior executive officer of the Master Plumbers, while the corresponding member of the Operative Plumbers' Association acted as vice-chairman. The first duty of the board upon receipt of notice of a dispute from the local associations was to request the disputing employers and operatives to nominate an arbiter to be called in should the board fail to reach a settlement. The rules directed that this request should be accompanied by a recommendation in all cases that the arbiter should be appointed by the Board of Trade under section 2 (1) (*d*) of the Conciliation Act, 1896. Once named, recourse to the arbiter was automatic without further reference to the parties.

It is impossible to examine more than a few of the joint bodies operating prior to the adoption of national machinery in 1904, nor is it necessary, since in the main they followed a few set patterns. In some cases, they were constituted by a single clause in the working rules and their detailed operation was left entirely to agreement between the associations. For example, the Kidderminster rules provided for district committees of employers and bricklayers and employers and builders' labourers by the following clause:

> "A Standing Committee shall be formed consisting of two of the employers and two of the workmen. They shall hear the

parties to any dispute and settle by amicable arrangement any difference which may arise between employers and operatives."

The arrangements were sometimes set out in a very detailed form, as in the case of the conciliation board of the house painting trade of Sunderland which existed until 1908. That body was charged with the task of settling all questions arising as to wages, hours of work and other conditions in the county, as well as disputes of a local nature. It consisted of two parts, a departmental board and a court of arbitration. The former was made up of six representatives of the Master Painters' Association of Sunderland and the same number from the county branches of the National Amalgamated Society of Operative House and Ship Painters and Decorators. These representatives were selected in January of each year and included *ex officio* the secretaries of the two associations as joint secretaries. All questions were referred in the first instance to this board, questions not involving alterations of the working rules being considered at a meeting summoned by either secretary after seven days' notice to the other secretary. Notice of alterations of wages or other conditions could only be given by December 1st, and the notice could not expire before March 1st. Any difficulty not settled by the departmental board became referable to the arbitration court. This consisted of the members of the board sitting under the chairmanship of an individual chosen at the last meeting of the board by drawing from a hat the name of one of twelve referees who constituted a panel which was kept up to date. The case was submitted to the court between the third and the seventh day from the last meeting of the board and the majority decision was embodied in an award.

Birmingham has always been one of the most important centres in the industry, and here the arrangement which has already been mentioned developed into a full industrial board. It was unusual in making no provision for arbitration except in the case of plumbing disputes. The initial procedure was the same, however, for all the crafts and involved a reference to a

joint board composed of two representatives of each trade and a number of employers equal to the total operative representation, in the case of disputes affecting more than one trade, or to a board of seven operatives and seven employers in the case of disputes limited to a particular trade. Matters between single employers and their workmen were dealt with by standing committees in each trade but might be referred to one of the boards at the request of either party on the ground that the inquiry was raising questions of general concern. A board or a committee met to discuss any matter within 48 hours of receiving notice of it and, until a final settlement, no stoppage was permitted. Five months' notice of proposed alterations in wage rates was required, the notice terminating not earlier than April in the following year.

By far the most important arrangement up to 1904 was that established in 1896 as a result of lengthy negotiation between the London Master Builders' Association and the London unions representing the bricklayers, stonemasons carpenters and joiners, plumbers, plasterers, millsawyers and woodcutting machinists, and general smiths and fitters.[1] The maintenance of the scheme was provided for in the working rules for these crafts. Each trade elected annually a panel of six representatives, three primary representatives and three deputies. When a dispute arose, the procedure differed according to whether the question involved members of one, or more than one, branch of the industry. Where the former was the case, the matter might be raised by notice from the association of the complaining party to the association of the other party. The conciliation board then consisted of the three employer representatives and the three union representatives of that trade. When, however, a question of demarcation of work was involved, either directly or indirectly, or the claims or rights of other sections were in question, the board became a joint conciliation board of the three representatives from each trade and a number of representatives of the employers equal to the

[1]That is all the principal branches of the industry in London with the exception of the painting trade, and building labouring.

aggregate union representation. In either case, the board was required to meet within seven days of notice from the complaining party and where practicable to give its decision within the next six working days.

The London arrangement was not affected by the national agreement of 1904. The London Master Builders' Association and the London unions were not subscribers to that agreement, on the ground that their existing machinery already covered a wider field than the national scheme, the substitution of which would, therefore, leave some branches unprovided for. The importance of the local boards elsewhere was considerably affected by the national agreement. Though they did not cease to operate unless mutually agreed upon, nevertheless, their work was largely taken over by the national arrangements in the case of the most important sections of workers, the bricklayers, stonemasons, carpenters and joiners.

THE DEVELOPMENT OF NATIONAL INDUSTRIAL MACHINERY

The first attempt to establish national machinery on a wider basis than that of a single craft arose out of a settlement to a dispute in 1904. The agreement which set up this machinery was signed in December by the National Federation of Building Trades Employers and the Operative Bricklayers' Society, Manchester Unity of Operative Bricklayers, Operative Stonemasons, Amalgamated Carpenters and Joiners, General Union of Carpenters and Joiners, and the Associated Carpenters and Joiners. The scheme thus covered three trades and in 1908 was amended to enable builders' labourers to join it in districts where they had obtained working rules (in effect where they were organised).[1]

The general design of the scheme was a pyramid with local boards at the base, centre (or regional) boards higher up and a national board at the apex. Local conciliation boards were formed in towns or localities where employers and operatives were sufficiently organised, consisting of two representatives

[1] 1907 and 1910 Report on Rules, etc.

from the local branch of each operative association which was a party to the agreement with an equal number of representatives of the employers' building association of the locality affiliated with the national federation. Consideration by such a body of any dispute within its scope began only on the breakdown of negotiations between the representatives of the parties in the trade or any existing local trade joint committee. When these agencies failed to settle the dispute within fourteen days or a mutually agreed extension, the matter was required to be brought before the local conciliation board. Fifty-seven such boards were established in England[1] in the first instance.

Centre conciliation boards were formed in each of the four districts of the National Federation of Building Trades Employers, namely the northern counties, the midlands, south-eastern, and south-western. A centre board was composed of two delegates from each of the operatives' national or general associations, and a like number of employers elected by the employers' federation. Any question remaining unsettled at a local conciliation board after fourteen days, or any agreed extension of that time, of the first reference to it, became referable to the appropriate centre board.

Should the centre conciliation board also fail, the matter might be taken within seven days to the national board of conciliation which consisted of sixteen employers selected by the national federation and sixteen workmen's representatives selected by the national unions. If this body failed to reach a settlement, the parties were free to hand in notices.

The various boards were constituted in May of each year, and each proceeded to elect a chairman and joint secretaries. The chairman exercised a member's vote only, when voting was necessary. Where attendances were unequal between the two sides when a vote was taken, the unanimous vote of the numerically smaller side was considered equal to a unanimous vote of the other side, but in the event of cross voting, the decision went to the side securing a majority of the cross votes.

[1]The scheme did not extend to Scotland.

At the local or centre stage it was competent for the board by the mutual consent of the disputing parties and "for the purpose of more quickly arriving at a settlement," to call in an arbitrator or joint arbitrators with power to settle the matter finally. At the national stage, consent of a majority on each side of the national board was sufficient without the consent of the parties immediately concerned, to refer a matter to arbitration. Unless left to the discretion of the arbitrator by agreement, the costs of an arbitration were borne in equal shares by employers and operatives.

The 1904 agreement contained detailed rules of procedure analogous to court rules. Rule (*b*), for instance, required that "the case to be stated and the evidence taken should be scrupulously confined to the matter or matters definitely set forth in the appeal," while rule (*c*) empowered any board to "amend the appeal to effectuate the real intention of the parties where the appeal has been erroneously or insufficiently drawn up." The proceedings were the same before any board, the hearing being opened by the "appellants' short statement of case" followed by the oral evidence of witnesses in support. The case for the other side was then presented in similar fashion, leaving the appellants' reply to close the hearing. All witnesses were subject to cross-examination, written evidence being permissible only in cases of illness or similar cause making personal attendance impossible. In that case, the written statement could only be accepted if signed and attested by two witnesses.

While the years preceding the 1904 agreement marked a period of great prosperity in the building industry, those succeeding it were years of depression and unemployment in all branches of the industry. In these circumstances, the conciliation machinery was less active than would have been the case had the unions' position been stronger. It was 1907 before the first case reached the national conciliation board and was the only one to do so in that year. In the same year, the northern centre board had three cases referred to it from

local conciliation boards, the south-eastern centre board one case, and the other two none at all. The same slowing-up in activity was apparent in the case of the conciliation machinery outside the 1904 agreement. In London, for instance, in 1907 there were but two cases heard in the bricklayers' section of the 1896 board, one in the stonemasons', and one in the carpenters' and joiners' sections. In Liverpool, the only recorded dispute was in the carpentry trade. In Malvern there was a single reference. The Glasgow carpenters' board alone showed great activity, handling 20 cases, 15 of which were settled by conciliation and five by arbitration.[1]

The trade depression which increased towards 1914 was largely responsible for the absence of strikes in the building trades during the operation of the national conciliation scheme. This must be remembered in considering the statements of employers and operatives before the Industrial Council in 1913 that the scheme had worked well and had preserved industrial peace. There were, in fact, serious disadvantages in the scheme. Until 1912 its procedure was extremely prolonged and unsuited to purely local disputes. In that year the time taken for the full process of conciliation was reduced to half by fixing regular dates for the meetings of the higher bodies, thus enabling parties to local disputes which were not settled at the local board to synchronise the expiry of the notices of appeal with a meeting of the higher board.[2] Another aspect of the conciliation machinery which gave rise to some dissatisfaction on the labour side was the method of cross-voting, particularly in the case of wage and general questions before the national conciliation board. Mr. G. D. H. Cole, writing in 1915 in *The World of Labour*, attacked this feature of the board. "Moreover," he wrote at page 267, "the National Conciliation Board is probably the most reactionary labour body in existence. Instead of direct negotiations between a solid body of employees and a solid body of masters, it works

[1]Board of Trade Report on Strikes and Lockouts.

[2]See Evidence of Secretary of National Federation of Building Trades Employers before the Industrial Council, 1912, *circa* question 5052.

by a system of cross-voting. Often, enough of the workers' representatives seem to vote with the employers to allow of the carrying of perfectly preposterous resolutions. In this case at least, conciliation has served only to 'dish' the workers." Cross-voting was not included in the later conciliation schemes.

Until the formation of the National Federation of Building Trades Operatives, the plastering trade did not participate in the industrial scheme. In 1909, however, the main organisations of plasterers, the National Association of Operative Plasterers, joined with the National Association of Master Plasterers and the National Federation of Building Trade Employers in arranging for the setting up of local joint committees to consider differences and disputes where they arose with a standing joint committee of appeal.[1] In 1915, the London Master Builders' Association became a party to the 1904 agreement.

The 1914-1918 war years brought a much-needed measure of unity between all building unions, and with the formation in 1918 of the National Federation of Building Trades Operatives as a federation of all the principal unions, the conciliation arrangements became completely industrial, except in regard to local disputes. Later in that year an industrial council for the building industry was established on the Whitley model but existed only until the end of 1921. In view of the existing machinery the settlement of disputes was excluded from its functions.

The conciliation scheme was affected in 1919 by the appointment of special regional joint councils in each of ten areas for the regulation and control of wages and other conditions of employment. These councils were linked to the conciliation scheme by the requirement that a deadlock on any matter before a council must be referred forthwith to the conciliation boards. In the following year, however, national negotiation for wage rates was adopted and a single body, the

[1]1910 Report on Rules.

national wages and conditions council, took over this function from the regional councils. In addition, it was given conciliation jurisdiction over disputes arising from interpretations of its own decisions ; other differences and disputes arising from alleged breaches of national or other working rules being still within the province of the conciliation scheme. The activities of the conciliation boards were considerably restricted by this arrangement since the latter type of disputes which should have fallen within the scope of the national conciliation board were very often regarded by the parties as matters of interpretation.

The result of this dual position was a good deal of confusion as to the correct procedure in the event of a threatened national dispute. Reconstruction of the conciliation machinery was, therefore, undertaken, and in March, 1922, an agreement was signed by the parties which introduced new procedure as from July, 1923.

Under this agreement, the ten regional joint councils were given the conciliation powers of the four centre conciliation boards which were abolished. All questions and disputes, unless falling within the purview of the national wages and conditions council, were, in the first instance, dealt with as before by local joint trade or trades committees or boards or, where such were not formed, by representatives of employers and operatives of the trade or trades affected. Failing a settlement within seven days or any mutually agreed extension, the case was dealt with in accordance with the rules of the appropriate regional joint council. When that body was unable to arrive at a settlement within seven days either party could appeal as before to the national conciliation board. And, as before, that board, provided a majority of each side was in favour of such a course, could refer the dispute to the Industrial Court or call in an arbitrator to give a final decision. This, however, was the only occasion upon which a majority vote was effective.

Revision of the constitution of the national wages and

conditions council and the national working rules was undertaken in January, 1924, and again in 1926. The agreement arising out of the latter occasion, dated July 1st, 1926,[1] defined more specifically the limits of regional and national control. It stipulated that rates of wages, hours of labour, extra wages, overtime, night-gangs, and walking, travelling, and lodging allowances, should be determined on a national basis while other conditions of employment should be determined on a local or regional basis. At the same time, the agreement terminated the existence of the national wages and conditions council and replaced it by a national joint council of forty members appointed annually as from the 1st March, twenty from the employers' organisations and twenty from the operatives' unions, apportioned among, and appointed by, the parties affiliated to the council in such manner as the respective sides from time to time agreed.

The main function of this council was the negotiation of working rules in respect of the matters determined nationally and, like the wages and conditions council, it was expressly debarred from dealing with any actual dispute "except such as are concerned with the interpretation of its own decisions," in which case its decision "shall be final and binding."[2] In respect of these disputes, the council's powers were similar to those of the national conciliation board. It met within 21 days of receipt of notice by the joint secretaries. After the failure of conciliation, and provided a majority on both sides concurred, the dispute could be referred to the Industrial Court or to an arbitrator or arbitrators, the costs of the reference being borne equally by employers and operatives unless left to the discretion of the arbitrators. Failing agreement by the council, either in the form of a final settlement or by submission to arbitration, it was required to report to its adherent bodies, whereupon each was at liberty to take any action after giving 14 days' notice.

[1] See *Labour Gazette*, October, 1926.

[2] Rule 11 (*a*).

All other disputes, the agreement provided,[1] were to be dealt with under the national conciliation scheme so long as those concerned belonged to bodies which were parties to that scheme, and, where that was not the case, the parties to the agreement undertook to enter into immediate negotiation to deal with any dispute, unless on joint appeal the parties availed themselves of the national conciliation machinery.

Whilst the post-war agreements had, up to 1927, covered all disputes of a regional or national character, they had not affected the settlement of local difficulties for which the individual craft arrangements and the 1904 local boards for bricklayers, masons, carpenters and joiners, were operating separately. In July, 1927, however, uniform procedure was adopted to deal with disputes between single employers and their workmen on such issues as refusal to work with men alleged to be "objectionable," etc. This was embodied in a document known as the "Green Book" agreement.[2] The agreement does not supersede any existing machinery but covers all cases where there is no joint provision or the existing machinery is unlikely to prevent a stoppage of work.

The procedure outlined by the agreement starts with the notification of the dispute by either or both parties to their respective local officials. The local officials must thereupon meet and co-operate to prevent a stoppage of work or obtain a resumption of work pending the reference of the matter to the appropriate existing machinery for dealing with disputes, or, where such machinery is not available, pending a reference, to a regional joint emergency disputes commission. At the same time, the local officials are required to keep their respective regional officials fully informed of the steps taken and the results achieved. Upon receipt of a report from any of their local officials, the respective regional officials are charged with similar duties and in their turn must keep the respective national officials informed of the movements.

[1]Rule 9 of the national working rules incorporated in the agreement.

[2]Set out in Ministry of Labour Report on Collective Agreements, 1934.

Should it appear to the national officials that the local or regional officials are likely to fail to prevent a stoppage of work or to secure a reference to appropriate existing machinery they must confer with a view to obtaining an immediate reference of the dispute to an appropriate regional or to the national joint emergency disputes commission.

A joint emergency disputes commission, whether regional or national, is composed of three employer and three operative representatives drawn from their respective regional or national executive committees together with the respective secretaries, and are appointed *ad hoc* as occasion demands. Their functions are set out in the agreement, as follows :

> To hold an inquiry without delay, usually in the place where the dispute is occurring or is about to occur.
>
> To take evidence to ascertain the cause or nature of the dispute.
>
> To decide whether the dispute is referable to any existing machinery for settlement and if so to direct such reference.
>
> To report and recommend to the respective national executives as to the settlement of disputes not referable to any existing machinery.
>
> To give any directions for the purpose of preventing a stoppage of work or securing a return to work pending the reference to existing machinery or consideration of the commission's report and recommendations by the national executive committees.

The procedure adopted on the conduct of an inquiry is left to each commission to determine, "having regard to the procedure prescribed for submission of evidence in the regulations of the national joint council and the national conciliation board, so far as applicable." When a commission's report is laid before the national executive committees those bodies may deal with it, under the agreement, in one of three ways :

> By accepting the recommendations contained in the report in which case intimations to that effect are exchanged, and undertakings given to carry them out.
>
> By disapproving wholly or in part in which case communica-

tions are exchanged between the national executives as to the further steps to be taken.

By one side convening a joint conference of the national executive committees to deal more effectively with the recommendations.

The working of the "Green Book" procedure since 1927 has shown it to have three particular advantages. Firstly, it is extremely flexible. The older conciliation machinery can be set in motion wherever it is available or the *ad hoc* commission can be made to suit the occasion, conducting its inquiry as it sees fit at the time. Secondly, it places the primary responsibility for invoking the provisions upon the permanent officials of both organisations at each stage and puts the full authority of those organisations behind whatever steps are taken. Thirdly, and most important, it ensures that the national executives are automatically informed of every dispute or threatened dispute and can supervise, if necessary, the measures taken by the local and regional bodies.

During 1930 the Scottish employers withdrew from the national organisation, thus necessitating reconsideration of the existing arrangements. It is desirable at this stage, therefore, to distinguish between the two countries although the developments in them have been fairly parallel.

England and Wales

The Scottish move and the confusion due to the numerous changes since 1918 induced the national joint council to consolidate the provisions in one document and at the same time to make such amendments as time had shown to be necessary. This was completed in January, 1932, and the agreement signed on the 14th of that month by the three federations of employers and twelve federations or national unions of operatives is, with the "Green Book" agreement, virtually a complete code of rules regulating the normal peace-time relations of the parties in England and Wales.

It is in four parts: the memorandum of agreement; rules

for the governance of the joint bodies ; regulations containing procedure in regard to matters submitted to the council or its committees ; national working rules.

The first part continues the existence of the national joint council. Apart from its role in the settlement of disputes the council functions in relation to rates of wages, the grading of towns for wage purposes, working hours, extra payments, overtime, night work, walking time, travelling and lodging allowances. The rules direct the appointment of four standing committees by the council, one being a conciliation panel with constitution, personnel, duties and powers (other than those specified in the agreement) to be determined from time to time by the council. The regulations provide for nine regional joint committees similar to the earlier regional joint councils, to act as links between the national council and the localities and having power to appoint area joint committees to act, in turn, as links between themselves and individuals in regard to the application of the working rules. As with the national council, the rules direct the appointment of a conciliation panel as a standing sub-committee of each regional committee.

On a dispute arising or being threatened in any locality involving or likely to involve members of a party affiliated to the council, the rules stipulate that it shall be dealt with in accordance with the "Green Book" procedure. But this procedure is indirectly affected by the transference of the functions formerly vested in the joint bodies under the old conciliation scheme, to the conciliation panels of the regional joint committees and the national joint council. So a dispute may now be referred under the "Green Book" procedure to the regional joint committee as "the appropriate machinery for settlement." It is then dealt with by the regional standing conciliation panel within 21 days. Its decision is final and binding on the locality covered by the regional committee unless notice of appeal is lodged with the clerk of the national joint council within seven days thereafter. Regional decisions do not form precedents.

The dispute may reach the council not by way of appeal but by a direct reference from a regional conciliation panel that has failed to agree. The appeal or reference must be heard by the standing conciliation panel of the Council within 21 days and the result be reported to the council at its next meeting and be entered upon its minutes, whereupon it is final and binding. When, however, the panel has to report its failure to reach a decision, the council itself has three alternatives :

it may refer the matter back to the panel with a suggested solution of the deadlock for its consideration, or

it may refer the matter to the arbitration of the Industrial Court or to an *ad hoc* arbitration, provided a majority of each side of the council votes in favour of such a course, or

it may appoint a committee of inquiry with full power of conference with the executives of the adherent bodies to ascertain upon what terms the question at issue might be settled, and to report to the council within one month of its appointment.

Until the completion of these steps, no stoppage of work may occur and national organisations undertake to give no financial or other support to defaulters in this respect. Should the dispute still remain unsettled at the exhaustion of the procedure, the council has no option but to report to the adherent bodies that the matter has proved incapable of settlement. Thereupon any party may take whatever action it deems expedient after giving 14 days' notice.

Disputes of interpretation of the council's own determinations (i.e., in respect of wages and working rules decided nationally) are still matters for the council itself to deal with but can of course be delegated by it to any other body, including the national conciliation panel.

Finally, the rules provide for amendments from time to time to the document. In this, rule 11 differentiates between a constitutional amendment "which proposes to alter the essence of this constitution or any agreement essential

thereto," and a variation amendment which involves only matters of detail in the document. The former can be made only by agreement between the adherent associations; the latter becomes effective upon the decision of the council and needs no ratification by the parties.

Scotland

Until 1930, the Scottish National Building Trades Federation (Employers) was a constituent of the National Federation of Building Trades Employers and a signatory of the various national agreements. The national unions which compose the National Federation of Building Trades Operatives have recruited Scottish as well as English operatives, whilst many of the Scottish unions are affiliated to the National Federation. As a result, the greater section of Scottish workers came under the national conciliation schemes with Scotland as one of the ten regions in which regional joint councils operated.

In June, 1930, as already mentioned, the Scottish National Building Trades Federation (Employers) withdrew from the National Federation of Building Trades Employers and from the national agreements. Immediately it initiated negotiations with the National Federation of Building Trades Operatives for the establishment of a separate Scottish joint council and conciliation machinery. A formal agreement was signed on January 18th, 1932.

Like the agreement signed in England four days earlier, it contains the constitution of the council, rules, regulations and working rules. The arrangements for the settlement of disputes and differences, however, are much simpler. No provision is made for a conciliation panel but the council is empowered to appoint any number of standing committees. As first signed, the agreement prohibited stoppages of work for the duration of the agreement, that was to say, until the expiry of six months' notice of withdrawal given by either side. This has been amended in the revised rules issued by the council on 1st February, 1939. The right to strike or lockout is now

restored after the dispute has been dealt with unsuccessfully by the council or its appropriate committee. The procedure of settlement is as follows:

Upon a dispute arising on any matter and failing to be settled locally, the council must be summoned to meet within three days of intimation. At this meeting, the council can decide that the matter should be dealt with by any of its existing committees or an *ad hoc* tribunal or by itself. If relegated to a committee, the determinations must be reported back to the council. Failing a settlement, the council must report to the adherent bodies "that the matter has proved incapable of settlement" whereupon either party is at liberty to give seven days' notice of its intention to take whatever action it considers advisable.

The agreement sets up local joint committees charged with locally regulating the operation of the Scottish working rules. A local joint committee consists of seven representatives from each of the local bodies (employers and operatives) represented on the council by the national federations. They serve as a connecting link between the council and the local areas, and normally any difference or dispute of local extent will be dealt with by them first. To prevent the committees working in isolation or contradiction to the council, the agreement requires copies of minutes of all meetings to be submitted to the joint secretaries of the council. That body may exercise powers of review in respect of a local committee decision, provided notice of appeal is lodged with the joint secretaries in writing within seven working days of the local decision being published. Subject to the same condition, the council may refer a matter of dispute to one of its own committees or deal with it itself where the local joint committee has failed to come to a decision. In either case, the council must act within seven days after receipt of the notice of appeal.

Local joint committees are appointed from year to year. Unless otherwise agreed to by a majority on each side, voting at a meeting is by ballot, each side voting separately. A decision

becomes binding when approved by a majority of votes on both sides. Under no circumstances has the chairman a casting vote.

Certain sections have remained outside the Scottish scheme with separate working rules, including the painters (except in 1942-1943), one union of glaziers and, until recently, the plasterers.

DEMARCATION DISPUTES

Next to shipbuilding and engineering, the building industry has been the greatest sufferer from inter-trade disputes. This was inevitable so long as emphasis continued to be placed on craft organisation. There is little point in limiting entry to a craft union by strict apprenticeship requirements unless the members of the trade can assert an exclusive right to the particular craft work. The building unions have remained one of the last strongholds of apprenticeship.[1] It might be expected, therefore, that in the defence of their respective spheres of work and in the allocation of new work and processes, the building trades whose activities are not altogether differentiated would often be in conflict. With increasing competition the maintenance and extension of their industrial activities became as vital to each as the maintenance of the rates of pay or the conditions of work.

The years of prosperity from 1890 to 1902 were especially marked by unlimited demarcation disputes.[2] The craft spirit was then at its height. The conflicts were sharpened by the beginning of the breakdown of the apprenticeship system and the threat of invasion by unskilled and semi-skilled labour. Against this, each craft attempted to secure itself by claiming a rigid field of work for its own members. And as each attempted to secure the widest possible area, much overlapping occurred. Moreover, new occupations and the change of

[1] It was only in 1920 in the post-war building boom that a shortening of the period of apprenticeship was agreed to by some of the older craft unions.

[2] See R. W. Postgate : *Builders' History*, 355 to 400 *passim*.

materials were, in building as in engineering, fruitful causes of dispute at this time.

The plasterers seem to have been the cause, or at least the occasion, of many of these conflicts. Plastering has always been a less well-defined occupation than older building trades, and the activities of the plasterers in connection with brickwork have been watched with no little anxiety by the better organised and higher paid bricklayers. In 1897, in Newcastle, a series of bricklayers versus plasterers contests led to the formation at the dictation of the master builders' association of a bricklayers and plasterers conciliation board for Newcastle and Gateshead on the analogy of the shipbuilding boards already operating in that district.[1] The board consisted of eight members, two being nominated by the master builders, two by the local bricklayers' unions, two by the local plasterers' unions and two being architects. The board annually elected a chairman (invariably one of the architects or master builders), vice-chairman, and secretary. The majority vote was final, and in the event of an equal division, the vote of the chairman prevailed.

This was the first of many bricklaying and plastering boards. In the early years of this century, the activities of the plasterers' unions in another direction began to involve the building contractors in expensive delays in the completion of their undertakings. The trouble arose from the policy of the National Union of Operative Plasterers in enrolling foremen and superintendents of plasterers against the opposition of the National Association of Master Plasterers. In 1909, a determined campaign by the union resulted in the operative plasterers "downing tools" whenever supervised by a "non-union" foreman. This brought the National Federation of Building Trades Employers into the matter and a national stoppage seemed likely. On September 1st, however, the immediate disputes were settled by an agreement which,

[1]See above Chapter on Engineering and Shipbuilding.

among other things, provided for the setting up of local demarcation committees wherever necessary and a standing joint committee of appeal. Local committees consisting of an equal number of building trade employers and master and operative plasterers with a chairman elected from the employers with casting vote, were established by the end of the year at Barnsley, Birmingham, Halifax, Leigh, Manchester, Newport, Swansea, and York.

The 1904 national machinery, being composite, was suitable for hearing demarcation difficulties involving bricklayers, masons, carpenters or joiners. In London, of course, where all trades except painting were covered by the conciliation provisions, disputes were heard by the joint conciliation board already mentioned.

The depression after 1904 helped to draw the unions closer together and lessened the volume of demarcation troubles. But even in 1913, a writer[1] was able to comment, "Demarcation disputes are nowhere so bitter as in the building industry," and to describe the demarcation problem there as "insoluble." After the outbreak of war in 1914 the need for a solution was imperative. The matter was tackled nationally, and agreement for a national demarcation scheme was signed by the three national federations of employers and thirteen unions early in 1915. The principle of the scheme was expressed in the provision, "the trade shall be looked upon as a whole and representatives of the whole shall deliberate upon, and assist in, the settlement of all demarcation disputes."[2]

A more fundamental solution came after 1918 when the National Federation of Building Trades Operatives embraced in one organisation practically every branch and union of building employees. Since then little use has been made of the

[1]G. D. H. Cole in *The World of Labour*, p. 268.

[2]See 1934 Report on Collective Agreements, footnote p. 347.

1915 machinery and the last meeting of the committee was held in 1931.[1]

Demarcation disputes affecting building operatives in recent years have been more likely to be inter-industrial than inter-trade. In particular, the similarity between building works and civil engineering works has been a danger which has more than once threatened to develop into a disturbance involving the whole national federation. Although building operatives are customarily employed in some civil engineering operations, the rates of pay and conditions of employment were, prior to 1940, less favourable on the whole than in the operations covered by the working rules of the building trades. The question whether a particular job was or was not a building job might, therefore, be of considerable importance to the workers. This difficulty was considered at a conference of the employers' federations in the two industries and the National Federation of Building Trades Operatives in December, 1933. In the following year, an arrangement was embodied in formal agreement and signed on their behalf on July 4th.

This agreement met the immediate difficulties by specifying operations as predominantly building work or predominantly civil engineering work, and stipulated the wage rates and working rules to be applied in each case. But no listing could be complete and the agreement therefore provides for border-line and new cases "which are not readily capable of settlement by common consent" with the aid of the lists, to be referred to national joint tribunals, *ad hoc* bodies convened to deal with each dispute as it arises. A national joint tribunal is constituted of three members from each of the three signatories and of the panel from which the operatives' side of the civil engineering

[1]In England and Wales the general conciliation machinery can, if need be, be invoked for inter-union disputes likely to lead to a stoppage. In Scotland, however, this is not always so since some unions are not associated with the arrangements. In a dispute in that country in 1937 between the Scottish National Operative Plasterers' Federated Union and the Amalgamated Society of Woodcutters it was necessary to call in aid a Court of Inquiry under the Industrial Courts Act, 1919, since the plasterers were not members of, and would not consent to mediation by, the Scottish National Joint Council. See *Ministry of Labour Gazettes* for June and September, 1937.

construction conciliation board[1] is drawn, together with the respective national secretaries. Convening a meeting is a matter for the national secretaries whenever they find a dispute of difference incapable of ready settlement. In order to become effective a ruling by the tribunal must be the unanimous decision of the four groups, the decision of a group being the opinion of the majority of those voting in it. The decision in a question of a "border-line case" is binding in respect of that case upon all parties, and is reported as such to the national executives for future guidance.

DEVELOPMENTS SINCE 1939

In 1940 a further advance was made in elimination of disputes between the building and civil engineering industries by the application of wage rates determined by the national joint council for the building industry to large sites where work of national importance was carried on. This "uniformity agreement" was entered into by the parties to the national joint council for the building industry and the parties to the civil engineering construction conciliation board and also provided for the establishment of a joint board for England and Wales and a separate board for Scotland to deal with problems arising in relation to work on those sites.[2] The uniformity agreement and the joint boards regulated a considerable section of the industry during wartime and undoubtedly avoided friction on national projects. The agreement was terminated by mutual arrangement at the end of March, 1947, but co-operation established under it still continues.[3]

In June, 1941, provision was made for scheduling of building sites under the Essential Work (Building and Civil Engineering) Order.[4] This Order followed in the main the normal lines of Essential Work Orders including provision for a guaranteed

[1] See above Chapter on Engineering and Shipbuilding.
[2] *Ministry of Labour Industrial Relations Handbook*, p. 73.
[3] *Ministry of Labour Gazette*, 1947, p. 41.
[4] *Statutory Rules and Orders*, 1941, *No.* 822.

week. In addition, however, to the usual stipulations in relation to satisfactory conditions of employment and welfare the Order required the Minister, before scheduling any undertaking, to satisfy himself that, where practicable and desirable, arrangements existed or were being made for remuneration to be calculated on a system of payment by results.

This involved a radical change. Hitherto there had been no piece-workers in the industry. Following the customary practice, the 1932 agreement, which set up the machinery examined earlier in this chapter, prescribed, for each of the ten (now nine) grades into which the towns and districts outside London are graded by the grading commission of the national joint council of England and Wales, "datum standard rates" for the various craftsmen and 75 per cent. of those rates for labourers. The agreement provided for annual adjustment of these rates in accordance with the Ministry of Labour cost of living sliding scale and for additions in certain circumstances by way of "exceptional" and "differential" margins. The "datum standard rates" could be varied only by the national joint council.[1]

Thus the 1932 agreement made no provision for any system of payment by results which always has been strenuously opposed by the building unions. For the purposes of the Essential Work (Building and Civil Engineering) Order requirement, therefore, the Government itself was compelled to lay down basic output per hour and bonus payments for excess output. In introducing this scheme for certain operations in July, 1941, the Government gave an assurance that the scheme would be reconsidered in the light of any agreement reached by the industry itself for more effective arrangements. Considerable variations were effected under this undertaking.[2]

Since October 1st, 1941, no person has been permitted to carry out building or civil engineering work unless he holds a

[1]Ministry of Labour and National Service : *Industrial Relations Handbook*, pp. 71-2.

[2]*Ministry of Labour Gazette*, 1942, p. 104.

certificate of registration from the Minister of Works. Before issuing a certificate the Minister must be satisfied that the terms and conditions of employment are "neither more nor less favourable than" the appropriate terms and conditions fixed by the joint machinery of the industry or by arbitration. A certificate may be revoked or suspended at any time if this requirement is not satisfied. These provisions are contained in Defence (General) Regulation 56AB[1] which also provides for the control of entry of new firms. The power to expel, in effect, from the industry any builder who fails to observe the standard terms and conditions of employment, whilst sparingly used in practice, is a powerful reinforcement of the conciliation machinery by closing gaps in the organisation and discipline of the employers' federations. Defence (General) Regulation 56AB is still in force and will remain until the labour force reaches 75 per cent. of its prewar total.[2]

The Essential Work Orders, on the other hand, no longer apply to building operations, having been withdrawn as from 31st March, 1947.[3] In common with most other industries which had become accustomed to a guaranteed week under Essential Work Orders, the building unions prepared for the withdrawal of the statutory provisions by negotiating through the national joint council for a guaranteed week. A guarantee of half time lost during normal working hours through inclement weather with a minimum payment of 32 hours was incorporated in the working rules by the national council for England and Wales in March, 1945, with effect from 1st October of that year.[4] During the currency of the Essential Work provisions, of course, the working rule guarantee applied only to non-scheduled sites as workers on scheduled work had the benefit of the more generous 44-hour weekly guarantee

[1]Statutory Rules and Orders, 1941, No. 1038 and 1944, No. 745.

[2]Undertaking given by the Coalition Government. In March, 1946, the building labour force was approximately 66 per cent. of pre-war total. *The Economist*, March 9th, 1946, p. 382.

[3]*Ministry of Labour Gazette*, February, 1947, p. 47.

[4]See pamphlet issued by National Joint Council, dated September, 1945.

for time workers and eight-hour daily guarantee for workers on payment by results. After de-scheduling, however, the working rule applied uniformly to all workers covered by the national joint council.

In fact, of course, apart from lost time due to weather conditions and other temporary hold-ups there has been little fear of unemployment or short working in this industry. Since victory has been assured the emphasis has been not on protection of the existing labour force but rather on the expansion of that force to meet the enormous post-war building programme. In this both sides have co-operated and, through the joint machinery, adopted in 1945 a national scheme of building crafts apprenticeship administered by a standing committee of the national joint council in England and Wales and a similar committee of the Scottish national joint council. This scheme is interlocked with similar Government schemes and is applied locally through the regions of the two national councils.[1]

This activity is but one further illustration of the co-operation which has now existed in the industry for some years on matters other than working conditions and the settlement of industrial disputes. In 1929, for example, the members of the national joint council of that time formed a building industry council of review to improve building standards by encouraging increased efficiency and reduced costs. In 1931 an advisory council was established to provide advice in relation to proposed housing legislation. These functions were transferred to a single building industries national council later in that year and, in co-operation with the architects' and building societies' organisation, steps were taken to limit the activities of the speculative jerry-builder.

Joint action in this industry has gone far since the formation of the local carpenters' board at Wolverhampton in 1864. Not

[1]See pamphlet issued by National Joint Council, dated 1st November, 1945, and pamphlet of National Federation of Building Trades Operatives on Matters Affecting Apprenticeship and Training.

only has it developed into a logical structure for the regulation of industrial disputes but it has shown at least the potentiality of that industrial democracy within the wider democracy of the state referred to in the Introduction to this book.

The Minister of Labour and National Service in the course of an address in August, 1945, paid this tribute to the efficacy of the conciliation machinery and its co-operation with the Government:

> "In conclusion I want to say a word about industrial relations. During the war years there has been no serious trade dispute to hold up production in the building industry. This in itself is a striking tribute to the relationship which has been maintained by the joint machinery, and the industry is fortunate in having such a well-tried and smooth-working procedure available. I have mentioned earlier the great help and co-operation we have had from the national joint council in working out schemes of training, but this is by no means the only sphere in which they have made an important contribution to the work of my Department. I am sure I can continue to rely on their services and advice in dealing with the various problems which are bound to arise during the great expansion of the building industry which lies ahead."[1]

[1]Address by Mr. George Isaacs to the National Delegate Conference of the Amalgamated Union of Building Trade Workers at Aberdeen on 24th August, 1945. Reported in *Ministry of Labour Gazette*, 1945, pp. 156-7.

CHAPTER VII

The Boot and Shoe Industry

AN INTERESTING FEATURE of this industry was the attempt to give a legal setting to collective arrangements. The main lines of the conciliation machinery were laid down at the end of last century when faith in the processes of private law had reached its zenith. This influence, with its compelling urge to find in the concepts of contract law a solution for the problems of settlement of industrial disputes, is seen in the unique experiment, in this field, of a guarantee fund established under deed of trust.

Monetary penalties have been retained, at least nominally, since 1895. It would be a mistake, however, to attribute the success of the industrial arrangements since that time to legal sanctions. As elsewhere, where statutory provisions do not operate, the arrangements derive their force from the strength of organisation, goodwill and sense of collective responsibility on both sides of the industry.

Since 1895 there has been no serious dispute in boot and shoe manufacture, despite the presence of two factors which might have been expected to militate against settled conditions.[1] The first was the increasing degree of foreign competition to which the industry has been subject. Economic factors were, it will be recalled, the real stumbling block to amicable relations in the cotton industry.[2] The second factor was the necessity to make constant changes in the techniques and processes of manufacture which, by dislocating established schedules of wages, particularly in piece-work, might have led to evasion of working agreements with resultant discontent.

[1]Board of Trade Working Party Reports. *Boots and Shoes*, p. 3.
[2]See above Chapter V.

In this industry changes have been made with a minimum of friction since 1895 and without damage to the living standard of the operative.

One of the most important factors behind the satisfactory relations in this industry is the nature of the operative. The boot and shoe worker is, on the whole, intelligent and independent and not easily roused into taking part in spectacular strikes for illusory ends.[1] His loyalty to union keeps the industry free from the irritation of unsanctioned local stoppages, and secures the whole-hearted recognition and encouragement of unionism by the employers. The explanation of his trade character probably lies in the lateness of the change over from handcraft to factory work. Until the end of the century, the operative was still a craftsman in the best sense of the word, dependent on the skill of his own hands rather than on the precision of a machine. The geographical distribution of the industry also had some effect upon the collective character of the workers. Of approximately 115,000 factory hands immediately before World War II, no less than 60 per cent. were in and around Northampton and Leicester, 33 per cent. in the first and 27 per cent. in the second. But unlike the cotton industry, local aggregation has not meant isolation. While there are several towns whose major occupation is the production of footwear, there is no district that can be said to be swamped by the boot and shoe business. The benefits of aggregation have not been offset, therefore, by the development of a narrow outlook and local jealousies which have been handicaps to labour in the cotton and the coal mining industries.

The development of a comprehensive system of conciliation and arbitration was greatly assisted by the early presence of strong national organisations of employers and workers. The first local unions dated from about 1840. In 1874, with the formation of the National Union of Operative Boot and Shoe

[1]See Geo. Chester in *Trade Unionism Today*.

Riveters and Finishers,[1] the basis of autonomous local associations gave place to the conception of branches acting under national control. Since then, the claim of the National Union to represent the workers in the manufacture of boots and shoes has been seriously disputed neither by the employers nor by other worker organisations. A National Manufacturers' Association was first formed in 1879, but real centralisation did not begin until some years later. From 1891, however, there has existed in the Incorporated Federated Associations of Boot and Shoe Manufacturers of Great Britain and Ireland an employer body as capable as the National Union of conducting negotiations and settlements on a national basis.[2]

CONCILIATION AND ARBITRATION PRIOR TO 1895

It was a fortunate chance that the first general secretary[3] of the National Union was a staunch supporter of the new methods of resolving industrial disputes which at that time were spreading beyond the spheres of influence of A. J. Mundella and Rupert Kettle. From its infancy these methods became a permanent part of the policy of the National Union. In the first quarterly report issued in June, 1874, the general secretary wrote, in the name of the executive council:

> "In the interests of the trade as well as the welfare of our union we urge upon the officers and members the need of cultivating a firm faith in the policy of referring disputes to Boards of Arbitration for their mutual settlement, for we believe arbitration means the safety of Trade Societies; the cultivation of good faith between employer and workmen and the extension

[1]Renamed the National Union of Boot and Shoe Operatives in 1890.

[2]The Incorporated Federated Associations is a federation of 17 local associations with a membership in 1946 of about 450 firms employing about 80 per cent. of the operatives in the industry. The Lancashire (formerly Rossendale) Association is a separate organisation of firms engaged in the manufacture of slippers and employing about 10 per cent. of the operatives in the industry. See Board of Trade, Working Party Reports. *Boots and Shoes.*

[3]T. Smith, who later, as Alderman Smith, became a popular choice for the position of umpire in the case of many local arbitrations.

of that moral and intellectual prosperity which has attended our leading unions."[1]

To encourage the formation of "boards of arbitration," the executive council undertook, a year later, to pay the initial expenses of branches in establishing boards. In that year also, the Amalgamated Society of Boot and Shoe Makers announced that "any employer in a case of dispute, requiring to have it settled by arbitration, the section and council shall afford every facility for settling it in that way."[2] A Leicester arbitration board was formed before the end of the year. It was modelled very closely on the Nottingham hosiery board, consisting of an equal number of representatives of the employers and the union forming the main board with a standing committee of inquiry composed of two members appointed by each side of the board. Arbitration was exercised by a permanent independent umpire appointed annually. The full board met quarterly or when required. In 1876, a lockout in Stafford resulted in a settlement in which the provision was made: "That a board of arbitration consisting of an equal number of employers and workmen shall be constituted, the members of such board to meet quarterly, to which all trade disputes occurring in the interim shall be referred for settlement."[3] These two boards were followed by similar ones at Kettering, Bristol, Northampton and Leeds. The Leeds board, however, survived only until 1881, when an adverse decision by the umpire caused the operatives to withdraw.[4]

In the 'eighties a few boards were formed in the smaller centres of the trade in the Midlands. In 1883, the first London board was constituted but lapsed shortly afterwards from disuse. In 1890 it was revived following a London lockout.

[1]Reprinted in The Official History of the National Union, Fifty Years (1924).

[2]H. Crompton : *Industrial Conciliation*, p. 122.

[3]*Ibid.*

[4]See evidence of J. Judge before Group C of the Royal Commission on Labour, 1892.

On this occasion, the parties resolved "That a joint board of conciliation and arbitration be forthwith appointed to consist of seven employers and seven workmen and that one arbitrator (who shall be a practical man) be elected by the employers and one arbitrator (who shall be a practical man) shall be elected by the workmen who, when appointed, shall elect a third arbitrator or umpire who shall act when called upon."[1] An agreement carrying this resolution into effect was signed by the Boot and Shoe Manufacturers' Association and Leather Trades' Protection Society Incorporated, the London branches of the National Union and the Amalgamated Society of Boot and Shoe Makers. It enlarged the board to eight representatives on each side, and in a schedule set out rules providing for regular meetings to prevent the board falling into decay a second time.

These rules were taken from the working of the older boards, notably that at Leicester, and their main features may be mentioned as typical of the early arrangements. The board was not limited to specific matters, but existed "to conciliate and arbitrate on any question or dispute affecting the trade that may be referred to it by employers or workmen and by conciliatory means to interpose its influence to put an end to such questions or disputes." The board was appointed annually and proceeded at its first meeting to select a chairman, vice-chairman, secretary, and a committee of inquiry composed of two employers and two operatives. It was the task of the committee of inquiry to investigate the merits of each case reported to the secretary and either to adjust it amicably or, on failure, to refer it to the board. In 1892, the London committee was meeting once a week.[2] The full board met quarterly unless specially requisitioned by three of its members, in which case it was summoned within seven days of the requisition. Each side might call any number of witnesses in support of its case

[1]Appendix XXVII of Minutes of Evidence taken before Group C., Labour Commission.

[2]W. Hickson before Group C of the Labour Commission, 1892.

at a board hearing or might submit written statements. When it became necessary to take a vote, members having a direct interest as employer or worker at the establishment concerned, were debarred from voting, and in order that this should not upset the numerical equality of the sides, extra members on the side left numerically stronger were also withdrawn, the retiring members being selected by ballot. The method of arbitration adopted in London was not the most usual method for boot and shoe boards. In most cases the matter was adjourned once voting on a board was indecisive, and a subsequent meeting convened under the chairmanship of the independent umpire whose decision was final in the event of continued deadlock. In London, however, the two arbitrators selected an umpire to be called in should they disagree. A decision of the board, the arbitrators, or the umpire, might be made retrospective to the date of the original submission of the complaint, and suspension of work, which the rules forbade prior to the completion of the board's investigation, might be taken into account in the decision.

These boards existing prior to 1895 operated each for a single town only, and most of their time was occupied in fixing local statements of work prices for that part of the work that was done at piece-rates. The existence, however, of separate working prices at each centre of the industry was an unsteadying influence on industrial relations at a time when American competition was beginning to make serious inroads on the industry's markets. Disputes at individual establishments not involving the price lists were more easily remedied through the offices of the local branch of the National Union and took up little of the board's time. But district disputes on matters of wages and working conditions were frequent both where there were boards and where there were not.

THE 1895 LOCKOUT AND TERMS OF SETTLEMENT

The formation of a National Employers' Federation in 1892 coincided with a threatened lockout at Northampton. For the

first time the matter was referred to a joint conference of nine representatives of the new federation and the same number from the National Union. The conference proved successful in preventing the immediate stoppage but did nothing towards allaying the prevailing unrest. Further joint conferences were necessary later in the year and again in 1894. By that time, the replacing of time-work by piece-work, claimed by the federation as essential to combat American pressure, had become a burning question. In 1895 negotiations broke down on this issue, and in March of that year a national lockout began which lasted six weeks.

The importance of the dispute lies in the terms of settlement which emerged from it and which ever since have formed the basis of the conciliation relationships in the industry. This settlement is noteworthy as containing the only attempt by an industry unaided by state action to impose a sanction to the decisions of its joint machinery. The settlement dealt with three matters, the immediate dispute, the improvement and increase of local conciliation machinery, and the provision of national arrangements. All three matters, however, are interwoven and cannot be treated entirely independently.

LOCAL BOARDS AFTER 1895

(*a*) *Settlement Boards*

The first three resolutions of the 1895 settlement[1] related to the solving of the immediate dispute of piece-work, but had some bearing on future negotiation. The choice of piece- or time-work for lasting and finishing machine workers was left to the individual manufacturer as demanded by the federation. In each district, however, where time-work was adopted, the settlement provided that a statement of piece-prices based on actual capacity of an average workman should be prepared by joint committees of four employers and four operatives appointed by the local organisations with two umpires, one

[1]The terms of settlement are published in the 1907 and 1910 Reports on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees.

selected by each side or, failing agreement, by the president of the federation and general secretary of the union. These statements required continual adjustment to new circumstances while their application to individuals produced many difficulties. Piece-work committees thus became more than a temporary measure and are now a permanent feature either as sub-committees of the local arbitration boards or as the boards themselves.

The dispute of 1895 had broken up most of the old local boards. The settlement provided for their immediate reconstitution with rules revised to ensure greater uniformity of practice throughout the industry by a joint committee of four employers and four operatives. To assist the committee in its task, the settlement outlined certain features to be incorporated in the new rules. The boards were to have "full power to settle all questions submitted to them concerning wages, hours of labour and the conditions of employment of all classes of workpeople represented thereon within their districts which it is found impossible to settle in the first place between employers and employed or secondly between their representatives."[1] But four limitations were imposed on that jurisdiction :

(*a*) No board might require an employer to employ any particular workman or a workman to work for any particular employer or to entertain any question relating to such matters except for the purpose of enabling a workman to clear his character.

(*b*) No board could claim jurisdiction over the conditions and terms of employment of workpeople outside its district : provided that no actual work should be sent out of a district which had been the subject of an award.

(*c*) No board might interfere with the right of an employer to make reasonable regulations for time-keeping and the preservation of order in his factory or workshop.

(*d*) No board might put restrictions on the introduction of machinery or the output therefrom or on the adoption of day or piece-work wages by an employer in cases in which both systems had been sanctioned.

[1]Resolution 5.

The settlement further required certain provisions to be incorporated in the rules of every board.[1] These were:

(*a*) A rule to carry into effect the provisions of the settlement in regard to financial guarantees.

(*b*) A requirement that all awards and decisions should specify a date before which neither side should be competent to reopen the question.

(*c*) A stipulation that where a minimum wage was fixed and in operation and a proposal subsequently made to change it, the board or umpire in giving a decision or award should take into account the length of time elapsing since the question was last determined, and the conditions existing at the two respective dates.

The financial provision to which (*a*) refers, was contained in resolution 6. It required the preparation of a scheme for depositing certain sums in the hands of trustees as "financial guarantees for duly carrying out the provisions of this agreement and future awards, agreements and decisions of boards, arbitrators or umpires" within the scope of the settlement. This guarantee was to operate both nationally in respect of agreements between the federation and the National Union and locally in respect of the district boards' decisions. Before dealing with national developments arising out of this resolution, however, it is convenient to complete the survey of the local arbitration boards.

The result of the settlement was not only the reconstitution of previously existing boards to a common formula,[2] but also a considerable extension of the number of boards. At the start of this century, there were boot and shoe boards in Anstey, Kettering, Kingswood, Leeds, Leicester, London, Newcastle, Northampton, Rushden, Wigston, Glasgow, and the East of Scotland, which to all intents and purposes were identical.

[1]Resolution 7.

[2]A model set of rules for boards of arbitration was drafted by the joint committee appointed under the settlement and approved by the national umpire, Lord James of Hereford, in January, 1896. These are printed with the terms of settlement.

Each was expressed to be constituted under, and to be bound by, the terms of settlement which were printed as an integral part of the constitution of each. The boards consisted of six representatives of the local manufacturers' association and six representatives of the town branch of the National Union, all members being residents of the district and serving on the board for twelve months. At its first, and thenceforth at each annual, meeting, the members jointly selected a chairman, vice-chairman, secretary, and either a committee of inquiry of two manufacturers and two operatives or else, where the board was likely to be overburdened, appointed sectional or subsidiary boards of four manufacturers and four workmen to hold office in like manner to members of the board. At the first meeting and thereafter whenever a vacancy occurred, the rules required the selection of an umpire. Failing agreement on the selection, each side was required to elect a separate arbitrator within seven days. To the umpire or arbitrators was remitted any question which the board failed to settle. Where the arbitrators could not agree, the question was referred to an umpire appointed by them or, failing agreement, by the President of the Board of Trade (since 1917, by the Minister of Labour).

A board was usually required to meet regularly at least once a quarter and at other times whenever requisitioned by three of its members. At these meetings half the members of each side must be present and where a matter was determined by vote, members directly interested were debarred from voting, the numbers casting votes being equalised but all taking part in discussion. The terms of settlement required that the jurisdiction of the boards should arise only after attempts had been made to adjust the matter between the employer and his workmen direct or through the union representatives. The procedure, therefore, which most boards set out in the case of factory disputes involved the following steps:

(*a*) The workman with a grievance must first bring the matter before the employer or his foreman.

(*b*) Should they not agree the employer or his representative and the representative of the workman's union must endeavour to settle the matter amicably.

(*c*) If that produces no result the secretary of the board must be informed and must forthwith advise the committee of inquiry of the dispute.

(*d*) In the event of the committee of inquiry being unable to settle the difficulty it must be referred to the board itself and failing a decision to the umpire or arbitrators who must give his or their decision within seven days of hearing.

References of cases to a board from its committee of inquiry, or from the board to the umpire or arbitrators, were required to be in writing with full particulars, and must be lodged at least three days prior to the hearing. Pending a settlement, the pre-dispute rate of wages or hours of labour or conditions of work, as the case might be, continued. Where there was no precedent for the particular point at issue, a provisional resolution might be made by the committee of inquiry, the board, or the arbitrators, without prejudice to the hearing of the case.

No suspension of work might take place at the instigation of the employers or workmen. If a suspension of work occurred the board could refuse to entertain the dispute until work was resumed, whilst the fact of interruption could be taken into account on considering the question. But in order that a complainant or complainants should not lose through delay, any recommendation of the committee of inquiry, or any decision of the board, might date back to the time of the complaint being lodged. The expenses of each board were borne equally by the local employers and workmen.

(*b*) *Non-settlement Boards*

Although the settlement boards covered the greater part of the boot and shoe trade, there were localities where the local association of employers was not within the federation. To these districts, therefore, the terms of settlement which were signed only by the federation and National Union, had no

application. The most important were around Hinckley and at Norwich. Both towns were strongholds of the National Union, and there was no difficulty in establishing boards of arbitration by agreement between the National Union and the local employers.

The Hinckley and district board of arbitration and conciliation differed materially from the settlement boards only in retaining the older form of arbitration by a single chairman or referee annually selected. No provision was made for his appointment in the event of a deadlock on the election.

A single arbitrator was also preferred at Norwich. There, however, the arbitrator was appointed *ad hoc*. The board consisted of 18 members who met on alternate Mondays whenever there was need. The greater frequency of meetings of the Norwich board was the result of the absence of a standing committee of inquiry. The procedure followed was somewhat different to that adopted by any other board. The first step was the same as elsewhere, the direct approach by the individual workman to the employer or foreman. Failing satisfaction, however, the workman must request his accredited representative from the board to see the employer with a view to settling the dispute. If this failed, both parties must consult together with a representative of each side of the board. Where the representatives agreed and determined that there was no necessity to bring the matter before the board, the person then insisting on doing so might be mulcted in the expenses of the reference if the judgment went against him.[1] Where the representatives did not agree, the dispute must be brought before the board, and if need be, be referred to arbitration.

(*c*) *Joint Committees in Specialised Work*

In the Louis XV heel trade and in the case of government contract work, joint committees were established at the beginning of the century. The powers of the committees were

[1]This was designed to prevent the board from being snowed under with indiscriminate cases from querulous workers. Expenses were limited to the sum of 5s. in each case, obviously an insufficient deterrent to an employer.

limited to the settling of questions concerning wages or piece-prices. They were composed of five manufacturers and five representatives of the unions, three of each being a quorum. Like the settlement boards these committees were appointed annually and met regularly at least once a year and whenever requisitioned by three members. Each had a standing sub-committee with similar functions to a committee of inquiry. When a committee failed to agree, the matter was referred to an umpire appointed by mutual agreement, or failing that, by the President of the Board of Trade. Unless otherwise agreed by both parties, a decision must be given in a case within one month of receipt of notice of the dispute, the right to suspend work being in abeyance until that time.

At various times after 1915, the several joint committees for the Louis heel trade merged into the local arbitration boards in the districts. The mergers were in each case a matter of local arrangement. In government work, the joint committees have been replaced by a single arbitration body known as the Government contract arbitration board, having its centre in Northamptonshire. Except in wartime, this board has rarely been called upon.

(d) Local Boards Generally Today

Although most of the local boards are still operating with some constitutional changes, their importance has increasingly diminished over the past forty years. From 1897 to 1907, 922 cases were heard by the 18 boards which existed in the industry during that decade covering, it is estimated, approximately 20,000 workpeople. Eight of these cases ultimately led to a local stoppage of work.[1] By far the busiest board was in Leicester where, in 1907, twenty-three cases were dealt with, four being the subject of arbitration, while six were allowed to lapse without decision. In the same year, seven cases were heard at Kettering, six at Leeds (two requiring an award by the umpire), five at Northampton and at Kingswood, four at

[1] 1910 Report on Rules.

Hinckley, three in East Scotland, while two cases were disposed of at London, Glasgow and Anstey.[1]

Since then, however, the development of the periodic national joint conference and the national agreement has put wages, hours and conditions of service on a national plane.[2] The boards are now practically confined to the adjustment of local piece-work statements of prices in accordance with national determinations,[3] and resolving local disputes. Some of the boards in the busier centres meet for these purposes monthly. Most of them have improved upon the model rules drawn up in 1896. So, for instance, the committee of inquiry has been replaced in some cases by a central joint committee with sub-committees for particular departments of work. The essential features of the boards still remain, however, including ultimate resort to the two independent arbitrators, and, when that fails, to the umpire who is now usually appointed by the Minister of Labour and National Service. There is at the present time no district where boots and shoes are produced in any quantity that is without a local board of arbitration.

NATIONAL PROVISIONS

(*a*) *Financial Guarantees*

Resolution 6 of the terms of settlement was put into effect by a deed of trust entered into by the federation and the

[1]Report on Strikes and Lockouts for 1907.

[2]The national conference agreements prohibit a local arbitration board, its arbitrators or umpires, from making "any agreement or award as to wages, hours of labour, or conditions of employment which shall be less favourable generally to the operatives (having regard to the local circumstances of the district) than the wages, hours and conditions contained herein or which extends beyond the period of this agreement."—Clause 25 (*a*) of the 1938 Conference Agreement.

[3]Recent national conference agreements require local boards of arbitration upon request of either manufacturers or operatives, to "prepare forthwith Piecework or Quantity Statements for their respective districts . . . to give to the average operative an earning capacity of 25 per cent. over the minimum wage rates" set out in the agreement. Where statements already exist the local boards may be called upon to review and revise them in accordance with that standard (see Clause 20 of the 1938 Agreement). The need to revise the statements is occasioned by the constantly changing styles, especially in women's shoes.

national union on 8th March, 1898. Under this deed a fund of £2,000 (£1,000 being contributed by each party) was vested in trustees at the Board of Trade.[1] The conditions of the trust require that upon a dispute or question arising between the federation and the union as to the breach or non-fulfilment of the conditions in the settlement or in any decision, agreement, or award of a local board, arbitrators or umpire, the question will be referred for determination by the person for the time being appointed to act as umpire for this purpose. If the umpire (called the "national umpire" to distinguish him from the umpires of the local boards) determines that such a breach has occurred, the deed gives him power, subject to certain safeguards of notice, to award the whole or any part of the guarantee fund to the federation or national union as the case may be, including at his discretion the costs of the reference. On such event, the deed directs the trustees to hold the amount of the award in trust to pay the same to the treasurer of the federation or to the trustees of the union in whose favour the award has been given. Production of the award purporting to be signed by the umpire is sufficient authority to the trustees for such payment and the deed releases them from the need to make enquiry as to the validity of the award. In order that the security be maintained, the deed requires a forfeiting party to deposit with the trustees within 28 days of the date of the award, the full amount thereof in order that the amount held from each party remains at £1,000.

Being a document setting out the obligations of the trustees as well as the rights and duties of the parties, the deed was set out in more precise legal terms than is usual in collective agreements. In addition to the usual provisions of a trust document including powers of investment and appointment of new trustees, it made provision for the selection of future umpires for the purposes of the settlement and the deed. The selection is made jointly by the presidents of the federation

[1]Subsequently transferred to the Ministry of Labour.

and the union or, if they cannot agree, by the trustees under the deed or the majority of them or where they disagree, by the Minister of Labour. The deed covered all future amendments or additions to the terms of settlement.

Originally operative for a fixed period of two years, the deed was renewed by supplemental deeds on 4th October, 1900, 23rd March, 1903, 3rd March, 1905, and 28th September, 1906. In March, 1907, the parties agreed to continue the deed indefinitely subject to termination by either party at six months' notice.

The need for the sanction provided by the deed was less as a deterrent to a national stoppage than as a protection against breaches and stoppages in a local or district sphere. But the sanction was directed against the national bodies. Resolution 9 of the terms of settlement originally stipulated that a breach by a manufacturer or manufacturers or a body of workmen belonging respectively to the federation and the National Union, should be deemed to be that of the national organisation itself unless the federation or union within ten days either induced the members to remedy the breach or expelled them from the organisation. Until 1905, the industry remained comparatively free even from local stoppages. About that time, however, outbreaks of unauthorised strikes created trouble.[1] So long as these ended within the ten days' grace or the participants were expelled at the end of that time, there was no remedy under the deed. This was felt by the employers to be an encouragement of indiscriminate lightning strikes in the hope of a favourable settlement within the ten days. To prevent this, resolution 9 was replaced by an agreement of the 26th January, 1909, which gave the right to claim against the security fund to either national organisation for loss sustained where work is not resumed on the morning of the fourth working day from the first notification of the stoppage

[1]See Minutes of Evidence of D. Henderson (ex-President of the Federation) and A. E. W. Chamberlin (Secretary of the Federation) given before the Industrial Council, Cmd. 6952 of 1913.

to the general secretary of the national union and the branch secretary in the case of a strike, or to the secretary of the federation and secretary of the local association in the case of a lockout.[1] In 1914, a further amendment was made so that an application may be made to the national umpire for a forfeiture either (*a*) by way of fine or penalty, or (*b*) by way of damages or compensation for loss sustained.[2] In the latter case, the amount of the loss is to be assessed by a committee of three representatives of the federation and three representatives of the union and in the event of their failure to agree, by the national umpire.

In the course of time, changes have been made to other provisions in the trust. By a supplementary deed of 23rd March, 1903, the trusts were modified to permit the payment of income from investments to the depositors in equal shares instead of accumulating and attaching to the fund. This payment is now made quarterly. The same deed also gave expression to an understanding between the parties that the sums awarded by the umpire would be paid direct to the successful party, by cheque. In this way, the investments remain undisturbed until such time as the party mulcted fails to forward a cheque, in which case the original provisions[3] of the deed would operate.

(*b*) *National Conference*

The terms of settlement expired on the 8th March, 1900. The question of renewal was submitted to a ballot of the members of the National Union and resulted in a three to one vote in favour. The conference held between the two associations to fix the terms of renewal was the first of the joint conferences which are now a regular part of the negotiation machinery. At these periodic meetings, a national agreement

[1] 1910 Report on Rules, etc.
[2] See *Fifty Years, etc.*, Appendix.
[3] Clause 6 of the 1898 Deed.

is drawn up which, in addition to being a code of wages,[1] hours and other conditions of work within the industry, may also be supplementary to the terms of settlement. This conference is held under the chairmanship of an independent chairman appointed by the Minister of Labour and National Service under the Conciliation Act, 1896, after consultation with the federation and the union. The post is a paid one, the Ministry meeting the fees in accordance with the recognised Treasury scale and the federation and union meeting the balance jointly. About fifteen to twenty representatives attend from each side. The conference lasts until a fresh agreement has been concluded which is usually a matter of from one to three days. Each national agreement supersedes the one operating before the last conference, but the terms of settlement and the trust deed remain until specifically abrogated or amended.

The 1914 agreement set up a standing joint committee of the conference consisting of three representatives of each side and the conference chairman "to deal with any disputes that might arise as to the interpretation of the agreement." This feature has been retained in subsequent agreements.[2]

Before World War I, the joint conferences were held approximately at three-yearly intervals. The 1914 agreement, however, remained in force until 1919. Thereafter, the policy was adopted of holding the conferences more frequently, and since 1924 the biennial conference has become a regular feature. This is ensured by the nature of the duration clause of the agreement. In that clause, the agreement is expressed to remain in force for a period of two years, and thereafter (unless notice be given) until a subsequent agreement has been ratified. At any time within the last six months of the two-year period, either side may give six months' notice of desire to revise or terminate the agreement.[3]

[1]Minimum day wage rates are directly determined and piece-rates indirectly determined by a cost of living sliding scale based on the Ministry of Labour index figures adjusted yearly in peace-time and monthly during the recent war.

[2]Clause 28 of the 1938 Agreement.

[3]For example, see clause 30 (*a*) of the 1938 Agreement.

(c) Other Arrangements in the Industry

In May, 1919, under the inspiration of the Whitley Report, a national joint industrial council was established, but in view of the satisfaction with the existing machinery, it does not concern itself with questions of wages, hours, conditions of employment or the resolving of disputes.[1]

Boot and shoe repairing is not within the scope of the voluntary machinery. As might be expected, union organisation in the repairing trade has been a much more difficult task than among the more congregated operatives of the manufacturing trade. This organisation has been in the hands of a separate body, the Amalgamated Society of Boot and Shoe Makers and Repairers. In July, 1919, the Minister of Labour in exercise of his power under section 1 of the Trade Boards Act, 1918, set up a Trade Board for the repairing and the bespoke hand-sewn footwear trades.[2] These sections have remained outside the voluntary machinery.

One other branch of the industry must be mentioned. The manufacture of slippers is centred in the Rossendale Valley in Lancashire. The operatives are members of the Rossendale Union of Boot, Shoe and Slipper Operatives, and the employers are mostly associated in the Rossendale Valley Shoe and Slipper Manufacturers' Association. Until 1927, relations between these bodies were harmonious. A succession of minor disturbances in that year, however, culminated in September in a lockout of 5,000 operatives. As a result, a board of conciliation and arbitration for the Rossendale Valley shoe and slipper trade was established after the model of the boot and shoe boards.[3]

DEVELOPMENTS SINCE 1939

With a satisfactory and self-contained system of industrial relations, boot and shoe manufacture was practically unaffected

[1] See Survey of Industrial Relations by the Committee on Industry and Trade, 1926, p. 277.

[2] *Ministry of Labour Gazette*, July, 1919.

[3] *Ministry of Labour Gazette*, October, 1927.

by the Conditions of Employment and National Arbitration Orders and other special wartime measures regulating labour relations.

It was, however, in common with other industries of national importance, protected by the scheduling of establishments under the Essential Work Orders.[1] In applying the Essential Work provisions to boot and shoe production the wages and conditions established through the negotiation machinery of the trade were adopted for the purposes of the guaranteed weekly wage. The Essential Work (Boot and Shoe Industry) Order made on February 4th, 1943, provided for the modification of the definitions of "prescribed period" and "normal wage" in the General Provisions to conform with the relevant clauses of the wages agreement which had been drawn up at the biennial conference of the industry in September, 1942. The Order also made provision for recognition of other agreements, approved by the Minister, defining "prescribed period" and "normal wage."[2]

The industry remained under the Essential Work Order until May, 1946.[3] To provide for the withdrawal of the statutory guaranteed week the industry incorporated into the national wage agreement a guaranteed weekly wage of 75 per cent. of the average weekly earnings of the operative during a basic period of full normal employment. This applies equally to piece- and time-workers and moves up and down automatically with the wage rates fixed at the biennial conferences. It goes a long way to removing the fear of short-time work which had been one of the worst features before the war.[4]

[1]The expanding Midlands munitions establishments with relatively high wages for unskilled work were a strong attraction to employees in boot and shoe factories. This reduction in the labour force of the industry was encouraged by the Government in the early years of the war but ultimately assumed such a proportion as to threaten essential production of footwear for the armed forces and basic civilian needs.

[2]Statutory Rules and Orders, 1943, No. 186.

[3]*Ministry of Labour Gazette*, 1946, p. 67.

[4]See Appendix VI to Commentary No. 1 of Board of Trade Working Party Reports. *Boots and Shoes.*

Apart from this, wartime experience has left little mark on the conciliation practices which, theoretically, still rest on the 1895 terms of settlement. The basic feature is the biennial conference, which covers the major matters of controversy, namely, standard wage rates and hours and general conditions, and embodies these in national agreements which are interpreted, if need be, by the standing joint committee of the conference. Disputes arising in any particular district and the settlement of piece-work rates related to the national minimum rates are the concern of the district arbitration board with resort to the joint arbitrators or independent umpire. But the question whether a breach of agreement or award has occurred so that monetary penalties arise is within the province, not of the local, but of the national, umpire.[1]

In practice the financial guarantees are no longer of any significance. The last penalty awarded was in October, 1913. Since then several claims have been made by the federation but have been rejected by the national umpire. In all, £838 13s. 4d. has been forfeited by the national union and £10 by the federation. The first award of £300 against the union in 1896 was the largest and the only attempt to assess actual damages.[2] Today the operation of financial guarantees is unnecessary as a surety of good faith and the fund is, in fact, no more than a joint investment.

The only real weakness in the conciliation arrangements is in districts where there is little boot and shoe production. In some cases conciliation boards cannot be established, whilst in others where they are nominally in existence, they are slow in operation, often due to reluctance on the part of local employers to afford that rapid consultation and negotiation upon which successful conciliation largely depends. These difficulties are being overcome by more complete organisation

[1]By tradition the National Umpire is always a man of legal standing, either a Lord Justice of Appeal (Lord James of Hereford and Lord Buckmaster), the Lord Chancellor (Viscount Sankey) or an eminent K.C.

[2]Compared with the annual wages bill of the industry a stake of £1,000 could not constitute an insurance fund against loss through stoppages.

of employers and operatives[1] and are taken into account in the post-war policy of the national union which includes the appointment of an independent secretary to each local board which has not one already and the establishment of a special national conciliation board to embrace those isolated districts and undertakings where the formation of local boards is impracticable.[2]

Apart from these aspects, the conciliation machinery appears to be working to the satisfaction of the federation and the national union. As regards the latter, this is borne out in the open letter addressed to the federation in 1943 outlining the post-war plans of the union already referred to. In this letter the union, while stressing its aim of nationalisation of the industry, nevertheless recognised that this must remain a long-term objective. In the meantime, as a measure of state control, the union proposed the appointment of an industrial board representative of the federation, the union and the Government and acting under statutory powers. The union did not, however, propose that this board should immediately assume the functions of the well-proven conciliation arrangements. On the contrary, the letter stressed that "the union conference was very determined that until the industrial board had firmly established itself, the normal conciliation machinery of the industry must be maintained, separate and distinct from the work and responsibility of the industrial

[1]In 1913 recognition of the need for effective organisation on both sides was given in the following joint resolution which has since been reprinted from time to time with the national agreements :

"For the more effective enforcement of any agreements, awards or decisions as well as for the general advantage of the industry, the Federation and the National Union equally realise the importance of their respective organisations being as numerically strong and as fully representative as possible of employers and operatives in all centres of the shoe trade and is of opinion that the best interests of the trade will be observed if all manufacturers can be encouraged to join the Boot and Shoe Manufacturers' Federation and all operatives encouraged to join the National Union of Boot and Shoe Operatives."

[2]Pamphlet on Organisation and Employment Policy for the Boot and Shoe Industry after the War, issued by the National Union in August, 1943.

board, and be responsible as now for the determination of wages, hours of labour, and the general working conditions for the industry."[1]

[1]In many respects the Union proposals in 1943 regarding an Industrial Board anticipated the recommendation by the Boot and Shoe Working Party in 1946 for the establishment under statutory powers of a Shoe Manufacturing Services Board. The Working Party also excluded from the functions of such Board any powers "to negotiate or prescribe the terms and conditions of employment." Working Party Reports, p. 7.

CHAPTER VIII

The Railway Industry

THE DEPARTURE FROM orthodox development already noticed in the case of engineering and boot and shoe conciliation is even more marked in the case of the railway industry. Here the early stages represented by the autonomous local committees and district boards have been missed entirely and the industry plunged, at the first acceptance of conciliation machinery, into national arrangements.

The explanation of this lies in a variety of reasons, all of which may be traced to two circumstances of the industry: that it is highly centralised in its operation, and that its continuous functioning is vital to the community. From the first of these it follows that negotiations at localities other than the centre must be limited to comparatively unimportant matters. For whilst in a factory or mine the responsible manager is right on the spot, at a local station or depot on the railways there is between the men and their employers a whole hierarchy of officials none of them competent to speak with authority on such matters as wages, hours or conditions of work. For this reason, station or depot boards of conciliation and negotiation are futile unless they are part of a national structure.

The second factor, the public interest in the industry, for many years militated against the development of strong railway unionism and hence indirectly against joint action. Their importance to the community forced the railways to accept more discipline by the State than any other private industry and in turn has enabled them to demand a more exacting form of service from their employees who, significantly enough, are commonly termed "servants." Until World War I, collective

bargaining was regarded by the companies as inimical to that discipline which public safety seemed to demand. Prior to the recognition of unionism forced on them in 1919, the attitude of the railways towards collective action was that of Sir George Finlay expressed in 1892: "You might as well have a trade union or an amalgamated society in the Army where discipline has to be kept at a very high standard, as have it on railways."[1]

Whilst these factors prevented the railway workers from participating in the wave of local conciliation and arbitration which swept over other industries towards the end of the nineteenth century, they were an inducement to the establishment of centralised conciliation some twenty years later. For if the unions were to be prohibited from handling the workers' grievances some other method must be found for dealing at least with those disputes which threatened to interfere with public convenience. Failure to safeguard this public interest would almost certainly have compelled the State to interpose in the industry in a way that might be detrimental to the private interests of the companies.

The 1907 scheme, therefore, was for that time a comprehensive arrangement and was applicable to any railway system which wished to adopt it. Later schemes have become even more centralised and their application has been greatly simplified by the creation of a railway monopoly at State direction.[2] The whole of this monopoly is now covered by the machinery of conciliation and with the absence of the non-federated employer there is no difficulty in enforcing its decisions which apply automatically to unionist and non-unionist alike. The joint machinery is now the creation and equal responsibility of the unions and the companies, though some of its features

[1]Reported by Mr. Channing, M.P., before the Select Committee of the House of Commons on Railway Servants. *Parliamentary Papers XVI*, p. 160, para. 50.

[2]Until the end of World War I there were 126 separate railway companies with no central organisation which could have negotiated collectively with the unions.

still bear traces of the earlier schemes in which the men's organisations played no direct part.

The railway unions are the National Union of Railwaymen, which is an industrial organisation with over 75 per cent. of the total railway union membership, the Associated Society of Locomotive Engineers and Firemen, and the Railway Clerks' Association. The railway employers are, since 1921, the London, Midland and Scottish, the London and North-Eastern, the Great Western, and the Southern, Railway Companies. Each has a senior executive responsible for its relations with labour and in all matters of common interest the four concerns act as a single unit. The only other large employer of railwaymen is the London Passenger Transport Board which, however, does not join in the railway conciliation machinery but maintains separate though similar machinery with the unions.

THE 1907 CONCILIATION SCHEME

Railway unions first began in 1871 but for reasons already given they were compelled to remain in the guise of friendly societies. It is true the rules of the Amalgamated Society of Railway Servants, the forerunner of the National Union of Railwaymen, contemplated industrial activity when it provided for the settlement of disputes with the companies, whenever possible, by arbitration. Up to 1892, however, there had been but one occasion upon which any company had consented to outside adjudication.[1]

The changeover to a more agressive policy began with the amalgamated society shortly after the start of the century. In 1906, it launched an "all grades" movement to bring all railwaymen within its ranks and to obtain all-round increases in wages and improvement of hours. The railway companies, in accordance with their attitude of non-recognition, refused to meet the union in negotiation on any question whatsoever.

[1]Answers to schedule of questions sent out to trade unions by Group B of the Royal Commission on Labour.

The union felt strong enough for the first time to threaten a strike on a national scale. This at once brought the government on to the scene and, through the Board of Trade as intermediary, a settlement was arranged which ignored the question of recognition but established permanent conciliation machinery to which the demands in regard to hours and wages could be submitted.

The agreement establishing this machinery was signed on November 6th, 1907, by the representatives of eleven companies and adherence to its terms was later signified by thirty-five companies.[1] On the union side, it was signed by the Amalgamated Society of Railway Servants, the Associated Society of Locomotive Engineers and Firemen, and the General Railway Workers' Union. The agreement affected in all about 420,000 workers.

The main provision of the agreement was the establishment of sectional boards of conciliation on all railway lines coming under the scheme. Each board considered questions of wages and hours of labour affecting its grade of workers, such questions being referred to it by the company or by the employees whenever they could not be settled otherwise. No categorical list of sections for which boards should be formed was specified but the following divisions were suggested as examples:

RAILWAY A:
- Section 1. Locomotive drivers, firemen and cleaners
- Section 2. Signalmen, pointsmen, etc.
- Section 3. Permanent-way men, platelayers, etc.
- Section 4. Traffic department men other than signalmen

RAILWAY B:
- Section 1. Locomotive drivers, firemen and cleaners
- Section 2. Signalmen and pointsmen
- Section 3. Goods guards and shunters
- Section 4. Passenger department guards, ticket examiners, shunters and porters

[1] 1910 Report on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees, pp. 247-251.

Section 5. Telegraph and permanent-way
Section 6. Goods checkers, porters, carmen, vanmen, stablemen and labourers

Where a railway covered a considerable area, not more than six districts might be made and the sectional boards were composed of one or more employees elected by the employees in that section in each district while the company appointed a number of representatives equal to the total number of employees elected. The first elections were conducted by the Board of Trade. Thereafter, the agreement provided for the boards themselves to control fresh elections every three years.

When a sectional board failed to agree, the dispute might be referred, on the motion of either side, to a central conciliation board composed of nominees of the company and one or more representatives chosen from the employees' side of each sectional board. If the central conciliation board failed to agree or the board of directors or the employees failed to carry out its recommendations, the question might be submitted to arbitration at the request of either party. The reference was to a single arbitrator appointed by agreement between the two sides of the board or, in default of agreement, by the Speaker of the House of Commons and the Master of the Rolls.

The agreement set out model rules of procedure for the guidance of the boards or which might be adapted to local circumstances. They included provisions for convening a meeting at a fortnight's notice (except in August and September); for the appointment of joint chairmen and either a joint secretary or, where there was difficulty in the selection, separate secretaries; and for all decisions to be arrived at by agreement between the sides, each side voting separately.

Before an application for changes in wages rates or hours of work might be entertained by a sectional board, the application must first have been made in the usual course through the officers of the company in the department concerned. The company's reply was to be given "as soon as practicable and in any case within two months." After that time or in the

event of the reply being unsatisfactory, the men might convene a board meeting except in the months of August and September. Where a board agreed to a proposal involving increased expenditure for the company the matter had to be placed before the directors for acceptance at their next meeting held not sooner than one week after the sectional board's decision. Similarly, any proposal agreed to by a sectional board involving a reduction of wages, must be communicated to the men. In either case, if the decision was rejected, the matter was referred to arbitration. In other cases the decision of a conciliation board was final and binding for a period of twelve months.

In the absence of agreement to the contrary the expenses of the boards, including arbitration proceedings, were divided equally between the company and its employees and in order to minimise expense it was mutually agreed not to brief counsel.

Such a scheme had many defects.[1] Not only were the unions unrecognised and given no part even in the election of the men's representatives on the boards, but the union officials were deliberately excluded from participating in the conciliation by the requirement that all members of the board must be actually employed by the company. Moreover the machinery was cumbrous and its working extraordinarily dilatory. At least two months elapsed before the men's complaints could even reach a sectional board. From then on the time taken depended on the tactics of the company. A frequent cause of delay was the inability of the secretaries to agree on the agenda. The requirement of submission of wage changes to the adversely affected party before a board's decision became binding, meant that at least in every case of a cut in wages, arbitration became inevitable. For the unions could feel no moral obligation to accept an adverse decision of a board from which they were excluded. And when a sectional board failed

[1]For complaints from both sides, see Royal Commission on the Railway Conciliation Scheme of 1907, Cmd. 5922 of 1911 ; see also Cole and Arnot : *Trade Unionism on the Railways*, Ch. III.

to agree the proceedings were merely prolonged by the reference to the central board before going to arbitration. It might, in fact, be anything from three to six months before the conclusion of a question.

The 1907 agreement provided the model. The details were for each company and its employees to work out within that framework after the first elections. In almost every case the individual arrangements were a mere repetition of the provisions of the national agreement with only minor adjustments. The Great Northern and city lines alone departed from the general plan by establishing a single board covering all grades and districts in place of the several sectional boards.

THE NORTH-EASTERN CONCILIATION SCHEME

The North-Eastern Railway was the only company of any importance to remain outside the 1907 arrangement. It did so because it had already set up its own conciliation arrangements.[1] Alone of the companies it had given very limited recognition to the unions. In place of sectional and central conciliation boards the North-Eastern scheme provided for six-monthly conferences (in May and November) between 18 officers of the company and 18 representatives of the men elected by, and from, the members of the permanent wages staff who were over 18 years of age and had not less than twelve months' service record, in certain proportions among the various grades. The delegates were elected for three years, casual vacancies occurring between elections being filled on the nomination of the remaining representatives from the grade. Each side selected its own secretary who might be chosen from outside the service of the company.

The conference could discuss not only wages and hours but any question of the conditions of service for men of any grade, unless they involved matters of discipline which were reserved for the exclusive province of managerial discretion. Before any

[1]The constitution agreement is printed in the 1910 Report on the Rules of Conciliation Boards and Joint Committees.

other question could be brought up, however, it must first have been raised and considered through the departmental officers concerned and have been placed on the conference agenda at least four weeks before the meeting.

Instead of being discussed and settled by the conference, any question might be delegated by it to a sub-committee and might be so referred in the first instance by agreement between the secretaries. Unless otherwise decided, the sub-committee consisted of the conference representatives of the department or grade concerned with the question. No provision was made for ultimate arbitration.

THE 1911 CONCILIATION SCHEME

The 1907 agreement remained in operation for only four of the six years fixed for its duration. During that time, railwaymen's wages fell, while the grievance of non-recognition of the unions came more and more into prominence with the growing strength of the unions. In August, 1911, contrary to the agreement, employees on several lines struck work for an advance of wages, on the ground that they could not get their grievances dealt with by the conciliation boards. The four leading unions at once took up the men's case and presented an ultimatum to the companies to negotiate or face a national stoppage. A government offer to secure an amendment of the dilatoriness of the scheme was rejected by the unions who insisted on being met by the companies' representatives. The national strike began on August 17th. Thereupon the companies were forced by government pressure to meet the unions in conference at the Board of Trade, where agreement was reached to continue the conciliation scheme pending the report of a Royal Commission, which the government promised to appoint without delay. This report[1] given a month later, suggested a revised scheme aimed at preventing the more obvious abuses of the 1907 machinery by speeding up its processes and strengthening the element of arbitration. This

[1]Cmd. 5922, 1911.

the unions rejected and the dispute dragged on to the end of the year when public opinion and government threats brought the parties again into conference. At last, on December 11th, they signed a fresh agreement for an amended scheme.

The 1911 agreement[1] made few radical changes to the 1907 machinery. It retained the sectional conciliation boards and enlarged their jurisdiction to cover all matters relating to wages, hours or conditions of service other than questions of discipline or management. On the other hand, it abolished the central board for each company. But the principal changes were in matters of procedure and in this regard it constituted a more detailed and effective scheme.

The proceedings preliminary to the hearing of a matter by a board under the new agreement differed according to the nature of the question raised. Where the employees in a whole grade or combination of grades wished to raise a matter affecting their contractual relations with the company, a petition signed by 25 per cent. of those concerned and naming a deputation must be presented. This deputation would be met by a responsible officer of the company within 14 days of receipt of the petition and a written answer given to the men within a further 28 days. If the question affected less than a whole grade of employees, it might be raised by letter to the immediately superior officer, through whom a reply should be given by the company within 28 days. In the event of an answer not being given within these times, or one being received which was not satisfactory to the employees, the question might then be referred to the conciliation board by a written notice to the secretary of the employees' side.

Where a company desired to affect, adversely, the conditions of service (other than in matters of management or discipline) of a class of employees, it was required to circularise the men concerned within one month of the meeting of the board at which the question was to be raised. Changes affecting individual workers only could be introduced subject to the men's

[1]See Appendix E of *Trade Unionism on the Railways* by Cole and Arnot.

right to refer the question to the next meeting of the conciliation board, in which case, if the board decided that the alteration was unreasonable, the matter was adjusted as from the date of the alteration.

The employee members of the conciliation boards were elected in the same manner as previously, the initial elections being in the hands of the Board of Trade. The agreement provided for the first boards to continue until November 6th, 1914, and thenceforth each subsequent board was to operate for three years from the date of publication of the list of elected members. Provision was made for classes of employees not included in any board at the outset to apply for inclusion by petition signed by 25 per cent. of their number, whereupon a deputation must be received by the company and a decision arrived at, or the matter referred to the Board of Trade. The same proceedings also applied in the case of a class of employees wishing to transfer from one board to another or to form a new board. In one respect, the composition of the 1911 boards differed from their predecessors. That was in the appointment of an impartial chairman. He was selected from a Board of Trade panel of men who were neither directors of any railway company in the kingdom nor in the service of any such company. The choice was made on the first establishment of a board by a committee of two employee members and the same number of company representatives. In the event of failure to agree the President of the Board of Trade nominated a chairman who exercised all the powers under the Conciliation Act, 1896. Each side selected its own secretary from any source and a leader from among its members. The secretary might act as advocate to the side and take part in discussion but had no vote unless a member of the board. The leaders presided over the board, alternately, in the absence of the chairman.

The boards held two ordinary meetings a year at six-monthly intervals, arranged between the secretaries or, failing agreement, by the chairman. Special meetings might be called

by either side giving notice to the secretary of the other side requiring the meeting to be held within 14 days and stipulating the matters to be raised. Only items on the circularised agenda could be discussed at a meeting unless both sides consented. Differences arising in connection with the settlement of the agenda were referable to the chairman. No meetings were held in August or September.

When a matter, having first been dealt with in accordance with the preliminary procedure, was before the board and the two sides failed to agree at the first meeting, either side might adjourn the discussion for 14 days. If no agreement was then reached, or if neither side asked for an adjournment, the chairman was required to preside over a reassembled board and to give a decision whenever he considered the two sides to be irreconcilable. Decisions made by the board, apart from the chairman, were arrived at by agreement between the two sides and not by majority vote. Settlements mutually concluded operated for at least 12 months, while settlements by decision of the chairman had effect for not less than two years, but in both cases remained in effect after these periods until superseded or nullified by the board. At any time before or after the expiration of the minimum periods, settlements of either type might be amended by mutual agreement on the board. Questions of interpretation of a settlement were dealt with by the joint secretaries or, in default of agreement, by the board. Questions of interpretation of the 1911 agreement itself were referable to the Board of Trade.

In addition to the three unions who signed the 1907 agreement, the 1911 document was signed by the United Pointsmen and Signalmen's Society. The North-Eastern Railway Company was a new signatory on the companies' side.

The greatest advance of the new arrangement from the union point of view was the provision enabling the secretaries of the boards to be appointed from outside the railway employees. In fact, after 1911, the secretary on the men's side was invariably a union official. By the appointment of the

same official to all sectional boards on one railway some co-ordination of demands was obtained between the various grades.[1] But in two directions the scheme was frequently in danger of collapsing. The first was the exclusion of matters of management and discipline. Most local stoppages were caused by grievances arising from management and for these the scheme, as interpreted by the companies, provided no remedy. Again, the scheme was only applicable to "railway employees engaged in the manipulation of traffic," a definition applied in contradictory senses by different companies. So a class of railwaymen might find themselves included in the decisions of a board on one line and excluded on another.

THE PERIOD OF GOVERNMENT CONTROL

November, 1913, was the earliest date at which the necessary year's notice could be given to terminate the 1911 settlement. This notice was duly given by the National Union of Railwaymen and the Associated Society of Locomotive Engineers and Firemen, though the latter intimated a desire to continue the scheme with some amendments. The start of war put an end to negotiations, and in October, 1914, it was mutually agreed to continue the existing arrangement for the duration of the war as far as was necessary, but to continue negotiations for a new scheme to replace it whenever wartime conditions should cease to exist. These negotiations continued throughout the war years, a scheme accepted by the officials of the National Union being rejected by a general meeting of the union in 1916. The war circumstances did much to strengthen the unions and was responsible for this rejection. For, once the government assumed control of the lines under the Regulation of Forces Act, 1871, wage questions passed from consideration by the sectional conciliation boards to direct negotiation between the unions and the general managers' committee representing the government. This procedure implied recognition of the unions by the State.

[1]Cole and Arnot: *Trade Unionism on the Railways*, Ch. VII.

The policy of industrial truce ended early in 1919, although government control continued until the 15th of August, 1921. A national strike in September, 1919, over a united demand for improved conditions of service was concluded by a settlement with the National Union and the Associated Society, establishing negotiation machinery which was the basis of that adopted in the statutory reorganisation of 1921. The 1919 agreement[1] provided that during the continuance of State control, wages, hours and conditions of service, would be dealt with by a central wages board consisting of the five railway managers and five representatives of the two unions, three from the National Union and two from the Associated Society, with power on each side to add a sixth member. Failing agreement by this board, matters were referred to a national wages board. The unions undertook to sanction no stoppage until one month after a dispute had reached the latter board. Negotiations continued on the question of the constitution, scope and functions of local committees to which differences of local interest could be referred. By the 3rd May, 1921, agreement had been reached by the managerial committee with the Railway Clerks' Association, as well as with the other two unions, for local conciliation to be conducted through local departmental committees, sectional railway councils and railway councils.[2] Later in the year, when the Railways Act was passed by parliament for the reorganisation of the industry under the present four main line companies,[3] statutory form was given in Part IV to the subject matter of these agreements.

THE RAILWAYS ACT, 1921[4]

Part IV must not be regarded as altering in any way the voluntary basis of the industry's conciliation practices. It

[1] *Labour Gazettes*, 1919, pp. 125, 416-418 and 516; 1920, pp. 59, 290 and 356. Also *The Railway Review*, January 23rd, 1920, February 11th, 1921.

[2] *Ministry of Labour Gazettes*, May and July, 1921.

[3] These companies were formed under the Act by grouping 27 railway concerns and the absorbing of 92 subsidiary companies.

[4] 11 and 12 Geo. V. c. 55.

differed from the rest of the Act in being descriptive rather than enacting. It did not impose measures on the industry but gave greater formality to the measures which the parties agreed to adopt. Nor did it add any legal force to the decisions of the machinery which might still be rejected by either party. Finally, the provisions of Part IV remained in effect only so long as the unions and the companies agreed and could be amended or abrogated by them without the aid of parliament.

Part IV consists of only five sections. Section 62 provides that from the cessation of government control and until otherwise determined by twelve months' notice on either side (such notice not to be given before the 1st January, 1923), all questions relating to rates of pay, hours of duty or other conditions of service of railway employees to whom the Act applied should, in default of agreement between the companies and the unions, be referred to the central wages board or, on appeal, the national wages board as reconstituted by the Act. By section 66 the employees affected were defined as those of the amalgamated companies who had been the subject of the national agreements regulating wartime wages.[1]

Section 64 reconstituted the two wages boards in the following terms :

(*a*) The central wages board shall be composed of eight representatives of the railway companies and eight representatives of the employees. The railway companies' representatives shall be appointed by the railway companies. The employees representatives shall be appointed by the railway trade unions, four by the National Union of Railwaymen, two by the Associated Society of Locomotive Engineers and Firemen and two by the Railway Clerks' Association.

(*b*) The national wages board shall be composed of six representatives of the railway companies who shall be appointed by the railway companies, six representatives of the railway

[1]That was in effect the grades represented by all three unions, the National Union of Railwaymen, the Associated Society of Locomotive Engineers and Firemen, and the Railway Clerks' Association. The inclusion of the members of the last-named Association brought into the conciliation scheme for the first time the "black-coated" workers of the railways.

employees (two of whom shall be appointed by the National Union of Railwaymen, two by the Associated Society of Locomotive Engineers and Firemen and two by the Railway Clerks' Association), and four representatives of the users of railways, with an independent chairman nominated by the Minister of Labour. The four representatives of the users of railways shall be nominated as follows:

One by the Parliamentary Committee of the Trade Unions Congress

One by the Co-operative Union

One by the Association of British Chambers of Commerce, and,

One by the Federation of British Industries.

The detailed constitution of these boards within this outline was left to be drawn up, under section 65, by a committee of six representatives of the general managers and six representatives of the three unions but nothing in the constitution or procedure of the boards could prejudice the right of any party to a reference, to raise any point they considered relevant to the issue, and such point had to be taken into consideration by the board. The same committee was also instructed to define the constitution of one or more councils for each railway company "consisting of officers of the railway company and representatives of the men employed by the company, elected by those men." The functions of these councils were required by section 63 to be generally "such as are mentioned in paragraph (16) of the Report of the Reconstruction Committee on the Relations between Employers and Employed, dated the 8th day of March, 1917."[1]

As already pointed out, most of the details of the scheme envisaged by the Act had already been worked out before its enactment. The first meeting of the new central wages board was held on 17th November, 1921. Some of the local machinery took longer to put into operation. Local departmental boards were established in April, 1922, at stations and depots in which the number of regular employees exceeded seventy-five.

[1]See below under Part II, Chapter IV.

Sectional and railway councils followed later.[1] It is unnecessary to give any outline of these local bodies at this stage since they remained unchanged by the revision of 1935 and consideration of them is left until later in order to give a complete picture of the machinery then operating in the industry.

Almost immediately after their appointment, the two national bodies, the central wages board and the national wages board, found themselves involved in wage determinations arising out of the change over from a war economy. As a rule the latter body sat in public.[2] It acted only as an appeal tribunal from the central wages board and gave its decisions within 28 days of the reference from the railway company or the union affected by the failure on the central wages board. It was agreed that no withdrawal of labour would take place before the expiration of these 28 days. Up to February, 1935, the national wages board issued more than 160 awards. On only two occasions did the men refuse to accept its findings.[3] On the whole the machinery worked exceedingly well over a very difficult period and was a great improvement on the pre-war position. At least it gave equal opportunity for co-operation by the unions while yet preserving an industrial basis in the local bodies by the election of representatives by all employees of one year's standing whether members of the unions or not. It would have been remarkable indeed if some defects had not been found. Before long it was complained that the lengthy process of negotiation which permitted appeal in wage questions up to the national wages board caused excessive delay in the settlement of even minor disputes.[4] It was also alleged that the composition of the national body rendered it open to the influence or organised propaganda and that, apart from that, a board of seventeen members was too

[1] K. G. Fenelon : *Railway Economics*, Chapter V.

[2] Reports of its proceedings and decisions were published by the board.

[3] In 1924 and 1933. For particulars see *The Annual Register for* 1924, p. 21, and *The Labour Gazette*, February, 1933, pp. 46-7.

[4] *The Railway Review*, June 6th, 1930.

unwieldy to act as a semi-judicial body.[1] Some idea of the men's complaints in regard to the working of the local machinery may be gained from the following extract from a pamphlet entitled "The Railwaymen's Fight," issued by the Railwaymen's Minority Movement in 1929:

> "Local Departmental Committees and Sectional Councils are now known for what they are worth. They delay even the airing of any grievance—let alone remedying same—it is a game of battledore and shuttlecock. Finally the grievance falls to the ground. The atmosphere is allowed to cool—and so does the ardour of the men involved. 'Deferred for Enquiry,' 'Not Conceded,' 'Outside the scope of the Machinery'—what railwayman has not these automatic decisions off by heart."

A large part of the trouble for the railwaymen arose from the circumstances of the time rather than from any fault in the working of the conciliation machinery. The post-war period saw a considerable amount of rationalisation in the industry. This process, begun by State action after the war, was continued through the pressure of competition from road transport.

That competition was responsible for decreases in the profits of the industry despite increased efficiency in management, and accounted for the numerous applications for reductions in the total wages bill. By March, 1932, rationalisation had reduced the number of railwaymen employed in 1921 by 137,900 while the annual wages bill had declined by some £38,000,000.[2] The national wages board had made six cuts in wages by the casting vote of the independent chairman.

Such adversities were bound to affect the men's attitude to the medium through which they appeared to come. A spokesman for the men's case at the national wages board hearing on the 8th December, 1932, indicated the discontent. "My men are beginning to regard the National Wages Board not so much as a really impartial body . . . but as an instrument charged

[1] D. Chang: *British Methods of Industrial Peace*, p. 246.

[2] *Wages and Profits on the Railways*: Labour White Paper No. 46 issued by the Labour Research Department.

with a kind of electricity which it is very dangerous for us to handle."[1] A climax came in 1933 when the unions refused to accept the decision of the chairman in favour of the companies' claim for a further reduction in wages to offset a drastic falling off in railway receipts due to the economic depression. As a result the four companies gave notice on the 3rd March, 1933, in accordance with section 62 of the Railways Act, to determine as on and from the expiration of twelve months "the reference to the Central Wages Board and on appeal, the National Wages Board, of all questions relating to rates of pay, hours of duty and other conditions of service of employees to whom Part IV of the Act applies."[2]

At the same time, however, the companies informed the unions that they recognised "the mutual advantages which accrue from discussion between their officers and the staff at meetings of local department committees and sectional councils and that they did not desire to interfere with the useful work of these bodies." The companies further intimated that they had no desire to depart from their established policy of discussing labour questions with the employees, their representatives, and the trade unions ; and that, following upon the notice then given, they would be prepared to consider with the unions the adoption of some more suitable form of procedure for the determination of questions relating to rates of pay, hours of duty and other conditions of service upon which there might be failure to reach a mutual settlement.

Subsequently a special joint committee was appointed on the lines of section 65 of the Railways Act to consider the question of new negotiating machinery. It held a series of meetings from October, 1933, until the conclusion and acceptance by all parties of the agreement dated February 26th, 1935.

The new scheme came into force in the same year and has

[1]J. Bromley of the Associated Society of Locomotive Engineers and Firemen. Quoted in *The National Wages Board and After* : Labour White Paper No. 47 of the Labour Research Department.

[2]*Labour Gazette*, March, 1935, p. 89.

remained in operation unaltered. The constituent document consists of a memo of agreement setting forth the general outlines of the scheme and indicating the several classes of disputes which may be discussed and settled by the various conciliation bodies whose detailed provisions are set out in an appendix of seven parts. The scheme covers all personnel employed on the railways in Great Britain with the exception of railway shopmen, electricity generating station staffs, railway police and, of course, employees of the London Passenger Transport Board.[1]

THE 1935 CONCILIATION SCHEME

(*a*) *The Scheme in General*

The parties to this machinery were the Great Western, London, Midland and Scottish, London and North-Eastern, and Southern Railway Companies (contracting jointly and severally) of the one part and the National Union of Railwaymen, the Associated Society of Locomotive Engineers and Firemen and the Railway Clerks' Association (contracting jointly and severally) of the other part. The staff to whom it applied was all persons in the grades covered by the national agreements[2] made by the parties since 1919 who were regularly employed in those grades:

(*a*) by each of the four railway companies;

(*b*) on joint lines or at joint stations owned or worked exclusively by two or more of the companies; and

(*c*) by the railway clearing house.

[1]For conciliation arrangements in railway workshops see above Chapter IV. An agreement almost identical with that for railway shopmen exists between the railway companies and the National Union of Railwaymen, the Electrical Trades Union and the Amalgamated Engineering Union and covers work in and about railway generating stations. In the case of railway employees of the L.P.T.B. the London Passenger Transport Act, 1933, provides for the establishment of conciliation machinery. Under that Act conciliation schemes were drawn up in 1934 for traffic and clerical grades and certain supervisory staff comparable to those of the 1935 main line railways agreement.

[2]A list of 27 such agreements is given as Part VII of the Appendix.

Additional grades may be brought within the scheme at any time by the consent of the parties to the agreement with the exception of those salaried employees who are classified in a special division.

The matters for discussion and adjustment through the machinery are specified as follows :

(i) standard salaries, wages, hours of duty and other standard conditions of service within the scope of national agreements, or any proposal to vary a national agreement ;

(ii) such other matters as fall within the functions of a local departmental committee as outlined in Part I of the Appendix or within the functions of a sectional council as set out in Part II of the Appendix.

Except in so far as they fall within these special functions of the local departmental committees and sectional councils, questions of discipline and management are expressly excluded. A separate agreement, however, has been made regulating the procedure for the hearing of breaches of discipline and is considered later.

Before any question can be dealt with under the scheme it must first be referred to the railway company concerned through the appropriate channels and a claim once raised cannot be amended except by consent, but a new claim must be initiated. An agreement recorded at any stage of the proceedings operates, in the absence of specific indication, from the beginning of the first complete pay period thereafter. All tribunals or meetings within the scheme, with the exception of the local departmental committees, may by agreement and subject to any conditions recorded in the minutes,

(i) remit any questions with which it is dealing to a sub-committee specially appointed for the purpose, or

(ii) refer back such questions to the appropriate lower stage in the scheme, or

(iii) refer back such questions to the parties to the issue,

(*a*) for investigation as to facts and report thereon,

(*b*) for report and recommendation, or

(*c*) for settlement.

Disputes arising upon the application of a national agreement to "standard salaries, wages, hours of duty and other standard conditions of service" if involving only minor issues (that is to say, if affecting only an individual employee or a relatively small number of employees or if local in character or turning upon exceptional, as opposed to general, circumstances), should not ordinarily be carried beyond the local machinery. But if any principle is involved in the issue, the principle separated from the individual, local, or exceptional aspects of the question may be taken to the higher bodies. Disputes of wider issues but still not of "major importance" should not ordinarily be carried beyond the railway staff national council. Only matters which that council agrees involve issues of "major importance" may be referred by consent to the chairman of the railway staff national tribunal or to the tribunal itself. This consent is not to be withheld unreasonably and in the event of disagreement as to whether an issue is of "major importance" the matter is settled by the chairman of the tribunal.

Disputes of interpretation of a national agreement within the jurisdiction of the scheme are settled finally by the chairman of the railway staff national tribunal and cannot be carried to the tribunal itself. Questions falling within the scope of the machinery but not arising from any of the national agreements may be initiated at whatever stage of the machinery is most appropriate and may, if desired, be further discussed in the successive higher stages of the machinery, though not by way of appeal.

Until the machinery has been fully utilised according to the agreement there must be no withdrawal of labour and no attempt on the part of employees to hamper the proper working of the railway. In the event of individuals contravening these conditions, the trade unions affected must not grant any support but must "use their best endeavours to induce such individuals to conform to the agreement." The companies and the unions agree to avoid publicity or propaganda in respect

of a question under consideration but this does not preclude discussion within the organisations concerned.

Disputes as to the meaning or effect of the 1935 agreement which cannot be decided by the parties, are referable to "an experienced lawyer," to be appointed by agreement or, failing agreement, by the President of the Law Society. The agreement was terminable by twelve months' notice in writing given by the railway companies jointly to the trade unions or by the trade unions jointly to the companies.

(*b*) *Local Departmental Committees and Local Representatives*

Local departmental committees are formed at all stations and depots where the number of regular employees in a department or in a group of trades within the scope of the scheme is seventy-five or over. Where the number is less than seventy-five, two members may be chosen as local representatives to discuss with the company's local officials matters within the province of a local departmental committee.

Unlike sectional councils, local departmental committees play no direct part in the settlement of actual disputes. The purpose of the establishment of these committees is expressed to be, "to provide a recognised means of communication between the employees and the local officials of the railway company and to give the employees a wider interest in their work and the conditions under which it is performed." A local departmental committee may consider any suggestions referred to it regarding certain matters such as "arrangement of working hours, meal intervals, etc." ; "holiday arrangements" ; "improvements in working methods and organisation" and so on. But questions relating to the application of national agreements, apart from matters specifically remitted by higher bodies, do not come within the functions of local departmental committees.

A committee consists of not more than four employees in the department or group of grades concerned and the same number of representatives of the company, one member of each side acting as secretary for his side. The employee

members are annually elected by and from the employees concerned, who are twenty years of age or over and have had not less than twelve months' continuous service with the company. Casual vacancies are filled by bye-elections. Meetings are held whenever necessary but only those matters can appear on the agenda which have been submitted beforehand by the employees concerned to the company through the appropriate officials, or notified by the company to the secretary of the employees' side. And because it is the lowest joint body in the conciliation scheme its decisions are inoperative if in contravention of any decision of a higher body or if opposed to a national agreement.

(*c*) *Sectional Councils*

The sectional council corresponds to the sectional conciliation board under the earlier schemes. On each railway the various grades of employees affected by the agreement are allocated to not more than five sections, for each of which a council is established consisting of not more than twelve representatives of the employees, elected as for local departmental committees, and the same number of company representatives. Unlike the committees, however, the councils may appoint their secretaries from any source and not necessarily from among the representatives as in the case of the chairman of each side.

The functions of a sectional council are similar over a wider field to those of the lower body in respect of matters of mutual interest in the operation of the railway. But it is also charged with the local application of national agreements relating to standard salaries, wages, hours of duty and other standard conditions of service, in respect of the grades of employees allocated to the section.

Employees' representatives remain in office for three years unless elected to fill a casual vacancy, but the members are so elected that the period of office of one-third expires each year. The whole of the arrangements in connection with elections on each railway are conducted jointly by representatives

nominated by the company and the unions. For election purposes the area covered by a railway is divided into nor more than five districts with, as far as practicable, equal numbers of employees in the several groups of grades in each district. Each group within a section is allocated a fixed number of representatives on the council determined by the proportion which the number of employees in each group bears to the total number of employees in the section. In the case of joint lines and joint stations the employees may be included in the appropriate sectional council of a parent railway company or treated as a separate railway. Special provisions were arranged between the companies and the unions in the case of employees at the railway clearing house.

Meetings of a sectional council are held whenever necessary as arranged between the two secretaries, but at least twice a year. As with the committees, all matters on the agenda must first have been referred to the other party. An answer should be given within fourteen days and in the absence of a satisfactory arrangement being made within twenty-one days, the employees concerned may notify their secretary of the facts. Notice of any subject which either side desires to discuss must reach both secretaries not less than fourteen days, and the agenda be circulated not less than seven days, before each meeting. Differences as to the items to be included on the agenda which are not settled by the secretaries or by the company and the unions, are settled by the railway staff national council.

All decisions of a sectional council are arrived at by agreement between the sides and are printed and publicly posted at the depots and stations affected. But the council, also, is limited by the decisions of the higher bodies as well as by the provisions of the national agreements.

(*d*) *Joint Meetings and Discussions between Railway Companies and Railway Trade Unions*

If a question is not disposed of by a sectional council it may

become the subject of discussion between the company and the trade union or unions concerned. If the question affects more than one company it may be raised with the companies and may be referred, thereafter, to a joint meeting between the railway staff conference and the trade union or unions.

These discussions are left to the arrangement of the company and the unions. Their purpose is to interpose the headquarters of the unions and the company at this stage before a matter comes into the jurisdiction of the national bodies. The unions play only an indirect part in the local committees and councils but the machinery affecting more than one line is based directly on union organisation. This particular stage of joint discussion between headquarters is the means of transferring disputes from the one level to the other. In the case of proposals to vary a national agreement it is a means of discovering as much agreement as possible before a case is submitted to the railway staff national council.

(*e*) *Railway Staff National Council*

The railway staff national council consists of eight representatives of the railway companies (two nominated by each company) and eight representatives of the trade unions (four nominated by the National Union of Railwaymen, two by the Associated Society of Locomotive Engineers and Firemen, and two by the Railway Clerks' Association). It appoints a single secretary.

Its function is to deal with questions other than minor issues relating to standard salaries, wages, hours and other conditions of service covered by the national agreements, which have not been disposed of by the discussion between the company or companies and the unions.

Decisions on the council may be arrived at either,

(i) by agreement between the two sides, and so minuted and signed by the chairman of the companies' side and by a representative of each of the unions, or

(ii) by agreement minuted as "by a majority" unless dissent by

a minority of either or both sides is recorded in the minutes at their request.

The expenses of the railway staff national council are shared in moieties between the railway companies and the unions.

(*f*) *Reference to Chairman of the Railway Staff National Tribunal*

Questions in dispute which the railway staff national council fail to settle can be referred further with the consent of the companies and the unions. They may be considered by the independent chairman of the railway staff national tribunal. The reference to him may take one or two forms :

(*a*) the parties may submit to the chairman a jointly-signed statement of the case specifying the issue in dispute, all the material facts, and the authorities and arguments on which each relies ; or

(*b*) the parties may agree to the railway staff national council inviting the chairman to preside over a private meeting of the council at which the members argue the matter upon agreed terms of reference.

The parties may refer the dispute to the decision of the railway staff national tribunal itself provided the council agrees, or the chairman of the tribunal determines, that the question involves issues of major importance to the companies and the unions.

(*j*) *Railway Staff National Tribunal*

The railway staff national tribunal consists of three members, one selected from time to time by the railway companies from a panel previously prepared by them, one selected by the unions from a panel previously prepared by them, and a chairman appointed by agreement between the companies and the unions or failing agreement, by the Minister of Labour and National Service after consulting both parties. The nominees of the companies and the unions serve on the tribunal only until the particular issues referred to it have been decided.

The chairman is usually appointed for a specified period. No director or official of the railway companies, of the joint lines, or of the railway clearing house, and no official or member of any of the railway trade unions, is eligible for appointment as a member of the tribunal.

If they so desire, the companies and the unions may appoint not more than three officials of the companies and three members or officials of the unions as assessors to assist the tribunal in elucidating matters of fact and advising on any matters on which the tribunal may seek their assistance. Other than this the assessors take no part in proceedings and do not sign the decision.

The tribunal is not an appeal body and cannot hear any matter once a settlement has been reached on the council or has been heard by the chairman of the tribunal.

(*h*) *Disciplinary Procedure*

A cause of much discontent with the conciliation machinery has been the refusal by the companies to include consideration of any questions which, in their opinion, involved matters of discipline and management. This was raised at the joint discussions preceding the signing of the 1935 conciliation agreement. On that occasion the companies, whilst persisting in their opposition to questions of discipline or management being within the scope of the new arrangements, did agree to the adoption of standard procedure where individual employees are charged with misconduct, neglect of duty or other breaches of discipline. This procedure is set out in a separate agreement which was signed on the same day as the main agreement. It follows the principles indicated in paragraph 72 of the Report of the Royal Commission on the Railway Conciliation Scheme of 1907.[1] The companies agree to hand any employee charged with misconduct, neglect of duty, or other breaches of discipline, a written statement of the nature of the offence. He will be permitted to state his defence in writing, and to advance any extenuating circumstances, and if he so desires, he may

[1]Cmd. 5922 of 1911.

be heard in person before the appropriate officer of the company except in trivial cases. At this hearing he may be accompanied by a spokesman in the person of a fellow employee or a representative of his union and may call witnesses. If he is adjudged guilty he may appeal by written notice to the appropriate superior officer of the company within seven days. At the appeal he has the same rights as on the first hearing. But the companies reserve their right to suspend from duty before a hearing in "cases of exceptionally grave misconduct in which summary action by the management is justifiable."

RAILWAY POLICE

As already stated, the 1935 conciliation agreement covers traffic grades and supervisory and clerical staffs but does not extend to other categories of employees. Among these other categories railway police are the only employees employed on the railways themselves.

The railway police negotiation machinery set up under section 67 of the Railways Act, 1921, has not been changed. In pursuance of that section, which required special arrangements to be made for dealing with questions of rates of pay and conditions of service of police, a scheme was agreed to, in 1922, between the railway companies and the police representative. This scheme is a simplified version of the general conciliation scheme. Its main components are line conferences which compare with the sectional councils of the general scheme and a central conference and independent chairman.

On each railway there are three line conferences, one for each of the grades of (*a*) inspectors, (*b*) sergeants, and (*c*) detectives and constables. Each line conference deals with all matters affecting the respective grades on that railway but all three line conferences or any two of them may, by agreement, sit together as one conference for any purpose within the scheme. A line conference is composed in the same manner as a sectional council; that is to say representatives are elected

by and from the members of the relevant grade employed on that railway and an equal number of officials are appointed by the railway management.

Disputes which cannot be settled at a line conference are referred to the central conference which also deals with, in the first instance, all matters of general concern to railway police. The central conference is representative of all grades on each of the railways. In the event of disagreement between the two sides an independent chairman is appointed with power to give a final decision. When required, he is selected by mutual agreement or, failing agreement, is appointed by the Minister of Labour and National Service.

DEVELOPMENTS SINCE 1939

The Government assumed control of the main line railways upon the outbreak of war in 1939. Since then the companies have received a fixed annual rental under financial agreement with the government.[1] By an Order under regulation 69 of the Defence (General) Regulations a Railway Executive Committee consisting of the Minister of Transport as chairman, the general managers of the four main line railways and the chairman of the London Passenger Transport Board, was constituted to act as the government's agent in operating the railways.

At the same time, the parties to the principal conciliation arrangement and the government undertook that, during wartime, decisions of the railway staff national tribunal would be accepted as final and binding on all concerned.[2]

Theoretically, at least, the management nominees on the various conciliation bodies are now representative not of individual companies but of the government. The only body really in contact with the government, however, has been the

[1]See p. 8 of *Nationalization of Transport* by Ernest Davies, M.P. Labour Discussion Series No. 10.

[2]Up to the end of 1939 the tribunal had made six awards, all of which had been complied with by the parties.

Railway Executive Committee and major claims relating to wages and conditions involving substantial additional expenditure or radical changes have tended to be made direct to that committee in order to obtain a quick authoritative decision. To avoid this by-passing of normal procedures the Minister of Transport, as chairman of the Committee, made it clear in 1946 that he would not, in future, intervene in such claims until all the usual processes of negotiation had been exhausted.[1]

From the end of October, 1941, until the beginning of September, 1946, the railways were subject to Essential Work provisions. In order to give effect to the desire of all parties in the industry, the Essential Work (General Provisions) Orders were modified in their application to railway employees by the Essential Work (Railway Undertakings) Order, 1941,[2] to enable the disciplinary arrangements of the 1935 agreement to operate in lieu of the usual Essential Work disciplinary provisions.

Transport is the second major British industry to be acquired by the State under the Labour Government's nationalisation policy.[3] A Transport Bill to give effect to the election undertaking to co-ordinate inland transport services under public ownership was presented to parliament in November, 1946, and received the Royal Assent as the Transport Act on 6th August, 1947.[4] Under this Act all railway undertakings (including the London Passenger Transport Board) will be transferred on 1st January, 1948, to a British Transport Commission appointed by the Minister of Transport. As in the case of coal mining the Act itself does not provide specific conciliation machinery but charges the Commission with the duty to maintain or to establish where necessary, in consultation with the representative organisations of the employees, appropriate machinery with a view to

[1]Referred to in Report of a Court of Inquiry in June, 1947. Cmd. 7161.
[2]Statutory Rules and Orders, 1941, No. 1602.
[3]Labour Party Pamphlet, *Let Us Face the Future*, 1945.
[4]10 and 11 Geo. VI. c. 49.

(*a*) the conclusion of agreements for the settlement by negotiation of conditions of employment, with provisions for reference to arbitration in default of such settlement; and (*b*) the promotion and discussion of matters affecting safety, health, welfare and other matters of mutual interest including efficiency in the operation of the services. Any agreements thus reached with the three railway unions will amend or supersede the provisions of sections 62-66 of the Railways Act, 1921, or of Part VI of the London Passenger Transport Act, 1933, but until then those provisions as amended, and the agreements under them, will continue to operate. The amendments of those provisions made by the Transport Act are mainly of drafting importance only, consequent on the replacement of the companies by the Commission as employer. This has, however, necessitated a further amendment of section 63 of the Railways Act to remove the requirement of separate sectional councils to correspond with the undertakings of the several railway companies. Section 67 of the 1921 Act (which provides for separate railway police conciliation machinery) will cease to have effect on 1st January, 1948, and in its stead the Transport Act makes provision for the establishment of a conference of an equal number of representatives of the Commission and of the members of the railway police force to deal with all questions of pay and conditions of service of railway police with an independent chairman to be appointed to give binding decisions in the event of a deadlock. The independent chairman is to be chosen by mutual agreement or failing agreement to be nominated by the Minister of Labour and National Service.

As in the case of coal mining so with the railways, nationalisation is not likely to involve any great change in the existing conciliation machinery. For some years now the industry has been more akin to a branch of the public service than to a section of private industry.

This is reflected in the conciliation arrangements which have been concerned with grades of employment rather than

employment by the separate companies. Some changes will doubtless be necessary as a result of the replacement of the companies by the Commission as a single employer. This may result in a change at the sectional council level where it may be found more convenient to adopt an area basis than to continue to adhere to what will become the artificial distinction based on the several railway undertakings. In the main, however, it seems probable that constitutional changes in the early stage of public ownership will be formal rather than fundamental. On the other hand, it may well be that there will be a broadening of the functions of the joint bodies and a new spirit demanded in the operation of the machinery. The unions have not been satisfied with the companies' interpretation of the 1935 agreement.[1] In particular they have objected to the limitation on references to the tribunal imposed by the requirement of consent of the parties and the agreement of the railway staff national council or the chairman of the tribunal that the matter was one of major issue. The unions have maintained, with some justification, that if they are to accept decisions as morally binding and to limit their right to strike, there should be no limitations on the tribunal's jurisdiction to hear any grievances of a national character which the companies refuse to remedy.

Whether this view will be pressed on the Commission will depend on the approach of the Commission's representatives on the railway staff national council. The unions have regarded the railway companies as hard bargainers against whom the tribunal afforded an ultimate protection. They have made it clear through their members in the House of Commons on the occasion of the Transport Bill debates, that state ownership, which has long been their aim, must bring a new approach to the human factor in the industry. These expectations will be voiced and tested through the conciliation machinery and on the results will socialisation be judged by the railwaymen.

[1]See summary of unions' case before Court of Inquiry, 1947. Cmd. 7161.

PART TWO

State Action Prior to the Conciliation Act, 1896

CHAPTER I

State Action Prior to the Conciliation Act, 1896

STATE ACTION in the form of regulation of conditions of labour, preceded a capitalist economy by many centuries. With this regulation, the need of provisions for settlement of disputes could scarcely arise. For, so long as conditions of work, and in particular, wages and prices, were determined specifically by law, there was little opportunity for industrial disputes in their modern sense. Moreover, until the end of the eighteenth century industry was still based on a domestic system. Only when that system had been replaced by factory work did there grow up relationships of employers and employees, the latter in large enough groups to have identical interests and identical grievances arising from those relationships. Until that had occurred, industrial disputes were individual rather than collective and the few that could arise outside the field of positive regulation could be provided for by an extension of the normal legal machinery.

A long series of enactments stretching back to the Statute of Apprentices in 1562 had contained provisions for the settlement of these individual disputes. That Statute established the justices of the peace or local magistrates as parliament's deputies to fix district rates of payment of labour at their general sessions at Easter, taking into consideration "the plenty and scarcity of the time and other circumstances."[1] In the following centuries this practice hardened into wider authority until the local justices were regarded as the normal agents to deal with all matters involving labour.

[1] 5 Eliz. c. 4. The Act also directed the justices in each district to make "special and diligent enquiry" twice a year into the good execution of the prescribed rates.

Prior to 1747 the provisions for the settlement of disputes between master and servant had not been the subject of special enactment but had appeared in Acts[1] containing various other labour regulations. In that year, however, a statute[2] was passed dealing solely with this subject. It consolidated the fragmentary legislation and contained little new for, like the earlier provisions, it referred all complaints, disputes, and differences between masters and certain servants to be determined by one or more justices of the peace of the place where the master resided. It gave authority to the justices to order payment of wages up to £10 in the case of servants in husbandry and up to £5 in the case of artificers, handicraftsmen, miners, potters and other labourers, and to order the punishment of any servant by commitment to a house of correction with hard labour up to one calendar month. Against these orders appeal lay as of right to the next quarter sessions but no further.

By the end of the eighteenth century two events of some importance had begun to take shape. On the one hand the structure of industry was changing from a domestic to a factory foundation. On the other, the theory of state regulation was shifting from mercantilist to *laissez faire*. The effect of the first change was an increase in the number of disputes involving large numbers on one side. The effect of the section was to destroy the position of the justices in labour matters. Wage assessments by them in session became only a memory and the contract of service replaced regulation by state agencies.

Thus the individual nature of industrial disputes as well as the machinery of their settlement ceased, in large measure, to exist. But there was a very good reason why parliament did not recognise the change over from individual to collective disputes. To ensure freedom of contract it had seen fit to prohibit all combinations of workmen under severe penalties.

[1] e.g., 1 Anne c. 22, 9 Anne c. 30, 3 Geo. II and 13 Geo. II c. 8.

[2] 20 Geo. II c. 19. This Act was explained by 31 Geo. II c. 11 (1757) as covering disputes involving servants in husbandry hired for less than one year as well as those hired for a period beyond one year.

Collective industrial disputes postulate combined action, and state provision for the resolving of such disputes was therefore logically impossible. Until the repeal of the Combination laws the state treated collective action in pursuance of an industrial difference as evidence of an illegality to be punished with all the force of the law. State action for the settlement of collective disputes manifested in strikes became identical with the action taken in the case of political disputes manifested in riots, viz., military force and imprisonment of leaders.

Parliament was still compelled, therefore, to legislate only for individual industrial quarrels long after such quarrels had ceased to be of any importance. This must be borne in mind when examining the Cotton Arbitration Acts of 1800,[1] 1803,[1] 1804,[1] and 1813,[1] the arbitration provisions of the Combination Act, 1800[2] and the Arbitration Act, 1824.[3] But while, in this respect, these enactments seem to belong to the earlier regime of state regulation rather than to the modern development of arbitration and conciliation, they do have features which make it impossible to class them with, for instance, the 1747 legislation.

THE COTTON ARBITRATION ACTS AND COMBINATION ACT, 1800

The most novel feature of the Cotton Arbitration Act of 1800 was the introduction of arbitration by nominated arbitrators in place of direct adjudication by justices of the peace. The introduction was timid and still kept the justices handy in the background but it was, nevertheless, a first step.[4] The Act arose out of the distressed condition of the industry in Lancashire, then still partly domestic and partly factory. A movement for legislative relief had begun in 1795 with the

[1]39-40 Geo. III c. 90. [1]43 Geo. III c. 151. [1]44 Geo. III c. 87. [1]53 Geo. III c. 75.

[2]39-40 Geo. III c. 106.

[3]5 Geo. IV c. 96.

[4]Arbitration had been used much earlier in connection with trading and commercial cases, e.g., 1 Jas. I c. 10, and 9 Will. III c. 15.

introduction of a bill to establish minimum wage determinations. The disciples of Adam Smith, however, secured its rejection. In 1799 the weavers of Bolton launched an appeal to their fellow-workers for £500 "to procure an Act of Parliament for an advance in wages."[1] In the following year petitions were sent to the House of Commons from the cotton operatives of Cheshire, Yorkshire, Lancashire and Derbyshire, and from the cotton manufacturers of Cheshire, Yorkshire and Lancashire.[2] The operatives pointed out that since 1792 their wages had been reduced although the price of provisions had been progressively increasing ; and that these oppressions had been effected by powerful combinations of master weavers and manufacturers which the petitioners were prevented by their poverty from suppressing. The manufacturers stressed the difficulties under which the trade laboured "owing to there being no power under any existing law of properly and promptly settling and regulating the wages, pay and price of labour of the journeymen and workpeople employed therein." Both petitions therefore prayed for legislative regulations providing for "a more speedy and summary mode than the present" for the general remedying of the abuses in the trade.

The result was an Act "for settling disputes that might arise between masters and workmen engaged in the cotton manufacture in that part of Great Britain called England" which became law on 28th July, 1800.[3] It provided that "where the masters and workmen cannot agree respecting the price or prices to be paid for work done or to be done . . . whether such dispute shall happen or arise between them respecting the reduction or advance of wages or any injury or damage done or alleged to have been done by the workman to the work or respecting any delay or supposed delay . . . in finishing the work or the not finishing such work in a good and work-

[1]Home Office Papers 42, 47 ; letter from Sam Singleton to Home Secretary, 28th April, 1799, quoted by Lord Amulree in *Industrial Arbitration in Great Britain*, p. 20.

[2]*Commons' Journal*, Vol. LV, 5th March, 1800, pp. 261-2.

[3]39 and 40 Geo. III c. 90.

manlike manner," or compensation to be made for any new pattern, or the length of pieces or the manufacture of various specified articles and the wages to be paid in respect thereof, then either party to the dispute might "demand and have an arbitration." Each party might then appoint an arbitrator, and these jointly, or (after an amendment in 1804), if one party refused to nominate, the single nominated arbitrator might summon and examine on oath the parties and their witnesses and forthwith determine the matters in issue. The Act provided penalties for failure to appoint an arbitrator or to submit to the award. These penalties were recoverable by the other party, on an order of a justice, by distress and sale or imprisonment for not more than three months nor less than two months. Where the arbitrators failed to agree within three days after the submission to them, provision was made for their appearance before one of the justices of the peace in the district, who acted as umpire or referee and determined the points of difference within a further three days.

Shortly after the passing of the Cotton Arbitration Act a second Combination Bill was introduced into the Commons. As originally presented it simply dealt with combination proceedings, explaining and amending an Act of 1799, but the committee to whom it was referred felt that as the worker was deprived of the means of helping himself by combining with his fellow workmen, he should be given additional help from the law.[1] The Bill was, therefore, amended to incorporate arbitration provisions similar to those of the Cotton Arbitration Act with the omission only of the technicalities peculiar to that trade. Before the Bill had become legislation, however, a further amendment was made restricting the operation of the arbitration in the case of wage disputes to cases "where the masters and workmen cannot agree respecting price or prices to be paid for work actually done."[2] Unlike the Cotton Act it made no provision as regards work "to be done." The possi-

[1] See statement Calico Printers' Committee : *Commons' Journal*, Vol. LXI, 17th July, 1806, Appendix No. 99, p. 903.

[2] *Commons' Journal* : Vol. LV, 23rd July, 1800, p. 776.

bility of the Act being used for the settlement of collective wage disputes was thus negatived from the start. Unlike the Cotton Act it was not subsequently amended as was that Act in 1804, to enable one arbitrator to act alone where the other party's nominee refused to act. The reason for the failure to apply this amendment to the more general statute was probably that by 1804 its arbitration provisions were already a dead letter and of no practical effect.

Despite the extension of the Cotton Act to determinations of future prices and wages, a collective use of it was prevented soon after its enactment. As the aim of the operatives in petitioning for legislation had been to secure a general improvement in wages and prices[1] they not unreasonably expected that where a general claim arose common to many operatives and against more than one employer, it would be adjudicated as one against the employers as a body. They were advised by counsel, however, that "they could not arbitrate their masters in a body" but that each individual for himself might demand an arbitration for work to be done.[2] This course was adopted and a dispute arose with the employers on the legality of the action. Ultimately it was referred to the magistrates in session who came to the conclusion that so many claims brought for the same purpose at the same time and in the same district was an attempt to regulate wages which the Act did not contemplate.[3] Thus, despite the additional wording of the Cotton Act, it was thenceforth of no greater value than the Combination Act except in the case of isolated arbitrations.

Nevertheless the Cotton Act did achieve some success in a limited sphere for a few years, which the Combination Act never did. By 1803 more than 1,500 cases had been dealt with,

[1]Home Office Papers 42, 47.

[2]Lord Amulree : *Industrial Arbitration*, p. 31.

[3]Minutes of Evidence taken by Select Committee on Cotton Weavers' Petition ; *Parliamentary Papers*, 1803 (114), Vol. VIII, per James Holcroft at p. 34 and James Ramsbotham at p. 44.

the majority of awards being in favour of the operatives.[1] In view of this apparent success the Scottish cotton weavers presented a petition to the House of Commons in 1803 praying for its extension to Scotland.[2] The request was granted in an Act passed on August 11th of that year. The Scottish Act was limited in its operation in the same way as the arbitration provisions of the Combination Act, 1800, that is to say, it applied only to disputes that might arise over "the price or prices to be paid for work done or in the process of being done." Ten years later a similar Act was passed for Ireland, again in response to a popular demand by the Irish cotton weavers.[3]

Even within the limited sphere of the success of the Acts it is doubtful whether arbitrations touched many cases other than those in which the workmen and employers would in any event have reached agreement without great difficulty. Without mutual consent it must have been extremely difficult and dangerous for a workman to apply the provisions against his master. True there were penalties in the Acts which should operate equally against employer and workman. But up to 1813 not one conviction of an employer before a justice had been confirmed at quarter session,[4] lending some point to the operatives' contention that the justices of the peace were drawn from a class who were, as a rule, inclined to look at an issue more from the point of view of the employer than of the operative. Even arbitration of individual disputes required the supervisory protection of a collective body which was, of course, impossible under the existing law.

[1]See Minutes of Evidence taken by Committee on Cotton Weavers' Petitions; *Parliamentary Papers*, 1803, Vol. VIII; *Commons' Journal*, Vol. LVIII, 18th May, 1803, p. 422.

[2]*Commons' Journal*, Vol. LVIII, 11th February, 1803, p. 152.

[3]*Commons' Journal*, Vol. LXVIII, 30th March, 1813, p. 362.

[4]Stated in Petition of Bolton Cotton Workers, *Commons' Journal*, Vol. LXVIII, 25th February, 1813, p. 229.

THE ARBITRATION ACT, 1824

The generally applicable arbitration provisions of the Combination Act of 1800 disappeared with the repeal of the Combination Acts in 1824.[1] Later in the same year the Cotton Arbitration Acts were repealed by 5 Geo. IV c. 96 on the ground that "it is expedient that the laws relative to the arbitration of disputes between masters and workmen should be consolidated and amended and one general law made applicable to every description of trade and manufacture."

This general law which applied to England, Scotland and Ireland contained provisions enabling a party to an industrial dispute, within six days of the cause arising, to make complaint before a justice of the peace of the district where the parties were residing and to obtain an order for the appearance of the other party. Where both parties consented in writing to abide by the determination of the justice, he could hear and decide the matter in summary manner. Otherwise he was bound to nominate four or six referees, one-half employers and one-half workmen in the industry, from whom the master involved in the dispute must choose one and the workman another, with full power to hear and determine the dispute. If one arbitrator refused to act within two days the justice would name a person to replace him and if that person refused to act the single arbitrator might proceed to hear and determine the issue alone. Some of the disputes contemplated by the Act were specified, relating mainly to piece-work in textile manufacture. But the Act also stated as capable of being referred to arbitration, "Disputes arising out of the particular trade or manufacture or contracts relative thereto which cannot otherwise be mutually adjusted and settled." Nothing in the Act, however, was to authorise "any justice of the peace . . . to establish a rate of wages or price of labour or workmanship at which the workman shall in future be paid unless with the mutual consent of both master and workman." In addition to consent to an

[1] 5 Geo. IV c. 95. This Act repealed some 34 anti-combination statutes.

extension of the jurisdiction of the Act to matters not otherwise cognisable, the parties might adopt by agreement alternative procedure. In these cases the awards were legally binding in the same way as awards under the Act. Decisions in both cases could be enforced by proceedings of distress, sale and imprisonment.

The Arbitration Act of 1824 was even less of a success than the Cotton Acts. One explanation of this may perhaps be found in the change in the social and economic conditions of the country during the first quarter of the century. As already mentioned, when the English Cotton Act was passed in 1800, that trade was mostly domestic and less than half was factory-conducted. In the case of the former section the occasion for disputes over minor technical details was much greater than in the latter. After twenty-four years, however, the factory system was reaching an advanced stage in most industries. With the work being done under the immediate supervision of a foreman and to more standardised patterns, the number of such disputes was greatly reduced, and when they did arise could be dealt with on the spot. Disputes became more concerned with questions excluded from the normal scope of the Act, namely, the "rate of wages or price of labour or workmanship at which the workman shall in future be paid."

The Act was slightly amended in 1837[1] and twice in 1845[2] but it remained practically a dead letter from its passage although it was not formally repealed until 1896. By 1856, when a committee of the House of Commons was appointed to inquire into the expediency of establishing Equitable Tribunals, the very existence of the Act was unknown to the majority of witnesses examined by it, including solicitors

[1] 1 Vict. c. 67. By amendment the time limit for lodging a complaint was extended from 6 to 14 days and the jurisdiction of the Justices of the Peace was transferred from the locality where both parties resided to that of the party complained against. *Commons' Journal*, Vol. XCII, 7th July, p. 606 (1837).

[2] 8 and 9 Vict. c. 77 and 128. These amendments were concerned mainly with the furnishing of particulars in the hosiery and silk trades. *Commons' Journal*, Vol. C, 19th May, 1845, p. 464.

interested in industrial matters. After an exhaustive enquiry the committee assigned the following as the reasons for the failure of the legislation :[1]

1. That there existed great unwillingness to go before a magistrate as having some appearance of criminal proceedings.
2. That the Arbitrators being appointed as each case arose, it was unknown beforehand who they would be, and there was reluctance to refer a dispute to a decision of an unknown set of men.
3. That the workmen objected to magistrates in manufacturing districts inasmuch as they were generally manufacturers or else in some way connected with manufacturers.

A more fundamental reason which the committee did not give was that already mentioned in the case of the earlier arbitration, namely the absence of protection from victimisation where an employee applied to a justice of the peace for the reference of a dispute to arbitration against the wishes of the employer. On the other hand, if the employer were willing that the matter at issue should be referred, there was probably no need to invoke the provisions of the Act.

THE COUNCILS OF CONCILIATION ACT, 1867

With the failure of the Arbitration Act went the attempt for the time being to harness the machinery of the law to the settlement of industrial disputes. The new voluntary methods of adjusting these questions which began to appear at the middle of the century were not only extra-judicial but were limited to single industries, and, at first, even to one centre of each industry at a time.[2] Their origin probably owed much to the inspiration of the Conseils de Prud'hommes which operated in France and Belgium from the days of Napoleon.[3]

[1]Select Committee on Masters and Operators (Equitable Councils of Conciliation). See below.

[2]See above, Part I, Ch. 1.

[3]For history and nature of Conseils in these countries see Appendices 6, 7, 8 and 9 of the Report of the Select Committee.

By 1856 there were sufficient examples of embryonic voluntary boards in England to raise the question in parliament of the desirability of bringing them under the aegis of state supervision by establishing a system of British Conseils. On 19th February the House of Commons resolved "That a select committee be appointed to inquire into the expediency of establishing Equitable Tribunals for the amicable adjustment of Differences between Masters and Operatives."[1] This committee heard evidence of both masters and men, a majority of whom concurred in favour of the establishment, with statutory authority, of local boards capable of taking their place among other bodies in the general organisation of local government. As to their constitution, however, and still more as to the powers with which they should be invested, the committee found considerable divergence of opinions. From the hearing they arrived at the cautious conclusion "that the formation of courts of conciliation in the country, more particularly in the large commercial and manufacturing and mining districts would be beneficial."[2] The committee therefore recommended an amendment to the Arbitration Act so that "both masters and operatives would be enabled each from their own class or calling to appoint referees, an equal number by each party, having power to elect a chairman unconnected with either side, having a casting vote. Such tribunal to be appointed for a certain period and not for any particular controversy." These tribunals, the committee believed, should be entirely voluntary as to formation and acceptance of judgments. But they suggested that where boards of arbitration existed such as those "formed in the Potteries and other trades and districts" the Secretary of State should be empowered to license them "to decide all questions relating to existing contracts" and to enforce their decisions. In regard to future contracts the committee expressed the opinion "that it would be impossible to give these or any other tribunals any

[1] 1856 *Parliamentary Papers*, Vol. XIII, p. 2.

[2] *Report*, p. (iv).

power whatever of forcibly regulating the rate of wages." But they believed that advantages might frequently occur from the voluntary reference of these questions to such a board which, although without power to enforce its decision, would have the greater standing because of its authority in the case of questions arising from existing contracts.

Thus the authority suggested by the committee was no wider than that provided by the existing Act. The proposed machinery of arbitration, however, bore no resemblance to earlier statutory machinery and, in particular, dispensed entirely with the services of the justices of the peace.

The report was presented in July, 1856. Three times between 1858 and 1860, the chairman of the committee, W. A. Mackinnon, presented a bill to implement the recommendations.[1] On the third occasion the measure was remitted to a select committee authorised to "take into consideration the best means of settling disputes between Masters and Operatives." The committee's report[2] confirmed that of the 1856 committee and after ensuring that nothing in the bill gave "power to any council to regulate the rate of wages in any prospective manner whatever" they expressed the opinion that if passed it would "promote the welfare and good understanding between masters and operatives and be advantageous to the country."[3]

The bill thereupon passed the Commons[4] but in the Lords was referred to yet another select committee.[5] In this House the measure was taken up by a former Lord Chancellor and well-known legal authority, Lord St. Leonard. Between 1860 and the final passing in August, 1867, the bill was re-introduced

[1] *Commons' Journal*, Vol. CXIII, 27 April; 13 May, 1858, pp. 139, 173; 30 July, 1858, p. 359; Vol. CXV, 8 February, 1860, p. 55.

[2] Report of Select Committee on Masters and Operatives, 1860 (307), *Parliamentary Papers*, Vol. XXII, p. 443.

[3] p. 445.

[4] *Commons' Journal*, Vol. CXV, 12th June, 1860, p. 293.

[5] *Lords' Journal*, Vol. XCII, 3rd July, 1860, p. 498; 5th July, p. 504.

by Lord St. Leonard on three occasions.[1] By that time the matter dealt with by the bill had been the subject of investigation by three select committees, the terms of the bill had been considered by a committee of law lords and the measure itself had been before parliament on six separate occasions.

The effect of the Act[2] was to substitute licensed Councils of Conciliation for the referees and justices of the peace in the Arbitration Act, 1824. Any number of masters and workmen with certain qualifications might form a council and jointly petition to be licensed. The Council must have not only a trade but also a local basis, the area covered being the "City, Borough, Town, Stewartry, Riding, Division, Barony, Liberty or other place," provision being made for combining areas in the case of London. The first members of a Council might be appointed by the petitioners who, however, must have the qualifications to entitle them to be registered as voters for the subsequent annual election of the Council, viz., be a "person of twenty-one years of age or over belonging to the trade and being an inhabitant householder or part occupier of any house or other property who, being a master, has resided and carried on the trade in the district for six months ; or being a workman has resided in the district for a like period and has worked at his trade or calling for seven years." A Council must number from two to ten masters and workmen and a chairman chosen by them from outside the trade. These might appoint one of their master members and one of their workmen members to form a Committee of Conciliation to hear all cases in the first instance and endeavour to reconcile the parties at difference.[3]

Disputes could be submitted to a Council only by consent of both sides, but once submitted the Council had all the powers and authority granted to arbitrators and referees under the Arbitration Act, 1824, and its decision might be enforced

[1] *Lords' Journal*, Vol. XCVII, 8th May, 1865, p. 217 ; Vol. XCVIII, 22nd March, 1866, p. 162 ; Vol. XCIX, 7th February, 1867, p. 11.

[2] 30 and 31 Vict. c. 105.

[3] This Committee of Conciliation was the only feature of importance not in the Mackinnon Bill of 1859.

by the same proceedings of distress, sale and imprisonment as provided in the earlier legislation. But nothing in the Act was to "authorise the said Council to establish a rate of wages or price of labour or workmanship at which workmen shall in future be paid."

Despite the publicity given to the measure in parliament, the Councils of Conciliation Act was forgotten almost as soon as it was passed. H. Crompton records[1] eight years later that no licences had been applied for and that the statute had remained inoperative. Two reasons have been suggested for this.[2] Firstly, the very completeness of the Act, representing the efforts of a great lawyer and draftsman, resulted in provisions of such elaboration that they must have appeared formidable indeed to employers and workers who were plain men to whom, however, the initiative was left without guidance or assistance from an experienced government department. In the second place, although the Act applied to disputes involving one or many workmen, nevertheless by excluding questions of future wages, nine out of every ten collective disputes fell outside the jurisdiction of the Council and presumably even of its Conciliation Committee. In these cases the Councils were in no more advantageous position than the unlicensed conciliation bodies then spontaneously springing up unburdened by any legal rigidity.

THE ARBITRATION (MASTERS AND WORKMEN) ACT, 1872

The growth of the voluntary bodies and the organisations which their existence presupposed were recognised factors in the next essay by the state to "put an end to strikes."[3] The Arbitration Acts, and in only less degree the Councils of

[1] *Industrial Conciliation*, p. 142. See also G. Howell: *The Conflict of Capital and Labour*, p. 458.

[2] Lord Amulree: *Industrial Arbitration in Great Britain*, pp. 80-1.

[3] Lord Kinnaird in moving the second reading of the Arbitration (Masters and Workmen) Bill in the House of Lords: *Parliamentary Debates*, Third Series, Vol. CCXII (July 23rd, 1872), 1605.

Conciliation Act, provided no sphere of co-operation with the state by trade organisations. For up to the 'sixties there existed practically no organisation among employers, whilst trade unionism had only just emerged from a stage of immaturity and irresponsibility. But the expansion and change which came over the union movement in the sixties and which were reflected in the growth of conciliation boards, made both the unions and these bodies factors no longer to be ignored by the state in considering industrial relations. In 1867-9 a Royal Commission conducted an investigation into "the organisation and rules of Trade Unions and Other Associations . . . and the effects produced by such Trade Unions and Associations on the Workmen and Employers respectively and on the relations between Workmen and Employers and on the Trade and Industry of the Country."[1] This Commission was impressed by the work of Mundella's board in Nottingham and of similar bodies elsewhere. These boards seemed to the Commission "to offer a remedy at once speedy, safe and simple." The Commission also noted the growing practice of having a code of working rules agreed upon between employers and workmen, and recorded the claim of the unions that this practice "tends to diminish and usually to extinguish the occurrence of strikes and to establish a spirit of co-operation between masters and workmen."

The Arbitration (Masters and Workmen) Bill introduced into the House by Mundella[2] in 1872 and duly passed as "An Act to make further provision for Arbitration between Masters and Workmen,"[3] was directed to the facilitating and en-

[1]Eleventh and Final Report, Cmd. 4123 of 1868-9, Vol. XXXI, p. 235.

[2]The Bill was originally drafted by Sir Rupert Kettle for the Parliamentary Committee of the Trades Union Congress. The draft was approved by the Fourth Congress and before being presented to Parliament on April 17th, 1872, was considered by Mr. Justice R. S. Wright and various legal members of parliament. Sir George Howell (at that time Secretary of the Trades Union Parliamentary Committee): *Labour Legislation, Labour Movements and Labour Leaders*, pp. 219-20. The measure attracted little attention in parliament and was passed without division or amendment.

[3]35 and 36 Vict. c. 46.

couraging of these two trends. The chief provision of the Act was that a form of agreement might be drawn up by the employer or workman and be made mutually binding on both parties by the employer giving, and the workman accepting, a printed copy. The workman might reject the agreement, however, by giving notice of such within forty-eight hours. Otherwise both he and the employers were bound by it during the agreed terms of employment. To come within the Act an agreement must "either designate some board, council, person or persons as arbitrators or arbitrator or define the time and manner of appointment of arbitrators or of an arbitrator." It might provide that during its continuance the parties should be bound not only by the rules contained in the agreement but by any future rules "made by the arbitrator, arbitrators or umpire as to the rate of wages to be paid or the hours or quantities of work to be performed, or the conditions or regulations under which work is to be done."

The compulsory features of the Act were derived from the Arbitration Act, 1824, the agreement between the parties being deemed to be an agreement within the meaning of the thirteenth section of that Act, which section enabled the parties to agree to arbitration proceedings other than those provided by the Act. Hence the determination of the board, council or persons, etc., designated as arbitrators in the contract, could be enforced by distress and sale, and imprisonment.

What Mundella's Act contemplated, therefore, was the wholesale formation of standing agreements setting out existing conditions of work and ensuring the reference of all future difficulties to the councils and boards established or to be established under the Act of 1867.[1] In the second place it aimed at an extension of Sir Rupert Kettle's policy of formulating awards as working rules. The agreements hoped for, however, were not made in any number and the purpose of the Act was

[1]See Memo of Sir Frederick Pollock on the statute law as to Arbitration in Trade Disputes, Appendix III of Fifth and Final Report of the Labour Commission, Cdm. 7421 of 1894.

unfulfilled. Once again legislation failed to realise the hopes of its originators.[1]

The Act is interesting as a last attempt to devise a universally applicable means of settling disputes with a legal sanction. It ends the line of enactments begun in 1800. By the next legislative action twenty-four years later parliament had ceased to regard legal enforcement as an essential concomitant state machinery. In other words, between 1872 and 1896 the emphasis shifted from compulsory arbitration under state supervision to settlement by conciliation between the parties with the state bodies as agencies of mediation and assistance only.

Even, however, in the Arbitration Statutes it is possible to perceive a gradual relaxing of legal rigidity and a progressive reliance on voluntary action. The Arbitration Act, 1824, set up machinery of compulsory arbitration, compulsory in the sense that if invoked by one party within the limits of its jurisdiction the other could not avoid the reference while its award became legally binding on both. The machinery of the 1867 Act was not set up by the state but was the result, in the first place, of voluntary action by the parties, becoming statutory machinery only after application for a licence from the Home Office. Moreover, although the award of a licensed council was legally enforceable, the council could only hear and determine a dispute referred to it by both parties. Finally, the 1872 Act merely facilitated the voluntary agreement of parties to compulsory arbitration. It set up no arbitration machinery for settling disputes but sought to make the settlement a matter of contractual rights and liabilities. The element of legal compulsion was thus becoming progressively weaker ; for although the contract was legally binding as long as it subsisted, the Act put the parties in no different position from other contractors as regards freedom to enter and freedom to withdraw from the contract itself.

[1]A. J. Mundella in an article on Industrial Association, in *Reign of Queen Victoria*, edited by T. H. Ward, Vol. II, p. 79.

CHAPTER II

State Action under the Conciliation Act, 1896

AFTER THE FAILURE of the 1872 Act, the state ceased for the time being to attempt to legislate for the settlement of industrial strikes and left industry to find its own panacea. The success of the local boards in the 'seventies and early 'eighties seemed to justify this course. Towards the end of the 'eighties, however, there began an unprecedented increase in trade union activity and a period of friction and dispute. Public opinion was aroused to interest in labour matters by such disturbances as the London dockers' strike and the stoppage in the South Metropolitan Gas Company in 1889 which involved losses of from two to three million pounds between them. Altogether during 1889 there were 1,145 strikes[1] and in 1890, 1,028 stoppages.[2]

THE LABOUR COMMISSION

Early in 1891 the government, alarmed at the state of affairs, appointed a Royal Commission "to inquire into the questions affecting relations between employer and employed, the combinations of employers and employed, and the conditions of labour which have been raised during the recent trade disputes in the United Kingdom, and to report whether legislation can with advantage be directed to the remedy of any of the evils

[1]Of these, 714 were settled by conciliation and 48 by arbitration. Report of Labour Correspondent to Board of Trade, 1889-90 (Cmd. 6176).

[2]Over half were settled by conciliation and 44 by arbitration generally first arranged by conciliation. Report of Labour Correspondent for 1890-91 (Cmd. 6476). There is no reliable information as to the annual number of strikes prior to 1888. However, in a paper read to the Statistical Society in 1880, G. P. Bevan put the annual average of stoppages between 1872 and 1880 at 278. In 1888, when records were first kept, there were 509 stoppages.

that may be disclosed, and if so in what manner." The Commission conducted an exhaustive investigation into the whole field of arbitration and endeavoured to ascertain the various opinions of organised labour and management as to the best means of resolving industrial disputes.[1] The inquiry aroused great interest and many remedies were suggested both to the Commission and outside it. Among measures advocated were: boards of arbitration backed by the prestige of the state and so composed as to have the powerful sanction of public opinion behind them;[2] the division of the country into districts and the setting up over each district of boards of arbitration;[3] a consultative committee of an equal number of labour members of parliament and employers; members of parliament who, when called upon, would investigate any dispute existing, pending, or probable, and endeavour to arrange a mutual and peaceful solution of the difficulty or to arbitrate in case of need, if desired to do so;[4] the appointment of two judges to settle all industrial disputes;[5] the appointment of conciliation boards by town councils and county councils over their respective areas for particular districts or particular trades;[6] the establishment of a board of arbitration "so influential, so authoritative, so dignified, that no body of employers or workmen would dare to refuse to submit their case to it."[7]

The recommendations of the majority final report followed none of these proposals. It rejected all suggestions "for the compulsory reference of such disputes (i.e., "disputes arising

[1]The proceedings are contained in 67 publications, including five reports: (Cmd. 6708), 1892; (Cmd. 6795), 1892; (Cmd. 6894), 1893-4; (Cmd. 7063), 1893-4; (Cmd. 7421), 1894.

[2]Lord Randolph Churchill in *The Times*, 23rd February, 1891.

[3]A. C. Morton, *Parliamentary Debates* (27th February, 1891).

[4]W. Mather. Reported in George Howell: *Conflicts of Capital and Labour* (1890 ed.), p. 452.

[5]Sir William Allan, *Parliamentary Debates* (5th March, 1895).

[6]Sir John Gorst in a dissenting note to the *Final Report of the Commission* (Cmd. 7421), 1894, p. 148. This arrangement was contemplated in a Bill introduced into the Commons by Mr. Bryce in 1895.

[7]Joseph Chamberlain, *Parliamentary Debates* (5th March, 1895), 406.

with regard to the terms of future agreements") to state or other boards of arbitration whose awards should be legally enforceable."[1] The Commissioners felt that less faith should be put in legal sanction in these matters so that more might thereby be expected from the moral sanction. For that reason they were of opinion that it would do more harm than good at that stage of progress "either to invest voluntary boards with legal powers or to establish rivals to them in the shape of other boards founded on a statutory basis and having a more or less public and official character." The Commission expressed their hope and belief "that the present rapid extension of voluntary boards will continue until they cover a much larger part of the whole field of industry than they do at present." They recognised the necessity of strong organisations of employers and employees and recorded that the most successful of the voluntary institutions were those which had been formed in trades where organisations on either side were strongest and most complete.

Whilst the Commission considered that no state action should be taken which might impair or interfere with the existing voluntary agencies of conciliation and arbitration they thought that discretionary powers might with advantage be bestowed on the Board of Trade to enable it "to take the initiative in aiding by advice and local negotiations the establishment of voluntary boards of conciliation and arbitration in any district or trade and further to nominate upon the application of employers and workmen interested, a conciliator or board of conciliation to act when any trade conflict may actually exist or be apprehended." There was no reason why the Board should not exercise this function without bestowal of special powers, but the Commission felt that a statutory provision would give "a better *locus standi* for friendly and experienced intervention in the case of disturbed trade relations and would make it easier for it to employ a staff suitable and adequate for the purposes in question."

[1]Fifth and Final Report, p. 99.

CONCILIATION ACT, 1896

The Conciliation Act, 1896,[1] was the legislative outcome of the Commission's labours. Government bills had previously been brought forward as the evidence of the inquiry became available in each year, starting in 1892, but were shelved for lack of time. In addition, bills were introduced by private members, one with strong backing from the Association of Chambers of Commerce, but met a similar fate.[2]

The Act finally passed made a clean sweep in state action. It removed from the statute book all provisions for compulsory arbitration by repealing the Arbitration Act, 1824, the Councils of Conciliation Act, 1867, and the Arbitration (Masters and Workmen) Act, 1872. It provided for the registration with the Board of Trade of any board established either before or after the passing of the Act. It was hoped that an added "status and weight"[3] might accrue therefrom although registration was voluntary and conferred no added powers to a board of legality to its decisions. In fact, however, only nineteen boards ever registered under this provision.[4]

The main provisions of the Act direct the Board of Trade,[5] whenever a difference exists or is apprehended between an employer or any class of employers and workmen, or between different classes of workmen, to exercise at its discretion all or any of the following powers, viz. :

[1]59 and 60 Vict. c. 30.

[2]*Public Bills, Parliamentary Papers*, 1893-4, Vol. IV (Bill 351), p. 35; 1894, Vol. II (Bill 125), pp. 651-5; 1895, Vol. I (Bill 160), p. 459; 1896, Vol. I (Bill 26), p. 163, (Bill 98), p. 399, (Bill 307), p. 407. *Parliamentary Debates* (4th Series), Vol. XXXVII, 644, 660, 791; Vol. XLIII, 1427. See also L. W. Hatch: *Government Industrial Arbitration*, pp. 397-399; and *Reports of Association of Chambers of Commerce for* 1894, 1895 and 1896.

[3]Lord Dudley, Secretary to Board of Trade, *Parliamentary Debates*, Vol. XLIII (4th August, 1896), 1428.

[4]Of these, 15 were registered within the first 11 months and four more in the next two years. Registration thus ceased by July, 1899. Only 11 registered Boards remained active by 1919. Reports of the Board of Trade Proceedings under the Act: First Report, 1897; Second Report, 1899.

[5]After the establishment of the Ministry of Labour, the administration of the Act was transferred to that Ministry.

(*a*) inquire into the causes and circumstances of the difference;

(*b*) take such steps as to the Board may seem expedient for the purpose of enabling the parties to the difference to meet together by themselves or their representatives, under the presidency of a chairman mutually agreed upon or nominated by the Board of Trade or by some other person or body, with a view to the amicable settlement of the difference;

(*c*) on the application of employers or workmen interested, and after taking into consideration the insistence and adequacy of means available for conciliation in the district or trade and the circumstances of the case, appoint a person or persons to act as conciliator or as a board of conciliation;

(*d*) on the application of both parties to the difference, appoint an arbitrator.

A settlement by arbitration under (*d*) is not to be deemed within the scope of the Arbitration Act, 1889, but the provisions of that Act might be followed as a guide where no other rules or regulations of a board exist and the parties have not agreed upon the nature of the proceedings.

The Act also authorises the Board of Trade to appoint one or more persons to inquire into the conditions of a district or trade where adequate means for submitting disputes to a conciliation board do not exist and to confer with the employers and employed and, if desirable, with any local authority or body, as to the expediency of establishing a conciliation board for the district or trade.

Apart from giving statutory authority for incurring the small expenditure necessary, the Act conferred no new powers on the Board of Trade. However, it did have the effect of making public the availability of the Labour Department of the Board as a mediator in labour disputes. It also led to increased organisation of that Department and gave it more definite standing. It did not originate the Department. The origin lay in a Bureau of Labour Statistics organised within the Board of Trade by Mundella in 1886 to collect and prepare labour

statistics and obtain information as to the unemployment of labour.[1] In 1893 the Bureau was reorganised into a separate Labour Department consisting of a Commissioner for Labour, a Chief Labour Correspondent and a number of local correspondents. In addition to the collection of labour information it was concerned with the publication of a monthly magazine, *The Labour Gazette*, and with the conduct of special inquiries into matters of industrial interest.[2] Until 1896 intervention in trade disputes was not formally included in its functions. The President of the Board of Trade, however, in speaking on the Conciliation Bill, referred to the fact that the Department had already intervened in disputes in a "delicate way," and the second Annual Report[3] mentions four cases "with regard to which the Department has taken action during the year with a view to conciliation."

It was natural, therefore, that this department should be charged with the administration of the Conciliation Act in 1896. Its first action thereunder was to circularise existing conciliation boards, informing them of the statutory provisions for registration, and pointing out the desirability of keeping close contact with the Department. Although the move produced negligible results in respect of actual registration it initiated an informal co-operation between the Board of Trade and the voluntary agencies which has been of great value.[4]

The second action to which the Act directed the Department's attention was the aiding and encouraging of new boards. Some idea of its success here may be gained from the figures

[1]Established as a result of a motion passed in the House of Commons: "That in the opinion of this House, immediate steps should be taken to ensure in this country the full and accurate collection and publication of Labour Statistics." *Parliamentary Debates*, Vol. CCCII (March 2nd, 1886), 1768-1804.

[2]Memorandum on the Progress of the Work of the Labour Department, Board of Trade (194), 1893. See also Annual Report of Labour Department, 1894 (Cmd. 7565).

[3](Cmd. 7900), 1895, p. xv.

[4]The early reports of proceedings under the Act record that not only registered but also "most of the unregistered boards furnish the department with annual returns of the work done by them."

of existing boards in different years. In 1896, 105 voluntary boards were known to be in existence.[1] By 1909 the number was 278,[2] rose by 1913 to 325,[3] and at the end of World War I stood at 479.[4] Certainly some of the increase was due to the momentum which the voluntary movement was acquiring independently of state encouragement. Much, however, was due directly to the tactful action of the Labour Department. For instance, one of the Board's most successful conciliators[5] made it a point of policy to incorporate, whenever possible, provisions for standing conciliation machinery in any settlement of a dispute in which he took part.

The main work of the Department under the Act was, of course, direct intervention in trade disputes under Section 2(i). In the first ten months of the Act's operation, 31 applications were made for the Department's assistance under this section.[6] The number of applications increased with the years, especially immediately before World War I, 78 requests being made in 1913.[7] Out of a total of 610 applications made up to the end of that year, 417, or nearly 70 per cent. were joint applications from employers and workpeople, while government action without application from either side was limited to 86 cases.[8]

The availability of able and impartial government arbitrators had a beneficial effect not contemplated by the Act. That was

[1]This number includes 22 district boards connected for the most part with the Chambers of Commerce of large towns. *Report on the Strikes and Lockouts of* 1896 (Cmd. 8643), 1897, p. xli.

[2]Including 14 district boards. Second Report on Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees (Cmd. 5346), 1910, Appendix 1.

[3]Report on Strikes and Lockouts in 1913 (Cmd. 7658), 1914-1916, p. xxxv.

[4]Twelfth Report of Proceedings under the Conciliation Act, 1896 (185), 1919, p. 62.

[5]Sir George (later Lord) Askwith. See *Industrial Problems and Disputes.*

[6]First Report of Proceedings under the Act, p. v.

[7]Eleventh Report of Proceedings under the Act, 1914, p. 9.

[8]In 148 cases application was made by labour only and in 45 cases by the employers only. It is of interest to note that the greatest number of one-sided applications were made in the early years and that the proportion of joint applications increased up to 1913 when they accounted for 75 per cent. of the total. See *Annual Report of Proceedings.*

the adoption by voluntary bodies of a clause in their constitutions or rules providing for the appointment of a conciliator or arbitrator by the Board of Trade under the Act in case of a deadlock or in case of failure of the respective sides to agree upon an arbitrator. The application then became automatic. The earlier chapters of this book have afforded many examples of such provisions. The number of boards over the whole field of industry with such a clause, grew from two in 1897 to 121 in 1913 and 194 in 1918.[1]

EXPERIMENTS IN STATE ACTION UNDER THE CONCILIATION ACT

The Labour Commission's report and the Conciliation Act set the tone of state action from the nineties until the introduction of compulsory arbitration during World War I. During this period two experiments were tried with a view to strengthening the machinery of state action.

(i) *Courts of Arbitration*

The first experiment was the construction in 1908 of three standing panels of arbitrators called respectively, the chairman's, the employers' and the labour panels.[2] The members of each panel were appointed by the Board of Trade after consultation with trade organisations. Thenceforth application under the Conciliation Act might be made for arbitration by a single arbitrator as hitherto, or by a court consisting of a member of the chairmen's panel and one or two members from each of the other panels with assessors, if necessary, to inform the court on technical matters. By this means a tribunal could be constituted on which the several interests affected by the decision were directly represented. It was of considerable value to the chairman to be able to discuss the matter in private with associates who shared equally with him the responsibility

[1]Appendix VIII of the Twelfth Report of Proceedings under the Conciliation Act, 1896 (185), 1919.

[2]See *Board of Trade Labour Gazette*, September, 1908.

of the award and who knew from particular angles the industrial and psychological backgrounds of the arguments brought forward.

This alternative form of arbitration, however, achieved little popularity. Between 1908 and the outbreak of war six years later, only 20 cases were dealt with by it.[1] Its importance, Lord Amulree believed,[2] lay in familiarising the industrial public to a court constituted in this way and so in paving the way for the reconstituted Committee on Production and other industrial arbitration tribunals during the war, and subsequently for the Industrial Court.

The weakness of the 1908 scheme of *ad hoc* courts lay in the fact that the arbitrators were ordinarily engaged in other vocations and only occasionally were called upon to act, without having any knowledge of what other arbitrators were doing or of any enduring principle to which decisions in particular cases should be related as closely as possible in view of the interdependence of modern industries. Another disadvantage was the delay inevitable in the appointment of a court when speed at the psychological moment was essential to a settlement.

(ii) *Industrial Council*

It was partly to overcome these disadvantages that the second experiment was made in 1911 with the creation of a standing Industrial Council. This body consisted of 13 representatives of organised employers and 13 representatives of trade unions with Sir George Askwith of the Labour Department of the Board of Trade, as chairman.[3] The composition of the Council would, it was hoped, make it "a national

[1]Seventh to Twelfth Report of Proceedings under the Conciliation Act, 1896 (1910-1919).

[2]*Industrial Arbitration in Great Britain*, pp. 113-114.

[3]Ninth Report of Proceedings under the Conciliation Act, 1896 (87), 1912-1913.

industrial body of weight and repute."[1] It was ordered to meet regularly in quarterly conferences to discharge a dual function. Firstly, the government proposed to refer to it from time to time, questions concerning labour for its considered opinion as a body representative of the trades of the country as a whole. In this respect the Council was approaching the idea of a "higher council of labour" first mooted by the Labour Commission but ultimately rejected by them as impracticable at the time.[2] The second purpose of the Council was as a tribunal for the settlement of industrial disputes to which parties concerned might refer their differences by agreement either for an impartial ascertainment of facts only or for specific recommendations as to the best course to be followed. The position which it was intended the Council should occupy in the edifice of state arbitration was explained to industry in a memorandum issued by the Board of Trade on 10th October, 1911.

> "In taking this course (establishing the Council) the Government do not desire to interfere with, but rather to encourage and to foster such voluntary methods or agreements as are now in force, and are likely to be adopted for the prevention of stoppage of work or for the settlement of disputes. But it is thought desirable that the operations of the Board of Trade in the discharge of their duties under the Conciliation Act, 1896, should be supplemented and strengthened, and that effective means should be available for referring such difficulties as may arise in a trade to investigation, conciliation, or arbitration as the case may be. The Council will not have any compulsory powers."[3]

In fact the Council did very little and was short lived. It was established in a time of great industrial stress during

[1]Mr. Sydney Buxton at the first meeting of the Council, October 26th, 1911. Ninth Report of Proceedings, p. 118.

[2]Fifth and Final Report, 1894, p. 103.

[3]Ninth Report of Proceedings under the Conciliation Act, 1896 (87), 1912-13, p. 114.

serious strikes of railwaymen, seamen, dockers and miners as a hurried response to the popular clamour for something to be done by the State. Its two functions were really irreconcilable. The qualifications for members of an industrial parliament are usually likely to be disqualifications for membership of a quasi-judicial body for the settlement of disputes. The result of the attempt to make the same personnel fit the two functions was that it fitted neither. As a Labour Council it failed to be representative even of the organised industries of the country, so that when it presented an elaborate report in 1913 the very government which had set it up did not take it as the last word and as the best recommendation of the leaders of capital and labour, but referred it for opinion to the Trades Union Congress. And as a tribunal its unwieldy membership unsuited it for arbitration and even more so for the delicate task of conciliation. It attempted to remedy this in the case of the first strike referred to it (the Newport dock strike) by appointing a committee, but failed to reconcile the parties. No better results were achieved in the case of the great coal mining stoppage of 1912.[1] The appointment of members was for the period of one year and after the first renewal the Council was allowed to lapse.

Practically the sole result of the Council's existence was the report already mentioned. This was in answer to the government's request that the Council apply itself to answering two questions :

(1) What is the best method of securing the due fulfilment of industrial agreements ?

(2) How far and in what manner industrial agreements which are made between representative bodies of employers and of workmen should be enforced throughout a particular trade or district ?

The Council held 31 meetings and heard 92 witnesses from the principal trades before giving its answers on 24th July,

[1]Board of Trade (Department of Labour) Statistics (Cmd. 7089), 1912.

1913. Its report is a valuable survey of pre-war opinion on the settlement of disputes, but in concrete proposals it added little to the findings of the Labour Commission nineteen years earlier. It rejected compulsory arbitration in any form as a desirable means, but emphasised the value of inquiry preceding a stoppage of work. In the observance of agreements it stressed the part played by efficient organisation on the part both of employers and workpeople. In regard to this question the Council examined various proposals put forward for legislative action. Foremost of these was the suggestion for an act of parliament to impose a sanction in the nature of a monetary penalty payable by the organisation whose members failed to observe a settlement or agreement in similar manner to the scheme operating in the boot and shoe trade. The Council expressed their views against such an arrangement as follows :

> "If the fund is intended to be one out of which a penalty is payable equivalent to the amount of damage suffered, it is clear that in order to provide for a case involving a large number of persons, the sum of money which it would be necessary to deposit would be such that many of the smaller organisations would be unable to set aside so large a proportion of their funds, or to obtain money for such a purpose. If, on the other hand, the penalty to be paid is merely in the nature of a fine it does not appear that the adoption of the principle adds much to the restraining influence which is already exercised by the moral obligation to observe agreements."[1]

The Council concluded that the answer to the first question before them lay in the extension of the moral sanction which increased organisation would bring.

Their reply to the second query took a more concrete form. It included a draft scheme which provided, briefly, that whenever an industrial agreement had been reached the Board of Trade should hold an inquiry on request to decide whether it should be made obligatory on persons not members of

[1]Report of Industrial Council (Cmd. 6952), 1913.

associations which were parties to it, and, if decided in the affirmative, the agreement should be extended subject to the condition that there should be no stoppage of work or alteration of the conditions of employment until the dispute had been investigated by an agreed tribunal.[1]

SUMMARY, 1896-1914

The general results of government action over the period dealt with in this chapter may be briefly summarised from the figures given in the various reports of the Board of Trade.[2] The total number of trade disputes dealt with over the years 1896-1913 was 696, of which about 65 per cent. occurred in the last six years. Of these, 345 involved a stoppage of work before a settlement was effected. Out of the 696 cases dealt with under the Act, 538 were settled by processes of conciliation and arbitration, the former settling 98 cases which involved a stoppage of work and 74 cases that did not, making a total of 172 ; the latter settled 112 stoppages and 254 cases of non-stoppage, making a total of 366. These figures are misleading, however, as the arbitration cases were usually small disputes of interpretation, the total number of workers involved in them being some 84,000 as against 780,000 workers affected by the conciliation settlements.

It must be borne in mind that these figures represent only one angle of the arbitration and conciliation work of the period. Reliable figures for the work of non-state agencies are available only from 1907. For the seven-year period 1907-1913, out of the total of recorded disputes, including both stoppage and non-stoppage of work, 11,815 cases were ultimately settled by the voluntary agencies and only 387, or just over 3 per cent. by state agencies. If, however, we include only the acute disputes, those that involved a stoppage, we find that over the

[1]This suggestion is of interest as anticipating the principle applied to the cotton manufacturing industry in 1934. See below, Chapter VI.

[2]First to Eleventh Reports of Proceedings under the Conciliation Act, 1896. Annual Reports on Strikes and Lockouts from 1896 to 1913 inclusive.

whole period 1896-1913, 210, or 22 per cent. of the total of 949 stoppages settled by the various agencies were dealt with under the Conciliation Act and 739 by non-state bodies. And we find further that the 22 per cent. of the stoppages involved some 780,000 workers, while the remaining 78 per cent. affected only 500,000.

Two inferences from these figures are inevitable. Firstly, the state was able to interfere only in the largest and most serious disputes. The bulk of the work of reconciling the parties had still to be left to the conciliation and arbitration arrangements that had been set up in the various trades. Secondly, even in these serious disputes the main work of the state lay in the advanced stages only. It was, that is to say, an agency of last resort. Except where there existed no alternative liaison between the parties,[1] or where a vital interest of the public was at stake, the state felt no cause to intervene until called upon for assistance by one or both parties after the failure of the normal methods of reaching a settlement. The fact that joint application was so often made at that stage showed the real value of the Conciliation Act in strengthening voluntary action by interposing the skill and authority of an impartial government department between the voluntary machinery and deadlock.

[1] As in the case of the railways disputes in 1907.

CHAPTER III

State Action, 1914-1918

THE HISTORY OF state action during the years 1914-1918 can be regarded in the main as complete in itself. The introduction of compulsory arbitration was part of the general extension of government activity during the war emergency, but unlike many wartime features it left no permanent marks on the British system. The four years of its operation, far from disillusioning industry with voluntary methods, found both employers and workers at the end of that time anxious to return to the principles of the pre-war system. This desire was expressed in the reports of the Whitley Committee in 1917,[1] in the opposition to the proposal to repeal the Conciliation Act, as well as in the passing of the Industrial Courts Bill, shorn of all vestiges of legal enforcement.[2] In short, the experiment of compulsory arbitration strengthened rather than weakened the voluntary system of settling industrial disputes.

The break from voluntary procedure did not come immediately war broke out. The first reaction of industry to that event was the rapid settlement of outstanding disputes. On the 4th August, 1914, 100 strikes were known to the Board of Trade to be in progress. By the end of August the number had been reduced to 20 and this was halved by the end of the year. The policy of organised labour towards industrial disputes in wartime was set out in the following resolution passed at a joint meeting of the Parliamentary Committee of the Trades Union Congress, the Management Committee of

[1] See below Chapter IV.

[2] See below Chapter V.

the General Federation of Trade Unions and the Executive Committee of the Labour Party on August 25th, 1914:

> "That an immediate effort be made to terminate all existing trade disputes whether strikes or lockouts and whenever new points of difficulty arise during the war period, a serious attempt should be made by all concerned to reach an amicable settlement before resorting to a strike or lockout."

During February, 1915, however, this policy of a united industrial front against the common enemy began to wear thin. By that time two factors had arisen to disturb industrial relations. Firstly, the apprehension of unemployment had been replaced by an equal fear of labour shortage. The progress of recruiting had depleted the available supply of labour, while industries engaged in production of war materials were putting forward increasing demands for labour and particularly for skilled men. The second factor was the rapid rise in the cost of living as a result of government policy of "Business as Usual." Under these conditions the workers began to feel that their patriotism was being called upon to maintain the production of industry at its highest level without exploiting the labour shortage whilst profiteering by other classes was permitted to reduce the value of their wages. There was present, too, even early in 1915, rumblings of trouble on the vexed problem of labour dilution.[1] By the end of February the tide of labour disputes had again turned and from 10 in January, 1915, the number rose to 47 at the end of February. In March 74 fresh stoppages were reported.

Much of the unrest in early years might have been avoided had the existing negotiation machinery been speedier in application so that a reasonable proximity could have been kept between cost of living and wages. The failure of the negotiating machinery in these extraordinary circumstances was well illustrated by the trouble in the Clyde engineering trades. Under the agreements made between the Engineering

[1]On wartime dilution problems see G. D. H. Cole: *Trade Unionism and Munitions.*

Employers' Federation and the engineering unions, wage claims were first discussed at a local conference of the parties concerned and failing adjustment, at a central conference at York.[1] Satisfactory as this procedure was in times of comparative stability, it was too slow and cumbersome for a time of rapid industrial changes under war conditions. Not only would a considerable lapse of time take place between the initial presentation and the final settlement of cases, but also in the meanwhile fresh claims might accumulate causing a clog in the flow. Furthermore the trade unions represented in negotiation were great in number with very limited co-operation among them and with leaders of varying degrees of skill and willingness to commit themselves without reference to the rank and file. These factors were present in peacetime but their restrictive nature was aggravated in a period of war. Another serious wartime difficulty was that trade unions could not enforce their decisions either against those workers who took full advantage of the opportunities offered to them by individual employers faced with a labour shortage and diminution of huge war profits, or against those minority members who were bold enough to defy the constitutional authorities of the trade unions with their own radical policies.

By 1915 the country was no longer under the delusion that the war would be a short one. It began to dawn on people, and not least on the government, that quantities of armaments and munitions on a scale hitherto undreamt of must be turned out by the workshops of Britain; that any factor lessening the productiveness of these establishments became a national menace. Obviously, strikes (lockouts being unlikely in the existing conditions) were in this description and their increasing number required something to be done.

Conferences for the relief of labour shortage by means of relaxation in union restrictions, and peaceful settlement of disputes had been commenced in the first flush of patriotic

[1]See above Part I, Chapter IV.

zeal, between the engineering and shipbuilding employers on the one hand and the trade unions on the other.[1] It was not, however, until the appointment of a Committee of Production by the government on February 4th that any headway was made. This Committee was appointed on the recommendation of the Chief Industrial Commissioner, Sir George Askwith, who became its chairman.[2] Its mandate required it to investigate and report on the best means of ensuring that "the productive power of the employees in engineering and shipbuilding establishments working for government purposes shall be made fully available so as to meet the needs of the nation in the present emergency." Their second interim report was issued on 20th February and dealt, *inter alia*, with the avoidance of stoppage of work. In it they expressed their strong opinion that "during the present crisis employers and workmen should under no circumstances allow their differences to result in a stoppage of work . . . In the event of differences arising which fail to be settled by the parties directly concerned or by their representatives, or under any existing agreements, the matter shall be referred to an impartial tribunal nominated by His Majesty's Government for immediate investigation and report to the Government with a view to settlement."[3]

The Government at once adopted this recommendation and on the following day extended the Committee's terms of reference to enable it to act as the "impartial tribunal" to which differences should be referred. It heard the first case the same day and issued its first award eight days later. Thenceforth it existed primarily as an arbitration tribunal.

On the initiative of the Chancellor of the Exchequer, Mr. Lloyd George, a conference of representatives of trade unions

[1]These began informally in October, 1914, but were discontinued when the government began a survey of the same field at the "Shell Conference" on 21st December. Twelfth Report, p. 5.

[2]Its other members were Sir Francis Hopwood (representing the Admiralty) and Sir George Gibb (representing the War Office).

[3]Twelfth Report, Part II, p. 3.

was summoned at the Treasury on March 17th to discuss means of organising labour forces on a war basis in the light of the passing of the Defence of the Realm (Amendment) Act. As a result of the conference, what was known as the Treasury Agreement[1] was signed on the 19th by some 35 workmen's organisations. Under it, the representatives agreed to recommend to their members a relaxation of restrictive trade regulations to the extent necessary to accelerate output of war munitions or equipment. These recommendations were conditional upon undertakings to restore after the war any trade practices suspended, and to pay customary rates of pay for skilled men where demarcation rules were not applied. In addition it was agreed that for the duration of hostilities there should be no stoppage of work "upon munitions and equipments of war or other work required for a satisfactory completion of the war," but that where the parties failed to agree upon questions of wages or conditions of employment the difference should be referred for final settlement to one of three alternative tribunals to be chosen by agreement or in default of agreement by the Board of Trade. In respect of these alternatives the Treasury Agreement made no innovations. They were the already existing arbitration tribunals, viz. :

(*a*) The Committee on Production

(*b*) A single arbitrator agreed upon by the parties or appointed by the Board of Trade.

(*c*) A court of arbitration upon which labour would be represented equally with the employers.[2]

This agreement considerably extended the work of the Committee on Production. The whole arrangement at that time was quite voluntary and informal and it was not until July when it became a statutory tribunal under the Munitions

[1]Twelfth Report, pp. 8-12.

[2]i.e., an *ad hoc* Court of Arbitration as appointed under the Conciliation Act since 1908.

of War Act that its awards had any legal force. During the voluntary period, 39 awards were issued and accepted in every case. The Treasury Agreement, however, failed to stem the rising tide of unauthorised stoppages due to the increasing cost of living, to resentment at blatant profiteering, and to irritability from incessant physical and mental strain. Strikes increased in the three months following the agreement affecting more than 84,000 workers and costing the country over 525,000 working days.

In these circumstances it was felt that greater powers were needed to curtail such unnecessary wastage. On the 2nd July, 1915, the Munitions of War Act[1] became law. It dealt with differences as to rates of wages, hours of work or otherwise as to terms or conditions of or affecting employment on the manufacture or repair of arms, ammunition, ships, vehicles, aircraft, or any other articles required for use in war or, of the metals, machines or tools required for that manufacture or repair. The Act was thus limited in its immediate application to munitions work but power was given to extend it by proclamation to "any other work of any description,"[2] and it was in fact so extended to the coal miners in South Wales, to card and blowing room operatives in Lancashire, and to dockers in London, Liverpool and Glasgow.

The Act provided that any difference which the parties failed to settle might be reported by either of them to the Board of Trade. The Board was then required to take any steps expedient to promote a settlement. If the Board thought fit the difference could be referred for settlement by arbitration to any one of the three tribunals set out in the Treasury Agreement. The award of the tribunal selected became binding

[1] 5 and 6 Geo. V. c. 54.

[2] Such an extension was not to be made, however, so long as the Minister was satisfied that effective means already existed in industry to secure a settlement. This proviso was a concession to the unions in the coal and cotton industries, which had refused to accept compulsory arbitration at the Treasury Agreement on the ground that their own machinery for settling disputes was adequate.

on employers and employed and failure to comply therewith was punishable by a fine not exceeding £5 for each day of the contravention and in the case of a guilty employer, for each man in respect of whom the contravention took place.

Unless a difference had been so reported and the Board of Trade had failed to take action within 21 days, strikes and lockouts were prohibited under penalty of a fine of £5 in respect of each man locked out on each day of the lockout and a similar fine for each day in the case of strikers.

The Munitions of War Act thus made the first departure from the prevailing system of voluntary settlement of trade disputes. The break was made with some reluctance and compulsion was pushed as far from the start of the dispute as possible in order to allow alternative methods to be first applied. So the Act provided that where a difference was reported to the Board of Trade and, in the opinion of the Board, suitable means for settlement already existed in pursuance of an agreement between the parties, the matter might be referred for settlement in accordance with those means and only on a deadlock need it be referred to one of the arbitration tribunals. A few cases were so referred by the Board of Trade, but in practice differences when reported had already been through the voluntary machinery of the parties without being adjusted. Moreover, expedition being essential to both parties, arbitration was preferred by them to indefinite conciliation.

The statutory limitation of the right to strike was compensated for by provisions designed to prevent profiteering by employers. Under these the Minister of Munitions had power to declare any establishment in which munitions work was being carried on, a "controlled establishment." This involved a limitation of profits and an obligation, enforced by penalty, to comply with any regulations made by the Minister "with respect to the general ordering of the work of the establishment."

On the employees' side an extra sanction against unreasonable stoppage of work by individuals was provided by pro-

hibiting the employment of any workman who had within the previous six weeks left munitions work, unless the workman held a certificate from his last employer that he left with his consent or alternatively held a certificate from a munition's tribunal to the effect that the employer had unreasonably withheld his consent.

The Act was amended early the following year. The Munitions of War (Amendment) Act, 1916,[1] limited the time within which the Board of Trade might postpone the reference of a bona-fide difference to statutory arbitration to 21 days from the date of the reporting of the difference to the Board.

It also enlarged the definition of "munitions work" to include production less directly connected with the actual waging of war. The amended definition covered, for instance, the manufacture or repair of any class of ship under a Board of Trade certificate ; the erection of construction works, docks and harbours under Admiralty certificate ; the supply of light, heat, waterpower, tramway facilities and the erection of buildings, machinery and plant required for each supply, and the repair of fire engines and fire brigade appliances under certificate of the Minister of Munitions.

The main change made by the 1916 Act, however, was the acceptance by the government of the liability to fix wages direct for certain classes of work. This liability was undertaken as a manifestation of the government's good faith in its undertaking by the Treasury Agreement and subsequently that dilution, whether in the form of replacement of male by female labour or of skilled by semi-skilled or unskilled labour, should not permanently prejudice the vested interests of those replaced. To make good this undertaking, it became necessary to ensure that women employed on men's work or semi and unskilled men employed on skilled work, were not paid at rates so low or on conditions so favourable to the employer as to imperil the chances of those whose positions were filled, from regaining them when war had ended. Sections 6 and 7,

[1] 5 and 6 Geo. V. c. 99.

therefore, gave the Ministry of Munitions power to give directions by order as to the rates of wages, hours of labour (subject to provisions of the Factory Acts or the concurrence of the Home Office), or conditions of employment, of female workers engaged on munitions work in certain classes of establishments, and of semi-skilled and unskilled men employed in any controlled establishment on munitions work of a class which, prior to the war, was customarily undertaken by skilled labour.

The importance of these provisions in relation to dispute machinery lay in the next section, which authorised the Minister to constitute special arbitration tribunals to deal with differences reported relating to matters on which he could issue orders under the two preceding sections. The Board of Trade then had the option to refer such differences to these special arbitration tribunals instead of to one of the three tribunals mentioned in the 1915 Act. The new bodies were duly established but in point of fact only the Women's Tribunal was used to any extent. It continued to operate until replaced by the Interim Court of Arbitration in November, 1918. Very few cases were referred to the Tribunal dealing with semi-skilled and unskilled men who were adequately covered by the Committee on Production, and that Tribunal ceased to exist after a few months.

Before referring to the third Munitions of War Act passed in 1917 it is necessary to mention three prior events. The first was the passing in December, 1916, of the new Ministries and Secretaries Act[1] which, inter alia, established a Ministry of Labour to take over the powers and duties hitherto exercised by the Board of Trade under certain statutes. Among the tasks transferred were those arising from the Conciliation Act and the arbitration sections of the Munitions of War Act. The good work subsequently performed under the extra authority of a separate Ministry of Labour has been one of the lasting

[1] 6 and 7 Geo. V. c. 68.

benefits of state action from this period of temporary expedients.

The second event was the reconstituting of the Committee on Production in May, 1917. From the time of the formation of a Ministry of Munitions in July, 1915, the original functions of the Committee in relation to production in engineering and shipbuilding establishments were absorbed in that Ministry. The Committee then existed solely as an arbitration tribunal under the Munitions of War Acts and developed into the principal wartime arbitrator. Its activity led to the appointment of two additional members later in 1915. The reconstruction in 1917 was the result of agitation by the unions for representation. It consisted of the appointment of two representatives of employers and two of labour with two neutral chairmen. This allowed it to sit in two divisions and speeded up its work. As this form became increasingly popular, additional divisions were created by adding new members so that by the Armistice it was composed of five neutral chairmen and eight representative members. This reconstruction made the third arbitration tribunal of the Munitions of War Act, redundant. There were left, therefore, three main means of arbitration in respect of munitions work, the Committee on Production, single arbitrators, and the special Tribunal for Women. Among these, however, the first established a pre-eminent position not only on account of the extra number of cases referred to it as compared with the others but also because its personnel gave it a voice of authority so that its decisions became a guide for the other arbitration bodies and very often a basis for voluntary settlements elsewhere.

The third event prior to the passing of the Munitions of War Act, 1917, was the appointment in June of a Commission "to inquire into and report upon industrial unrest and to make recommendations to the Government at the earliest practicable date." The Commissioners reported in July. The main causes of the unrest lay, they found, in the high food prices in relation to wages, coupled with suspicion of profiteering, and in the

restriction of personal freedom under the Munitions of War Acts and other emergency measures. But they also ascertained that considerable irritation and suspicion was being aroused by delay in the settlement of disputes.[1]

In respect of munition workers, the government attempted to eliminate unreasonable delay by the Munitions of War Act[2] passed on the 21st August, 1917. Section 6 enabled a government department, as well as either party to a dispute, to report to the Ministry of Labour. Moreover, the Minister of Labour was authorised to make regulations with respect to the reporting and in order to prevent delay in preliminary negotiations, to prescribe a time limit within which a dispute could be reported. By section 7 the arbitration tribunal to which a matter was submitted by the Minister, was required to make its award "without delay and where practicable within 14 days from the date of reference."

Other sections of the Act also had some bearing on the question of the settlement of disputes. Under section 1 the Minister of Munitions was required to give directions as to the remuneration to be paid for work performed at time rates, "being munitions work or work in connection therewith or work in any controlled establishment." Differences arising in respect of matters which were the subject of such directions were to be referred to a special tribunal as under the 1916 Act. The members of this tribunal for time workers were identical with those of the Committee on Production.[3]

The Act also authorised the Minister of Munitions to make certain awards and agreements a common rule throughout a trade. That is to say where an award was made or an agreement reached between the parties as to the rate of wages payable to persons engaged on or in connection with munitions of war, or

[1]Cmds. 8662-8669 of 1917-18. The Reports are summarised in Cmd. 8696 of 1917-18.

[2]7 and 8 Geo. V. c. 45.

[3]Twelfth Report, p. 21.

as to the hours of work or as to the terms or conditions of employment of persons so engaged, the terms of the award or agreement might, by order of the Minister, on his being satisfied that they already bound employers employing the majority of munition workers in the trade or branch, be made binding on all or any other employers or persons in the trade or branch. And in so extending its scope the Minister had power to adapt or modify the requirements to meet particular circumstances.

In one direction the Act partly restored personal liberty restricted by the 1915 Act. The indirect sanction against unreasonable stoppage of work created by the leaving certificate system was made amendable at the discretion of the Minister of Munitions to permit workmen employed on munitions work to go from one munitions job to another without a certificate. But when such amendment occurred contracts of employment in munitions work were not terminable by either party by less than one week's notice or payment of a sum equal to an average week's wages.

Although the Munitions of War Acts primarily affected only munitions works, that term as defined by statute and judicial interpretation,[1] covered, towards the end of the war, the greater part of the industrial enterprise of the community. Moreover, whilst such large industries as coal mining, cotton and transport were outside the scope of the wartime measures, the rising cost of living and dilution of workers had changed their position considerably since 1914. The whole of industry was directly or indirectly affected by the fact that the country was at war. It was realised by the government that while the change from a peace to a war economy had been assisted by the patriotic feelings and sense of urgency of both employers and workers, the reverse process might produce much greater difficulties and at best would involve industrial dislocation.

[1]See, for example, Shaw *v.* Lincoln Waggon and Engineering Co. Ltd. (1916, 32 T.L.R. 470), Judgment of Atkin, J.

With this in mind the Minister of Reconstruction[1] in 1918 appointed a Committee to advise what effect the termination of the war would have on the awards of the wartime arbitration tribunals. This committee was deliberating at the time of the Armistice (11th November, 1918). Largely on its recommendations[2] the Wages (Temporary Regulation) Act, 1918,[3] was passed on 21st November with the concurrence of employers' associations and trade unions. The Act was a temporary measure only. It was intended to be a kind of statutory shute down which industry might slide gently from a war to a peace level with a minimum of industrial bumps. This slide was expected to take six months but at the end of that time the duration of the Act was extended for a further six months.[4] It set up a new court called the Interim Court of Arbitration to replace the Committee on Production. In fact, however, the Interim Court was the committee enlarged to twenty members. For the duration of the Act employers were required to continue to pay wages at the standard rates existing on 11th November, 1918. Any dispute as to what was the actual rate was to be determined by the Interim Court. At any time, however, fresh rates might be substituted for the prescribed rates either by award of the court or by agreement between the parties approved by the Minister of Labour.

The sections of the Munitions of War Acts relating to the prohibition of strikes and lockouts were repealed, as were also

[1]The Ministry of Reconstruction was a wartime department established under the New Ministries Act, 1917 (7 and 8 Geo. V. c. 44), with a view to promoting the work of organisation and development after the termination of the war (Sec. 1). The duties of the Minister of Reconstruction were defined by Sec. 2 as "to consider and advise upon the problems which may arise out of the present war and may have to be dealt with upon its termination; and for the purposes aforesaid to institute and conduct such enquiries, prepare such schemes and make such recommendations as he thinks fit."

[2]Report not published. See Report on the Work of the Ministry of Reconstruction (Cmd. 9231 of 1918), p. 21 and p. 40.

[3]8 and 9 Geo. V. c. 61.

[4]9 and 10 Geo. V. c. 18.

those relating to compulsory arbitration, but a measure of compulsion was retained in the case of differences as to :

(1) Whether the workman was a workman of a class to which the prescribed rate of wages was applicable.

(2) What was the prescribed rate of wages.

(3) Whether any rate should be substituted for the prescribed rate.

(4) What was the substituted rate of wages.

Any dispute on these points could be reported to the Minister as before and he was required to take such steps as seemed to him expedient to promote a settlement. Failing other efforts he was obliged to refer the matter to the Interim Court for a binding award.

The Act thus compromised between the system of compulsory arbitration of the Munitions of War Acts and the entirely voluntary system which had prevailed prewar. Its expiry on the 21st November, 1919, limited state action in dispute settlement once more to the voluntary forms of the Conciliation Act supplemented by agencies of a similar nature under the Industrial Courts Act, 1919.

The purpose of the 1915-1918 statutory measures was, of course, the avoidance of loss of production. Compulsory arbitration was a consequence of the restriction on the use of the economic weapons of strikes and lockouts.

That the statutory purpose was not completely fulfilled is shown by the fact that the majority of stoppages between 1914 and 1918 occurred in connection with munitions and allied trades.[1] The sheer impossibility, in a last analysis, of enforcing

[1]Approximately a third of the total stoppages occurred in engineering and shipbuilding (the overwhelming majority of which were illegal stoppages). The total amounted to 3,099 of which 2,367 took place in industries closely connected with war work to which the Munitions of War Acts applied or might be expected to be applied by proclamation. See table compiled from the Annual Abstracts of Labour Statistics by D. Chang in *British Methods of Industrial Peace*, pp. 93-94.

penal provisions against thousands of strikers simultaneously was revealed by the dilemma of the government after extending Munitions of War Act by proclamation to the South Wales miners in 1915.[1] The number of workers convicted of illegal striking up to July, 1916 (after which returns are not available), was little over one-third of one per cent. of those who had actually taken part in the strikes, while the amount of fines paid amounted to less than one-sixteenth of one per cent. of the maximum imposed by statute. The war experiment demonstrated quite clearly the impracticability of abolishing industrial disturbances by mere statutory prohibition.

Nevertheless the war system did straighten out many differences, a large proportion of which would otherwise have involved strikes and lockouts. In 1914 the number of disputes resolved by conciliation and arbitration through state agencies (i.e., under the Conciliation Act, 1896) was 81.[2] After the setting up of the Committee on Production in 1915, the number increased to 397 and for the last year of the war rose to 3,583. The total number of cases heard during the four years was 7,947 of which more were heard by the Committee on Production than by any other arbitrator. It is significant that whereas in the early period nearly twice as many cases were referred to single arbitrators as to the Committee, from the reconstruction in 1917 the position was reversed and in

[1]Within 13 days of the passing of the Munitions of War Act, 1915, 200,000 miners ceased work in South Wales in circumstances which could only be interpreted as a challenge to the government, which had been conducting negotiations through the President of the Board of Trade. On the 13th July a Royal Proclamation was issued under the Act making it an offence to take part in a strike on the South Wales Coalfields and setting up a General Munitions Tribunal for that area. The striking increased rather than lessened and on the 20th July the Minister of Munitions and the President of the Board of Trade went down to Cardiff and ended the dispute by granting practically all the claims of the strikers, leaving only nominal and technical matters to arbitration. See Lord Askwith : *Industrial Problems and Disputes*, pp. 391-5 ; H. Wolfe : *Labour Supply and Regulation*, pp. 126-7.

[2]Twelfth Report.

1918 nearly two-thirds of all the cases brought forward were referred to the Committee.[1]

[1]The vast majority of the 3,754 cases heard by the Committee arose from wage claims made by the trade unions on behalf of their members. During 1915 and 1916 the bulk of these were district claims from the engineering and foundry trades for advances of wages to meet the increasing cost of living in each district. Each claim went through the same procedure and involved a separate hearing although in the end there would be comparative uniformity in the awards for one trade in the several districts. Towards the end of 1916, the Chief Industrial Commissioner instituted negotiations between the Engineering Employers' Federation and various trade unions having members in engineering shops and foundries, with a view to avoiding the delay and trouble involved in separate district claims. The outcome was an agreement signed in February, 1917, suspending existing agreements and practices in regard to applications for changes in wages for the duration of the war and such further time as should be agreed upon. In place thereof the Committee on Production was to determine quarterly, "what general alteration, if any, was warranted by the abnormal conditions then existing and due to the war." These quarterly determinations were awards under the Munitions of War Acts and had national application to all federated firms in the branch of trade concerned. The first award was issued under this agreement on 1st March, 1917.

Agreements on the same lines were subsequently made by employers' federations and trade unions in other trades. In addition, in certain of the trades, e.g., shipbuilding, Scottish iron and steel, dockers, carters, clay workers, and railway shopmen, a less formal arrangement was adopted involving the principle of a four-monthly revision of wages by the Committee on Production. See Twelfth Report, pp. 34-50.

CHAPTER IV

The Whitley Scheme

WHILE THE COMPULSORY ARBITRATION of the Munitions of War Acts was still functioning, the policy for promoting industrial peace after the Armistice was being worked out. This began in 1916 as a part of the general planning for "reconstruction." The time for such a movement was propitious. There then appeared to be good prospects of the early collapse of the enemy and the man in the street was, therefore, beginning to take an interest in the aftermath. The sacrifices of two years had aroused against the existing order more than a mild discontent, which demanded that the return of peace should herald a life materially and ethically better.[1]

In this atmosphere of idealism the Cabinet Committee on Reconstruction was set up by the Prime Minister, Mr. Asquith, in March, 1916.[2] In October it appointed a sub-committee which, on the formation of the Ministry of Reconstruction the following year, became a committee of that department under the title of "The Committee on Relations between Employers and Employed." Its terms of reference were :

"(1) to make and consider suggestions for securing a permanent improvement in the relations between employers and workmen.

"(2) to recommend means for securing that industrial conditions affecting the relations between employers and workmen shall be systematically reviewed by those concerned, with a view to improving conditions in the future."

[1]See *Industrial Reconstruction*, a symposium on the situation after the war and how to meet it, conducted by Huntly Carter between November, 1916, and April, 1917.

[2]*Report on the Work of the Ministry of Reconstruction*, cmd. 9231 of 1918.

In carrying out this task the Committee was not concerned with remedying a wartime situation as was, for example, the Commission of Inquiry into Industrial Unrest a year later.[1] Its concern was "permanent improvement," and a personnel was appointed capable of undertaking a long-term policy view. Representatives of organised labour and employers sat with prominent economists and social workers under the chairmanship of J. H. Whitley (then Chairman of the Committees of the House of Commons and later its Speaker), by whose name the Committee is commonly known.[2]

The Committee issued five reports,[3] the first on the 8th March, 1917, while still a sub-committee, and the final report, a summary of preceding ones, on 1st July, 1918. Before examining the contents of these it is necessary to understand the changes wrought by the war in the field of its survey.

Between 1913 and 1917 the trade union movement had increased its strength by somewhat over a million workers.[4] More important than numerical change, however, was the improvement in the status of the unions. The closer connection between state and industry since 1914 had compelled the government to consult representatives of industry and for this consultation the representatives of the workers were as indispensable as those of the employers. State recognition which this involved helped to secure acceptance of unionism else-

[1]Reports cmds. 8662-8669 and 8696 of 1917-18.

[2]The other members of the Committee were: F. S. Button (former member of Executive Council, Amalgamated Society of Engineers); G. J. Carter (Chairman, Shipbuilding Employers' Federation); S. J. Chapman (Professor of Political Economy, Manchester University); G. Claughton (Chairman, London and North Western Railway Company); J. R. Clynes (President, National Union of General Workers); J. A. Hobson (Professor of Economics, London School of Economics); Susan Lawrence (Member of Executive Committee of the Women's Trade Union League); J. J. Mallon (Secretary, National Anti-Sweating League); T. R. Ratcliffe-Ellis (Secretary, Mining Association of Great Britain); R. Smillie (President, Miners' Federation); A. Smith (Chairman, Engineering Employers' Federation); Mona Wilson (National Health Insurance Commissioner).

[3]Cmd. 8606 of 1917; cmd. 9002 of 1918; cmd. 9001 of 1918; cmd. 9099 of 1918; and cmd. 9153 of 1918.

[4]*The Twenty-second Abstract of Labour Statistics* gives the figures for the two years as 4,135,000 and 5,499,000 respectively.

where. Prejudices were overcome and relations between organised labour and employers grew far more amicable. Employers became accustomed to collective bargaining which in turn necessitated increased organisation. On both sides the years of war brought amalgamations and federations.[1]

The effect of a scarcity of labour plus the increased respect for his union, gave the worker a new feeling of indispensability which was translated over a wide field into a sense of power stimulating new ambitions. This led to the demand for greater control by the workers in industry, particularly in the engineering trades, where it was made through the shop steward movement.[2] Before the war the majority of unions had appointed one or more members at each works as minor officials with duties, among other things, to represent them on the spot in shop disputes, to collect the weekly dues, and to recruit new members. The power of these shop stewards increased rapidly during the early years of war and where the unions were handicapped both by their trade agreements and the conservatism of a labour bureaucracy, the shop stewards very often became the real representatives of the rank and file. The chief object of the shop steward movement then became the obtaining of "an ever-increasing control of workshop conditions" and in this it achieved considerable success as long as war production continued.[3]

This claim was directed as much against excessive government intervention in industry as against the employers. The immense extension of government interference in industry under emergency provisions involved restriction of individual action.[4] Employers and employees alike resented such en-

[1]See article "The Progress of Amalgamation in British Trade Unionism by Sidney Webb in *International Labour Review*, January, 1921. Also as to employers' organisations, Chapter III, *Industrial Relations in Great Britain*, by J. H. Richardson.

[2]See G. D. H. Cole: *Workshop Organisation.*

[3]See G. Williams: *Social Aspects of Industrial Problems.*

[4]e.g., restriction of action of employees imposed by the "leaving certificate" of the Munitions of War Act, 1915, and of both employers and employees by the "controlled establishments" created by the same Act. See H. Wolfe: *Labour Supply and Regulation.*

croachment and joined voices, though with different intentions, in a cry for "self government."

THE WHITLEY PROPOSALS

The Whitley Committee were well aware of these developments. Their reports were based on three hypotheses: (1) recognition of trade unionism, (2) the necessity for a large measure of self-government in industry, and (3) the acceptance of the pre-war policy of non-compulsion in trade regulations on the part of the government.

In their first report the Committee gave it as their considered opinion "that an essential condition of securing a permanent improvement in the relations between employers and employed is that there should be adequate organisation on the part of both employers and workpeople." They made this organisation the focal point of their plans for joint action and suggested different machinery according to the degree of organisation in any trade. They divided industries according to this criterion into the following categories:

> "Group A—consisting of industries in which organisation on the part of employers and employed is sufficiently developed to render their respective associations representative of the great majority of those engaged in the industry.
>
> Group B—comprising those industries in which either as regards employers and employed or both, the degree of organisation, though considerable, is less marked than in Group A.
>
> Group C—consisting of industries in which organisation is so imperfect either as regards employers or employed, or both, that no associations can be said to be adequate to represent those engaged in the industry."[1]

For those of Group "A" the first report proposed "a triple form of organisation, representative of employers and employed, consisting of joint industrial councils, joint district

[1]Second Report.

councils, and works committees, each of the three forms of organisation being linked up with the others so as to constitute an organisation covering the whole of the trade."[1] In their second report the Committee suggested a modified form of this machinery for Group "B" with one or more representatives of the government attached to the joint councils in an advisory capacity. For Group "C" the same report proposed an expansion of the system of Trade Boards, working under an amended Trade Boards Act.

The third and fifth reports added nothing new to these general lines, whilst the fourth was confined to matters which are the subject of the next chapter. As the recommendations of the second report were not put into effect, except in relation to Trade Boards, it is mainly the contents of the first report that need be dealt with here.

The essence of the Whitley proposals was the triple negotiation machinery. In proposing it, the Committee had consciously summed up the best practices of the existing voluntary machinery to "indicate a ground plan" by following which "all the chief industries of the country could equip themselves with machinery capable of dealing with matters affecting the welfare of the industry." They refrained from making proposals in detail as to the constitution and procedure of the councils and committees, believing it to be the best policy to leave it to the trades themselves to formulate schemes suitable to their special circumstances." Their proposals were in the nature rather of general principles which experience, and in particular war experience, had shown to be essential to the development of any sound system of conciliation.

The first of these was that wherever possible the machinery must be national in its scope. Localities and districts could no longer be regarded as separate entities in negotiation, for experience had shown that a settlement in one was certain to have repercussions in another. Hence the first need was a national council.

[1]Final Report.

But it was not enough to limit co-operation to the centre. The second implicit principle, therefore, was that whilst national in extent, the machinery must be decentralised in action. Good relations require prompt discussion of grievances and settlement of disputes as they arise, and for this the machinery must include district and workshop organisation capable of acting on its own initiative and making a settlement of any issue or carrying through any joint plan not extending beyond its frontiers. This called for district councils and works committees.

The third principle was that the machinery must be "standing." Unless it provided for regular meetings it was likely to be forgotten after the enthusiasm of the first meeting had worn off. Apart from this, *ad hoc* negotiations had proved to be less effective than permanent contact, for once broken off they are difficult to resume, since initiative by either side might be taken as a sign of weakness. Moreover, as had been proved in the older industries, regular association on a standing body has a valuable influence on the mutual understanding and personal relations of the members on both sides.

Fourthly, the basis of representation throughout should be the trade organisations.[1] Not only would this give a continuity and responsibility of representation but it would also tend to strengthen the organisations concerned.

Finally, the scheme contained the principle of industrial self-government. A permanent improvement in relations between employers and employed must be founded, the Committee were convinced, upon something other than a cash basis. What was wanted was "a greater opportunity of participating in the discussion about the adjustment of those parts of industry by which they are most affected." For this purpose

[1]In reply to questions from the Reconstruction Committee of the Cabinet designed to elucidate certain points in the First Report, the Committee said : "It is intended that the Councils should be composed only of representatives of Trade Unions and Employers' Associations, and that new organisations should be admitted only with the approval of the particular side of the Council of which the organisation would form a part."

the Committee enumerated the following, as proper subjects for national councils to undertake or allocate to district councils or works committees :

(i) the better utilisation of the practical knowledge and experience of the workpeople.

(ii) means for securing to the workpeople a greater share in and responsibility for the determination and observance of the conditions under which their work is carried on.

(iii) the settlement of the general principles governing the conditions of employment including the methods of fixing, paying and readjusting wages, having regard to the need for securing to the workpeople a minimum wage and a share in the increased prosperity of the industry.

(iv) the establishment of regular methods of negotiation for issues arising between employers and workpeople with a view both to the prevention of differences and to their better adjustment when they appear.

(v) means of ensuring to the workpeople the greatest possible security of earnings and employment, without undue restriction upon change of occupation or employer.

(vi) methods of fixing and adjusting earnings, piece work prices, etc., and of dealing with the many difficulties which arise with regard to the method and amount of payment apart from the fixing of general standard rates covered by para. (iii).

(vii) technical education and training.

(viii) industrial research and the full utilisation of its results.

(ix) the provision of facilities for the full consideration and utilisation of inventions and improvements designed by workpeople, and for the adequate safeguarding of the rights of the designers of such improvements.

(x) improvements of processes, machinery and organisation and appropriate questions relating to management and the examination of industrial experiments, with special reference to co-operation in carrying new ideas into effect and full consideration of the workpeople's point of view in relation to them.

(xi) proposed legislation affecting the industry.

The variety of these subjects brings out at once the very much wider co-operation proposed under the new machinery, as compared with the customary conciliation and arbitration boards. The ultimate aim was the same in both cases, the maintenance of good relations between employer and employed. But whereas the boards functioned in many cases only when a dispute had arisen, the Whitley machinery proposed the joint consideration of matters of common interest and the adjustment of difficulties before they could become disputes. This, it was hoped, would "materially reduce the number of occasions on which, in the view of either employers or employed, it is necessary to contemplate recourse to a stoppage of work."

With the voluntary nature of the older machinery the reports were in entire accord. The Committee stated their desire "to emphasise the advisability of a continuance as far as possible of the present system whereby industries make their own agreements and settle their differences themselves." They proposed, therefore, that State action (apart from matters to be dealt with in the next chapter) should be limited to supplying information to councils and assisting them with advice. Even the initiation of the scheme in any industry was to be left to the industry itself, the government being advised, in placing the Committee's proposals before the employers' and workpeople's associations, "to request them to adopt such measures as are needful" but to take no legislative steps to compel compliance. At some future date, however, the Committee believed that it might be desirable "to give the sanction of law to agreements made by the Councils," but the initiative in this direction should come from the councils themselves.

APPLICATION OF THE PROPOSALS

The first report of the Committee was well received. Copies were forwarded by the government in July, 1917, to 107 employers' associations and 183 trade unions in the well-organised industries to ascertain their views. By October no

replies opposing the principle of the scheme and only five objecting to the application of the proposals in their respective industries, had been received. The government thereupon announced its acceptance of the recommendations as part of its general policy of reconstruction.

A circular letter from the Minister of Labour to the leading trade associations urged the adoption of the measures and announced the government's intention to recognise the councils as "the official standing consultative committees to the government in all future questions affecting the industries which they represent." This was followed up by visits from officials of the Ministry and members of the Committee and by the preparation and distribution of pamphlets setting out the Committee's recommendations, together with official suggestions on the establishment of industrial councils and works committees which amounted to skeleton constitutions that could be used as a basis in any industry. In 1918 a Joint Industrial Councils Division of the Ministry was created to take over the work of assisting the formation of Councils. This included arranging conferences between the two sides of an industry, assistance in drawing up a constitution, resolving differences arising in the apportioning of representation between several organisations and the convening of the first meeting of a new council.

The threefold classification of industries adopted by the Committee was found in the course of these negotiations to be unworkable. The only practicable distinction was between industries where organisation was sufficiently developed[1] to justify the formation of a national joint industrial council and those that were not. This was pointed out in a memorandum issued by the Ministers of Reconstruction and Labour in June, 1918, stating their intention "to recognise one type of Industrial Council only, and not to attach official representatives to

[1]No minimum percentage of representation was required officially, but J. B. Seymour states that "it was generally understood that a minimum of 75 per cent. of those engaged in the trade was desirable." *The Whitley Councils Scheme*, p. 20.

the Council except on the application of the Industrial Council itself."[1] In the less well-organised industries it was agreed in consultation between the Board of Trade, the Ministry of Labour and the Ministry of Reconstruction that the last-named should undertake the formation of interim industrial reconstruction committees to operate until improvement in organisation and experience in joint action made it possible to reconstitute them as permanent joint industrial councils. The provision made for unorganised trades was an amendment of the Trade Boards Act, 1909[2] to enable them to be brought under Trade Boards where necessary. The Trade Boards Act, 1918, however, which affected this extension retained the character of the Boards as compulsory minimum wage-fixing bodies only and gave no effect to the Committee's recommendation to expand the nature of their function, apart from a provision for making recommendations to government departments with reference to the industrial conditions of the trades concerned.[3]

By the end of 1918 twenty joint industrial councils had held their first meeting. Except in the case of the pottery[4] and building industries[5] where the development was to a large extent independent of the Whitley report, the trades covered were of a local or specialised character. In April, 1919, a new element was introduced into the movement with the formation of the first council in public enterprise, the Local Authorities Non-Trading Services (England and Wales). This was followed in July by the first civil service council (Administratve and Legal Departments). Since then the scheme has been adopted by other government concerns, both trading and non-trading, and by local authorities, and it is in this field that the machinery has worked most smoothly.

[1]Cmd. 9231 of 1918.
[2]9 Edw. VII, c. 22.
[3]See below Chapter VI.
[4]See article by F. H. Hand on "The Pottery Council" in *Unity*, December, 1934, p. 166.
[5]See Garton Foundation: The Industrial Councils for the Building Industry.

Although the scheme was designed primarily for the well-organised industries as a supplement to their existing machinery,[1] for a variety of reasons, it was largely ignored by them. In the case of coal mining, the energies of the unions from 1918 were directed towards nationalisation in the industry; the railways were absorbed in their own scheme which received legislative expression in 1921; the cotton industry was more or less satisfied with existing conciliation machinery, while labour in the iron and steel and engineering trades was under the influence of the radical movement represented by the shop stewards. In the one large industry where a joint industrial council was formed, viz., the building industry, it survived only until 1922. This abstention by the major industries crippled the scheme from the start. Not only did it limit the movement to industries whose circumstances were less favourable to its success but it also lessened the importance which those industries were likely to attach to it. Had the large industries adopted the scheme there can be no doubt that more of the smaller ones would have been encouraged to follow suit.

The creation of new councils which continued during 1919 and the first part of 1920 was arrested by the trade slump of 1920-21. After the issue of the Geddes Committee's reports on National Expenditure in 1922[2] the Ministry of Labour abandoned its drive for the formation of councils and disbanded the Joint Industrial Councils Division as a separate department, merging its functions with those of the Industrial Relations Department.[3] The tide of wartime idealism in which the

[1]In answer to the question whether the Whitley machinery was intended to be in addition to or in substitution for conciliation boards and other existing machinery, the Committee replied: "In most organised trades there already exist joint bodies for particular purposes. It is not proposed that the Industrial Councils should necessarily disturb these existing bodies. A Council would be free if it chose and if the bodies concerned approved, to merge existing committees, etc., in the Council or to link them with the council as sub-committees." *Industrial Reports*, No. 1, p. 18.

[2]Cmds. 1581-2, 1589.

[3]For criticism of the subsequent "wet blanket attitude" of the Ministry of Labour see speech by Captain L. H. Green in *Towards Industrial Peace*, p. 162, and report of a sub-committee of the National Industrial Alliance summarised in *Unity*, February, 1934.

Whitley scheme had been conceived was receding and with it departed much of the interest in a project designed to introduce "the comradeship of the trenches into industry."[1] From 1921 until the start of World War II only a single new council[2] had been created in private industry.

Prior to the recent war the Whitley scheme showed little sign of breaking fresh ground. On the contrary it had lost much of the ground covered in the initial years 1918-1921. The total number of national joint industrial councils established up to 1939 was 87, of which 18 were former interim reconstruction committees. Of these, 65 were set up in private industries, 10 in respect of local authorities and 12 for government departments. Only 77 councils were still holding meetings whilst five others though still officially in existence, had for some years been moribund. Approximately 33 national councils ceased to exist entirely, although in some cases they left sectional or provincial councils which are included in the number of national councils. Thirty-three interim reconstruction committees were set up in 1918 and 1919, of which one remains in operation today.[3]

Reliable information in respect of the establishment of the other parts of the tripartite machinery is not available. The Ministry of Labour Report on the Establishment and Progress of Joint Industrial Councils issued in 1923 stated that 150 district councils were in existence and considerably over 1,000 works committees. Ten years later the number of district committees had risen to 350 but the number of works committees had dropped to somewhere near 500.[4]

The too-hurried adoption of the Whitley suggestions in

[1]C. R. Flynn in *Towards Industrial Peace*, p. 112.

[2]The Printing Ink and Roller Trades Joint Industrial Council formed in 1929. Some existing councils have been extended to new or ancillary trades, e.g., the Council for the Cast Stone Trade was reconstituted in July, 1937, to embrace the manufacture of cast concrete products. *The Ministry of Labour Gazette*, August, 1937, p. 229.

[3]The Committee for the Cocoa, Chocolate, etc., trade.

[4]These figures are given in *The Whitley Councils Scheme*, pp. 37-8. Of the district councils about 100 were under government national councils.

many trades which had had no previous experience of joint action is sufficient explanation of the early collapse of many councils. Seventeen disappeared in the period of economic strain following the return to peace conditions, i.e., by the end of 1922. But others failed in times of comparative prosperity. The principal causes of breakdown have been ineffective organisation, difficulties of wage adjustments, incomplete acceptance of trade unionism, and the divergence of sectional and district interests.

Almost as serious as the total disappearance of councils in many industries was the collapse in the activities and position of many of those that remain.[1] The same causes have largely contributed to this. The difficulties of wage questions, even after the solution of the initial problem of reconciling employers to national, in place of district, determination of rates, often occupied too great a proportion of the council's time. Where they did not swamp all other activities, the bickering, which is the usual accompaniment to their solution, poisoned the atmosphere for the consideration of the wider questions contemplated by the Whitley Committee. Again, insufficient organisation among employers made those represented on the councils cautious in accepting proposals which they knew would not apply to non-federated firms against whom they were competing. This enfeebled the measures adopted, which in turn led to apathy on the part of the trade unions which, ceasing to expect very much from the councils, took a diminishing interest in their activities. As a result, instead of becoming instruments of self-government, the Whitley Councils too often became mere wage-fixing boards, or committees for the consideration of grievances only after those grievances had become the source of an actual dispute.

[1]The cumulative effect of both occurrences is seen in the steady yearly decrease in the number of meetings of councils and interim committees as given up to 1922 in the *Report on the Establishment and Progress, etc.*, and, until the middle of 1925 in *The Ministry of Labour Gazettes*. These reports show that in 1920, 366 meetings were held ; in 1921, 318 ; in 1922, 225 ; in 1923, 210 ; in 1924, 154 ; and in the first half of 1925, 52.

Two suggestions were made in the inter-war years to restore the scheme to its original conception. The first proposal was that all wage questions should be transferred to direct negotiations between the trade unions and the employers' associations, leaving the councils free to deal with less controversial subjects of general welfare and co-operation.[1] Nineteen councils[2] adopted this procedure in the inter-war period with considerable success but in most of these cases machinery for wage negotiation had already been operating successfully before the adoption of the Whitley scheme. The main argument against it is that little interest is taken in a joint body which does not concern itself with bread and butter questions, and that the real centre of action, not only in wage matters but in other questions as well, tends to shift to the economic associations.

The second proposal was that the sanction of law should be given to agreements made by the councils. During 1918 and 1919 many of the councils expressed themselves in favour of this course. In January, 1920, at a conference representing 45 joint industrial councils and interim industrial reconstruction committees, a resolution was passed calling for statutory action. In 1921 an Association of Joint Industrial Councils and Interim Industrial Reconstruction Committees was formed and threw its energies into an Industrial Councils Bill for this purpose. The Bill[3] passed the second reading in May, 1924, by a large majority but was dropped when the Labour Government fell. In 1926 the Whitley councils were discussed at a conference held under the auspices of the League of Nations Union at the London School of Economics and a preponderance of opinion favoured this solution.[4] In 1930, 1931, 1932, 1933 and 1935 bills "to encourage the formation of industrial councils and to legalise voluntary agreements when so desired" were brought before the House of Commons but got no

[1] C. P. Malick: *Labour Policy under Democracy*. University of Colorado Studies, Series C, Vol. 1, No. 1, Chapter II.

[2] Only 10 of these have been in respect of private industry.

[3] Bill No. 15 of 1924.

[4] *Towards Industrial Peace, Fourth Session.*

further than the formal first reading.[1] In a revised form, limiting legal sanction to wage agreements, a bill achieved greater success in 1934 by reaching the second reading before being rejected.[2]

These bills have all taken much the same form. The main provision required the Minister of Labour to make an order, confirming with or without modification, any decision of a joint industrial council, on a written request; the order to be made "after consultation and agreement" with the joint industrial council concerned and with due safeguards. They have been brought forward by private members. Successive governments refused to take up the matter until there should be a "substantial" demand from the councils themselves. Whilst a majority did undoubtedly favour such an extension of law, a minority were opposed or indifferent. The contentions raised against the proposal can be resolved into three main objections. The first was resistance to any extension of state interference as being inconsistent with the "grit, initiative, independence and self-reliance" which it was maintained had been the chief factors in giving British industry a position of supremacy.[3] Secondly, it was pointed out that to seek compulsory powers for non-statutory bodies was to ask parliament to lend its binding authority to the decisions of bodies, the scope, constitution, procedure, and objects of which parliament did not prescribe and did not control.[4] Finally, since the main decisions which would need to be applied under an enabling act would relate to wages, it was argued that the need for compulsory powers in a joint industrial council indicated that the industry was not ready for that type of machinery and should be brought within the scope of the Trade Boards Act.

[1]Bills Nos. 216, 57, 52, 30 and 38 respectively.

[2]Bill No. 11.

[3]*Parliamentary Debates*, Vol. 286 (23rd February, 1934), Sir Gerald Hurst at 658-665.

[4]Professor H. Clay: *The Problem of Industrial Relations*, p. 171. To meet this objection the various bills attempted to make provision for the constitution and rules of councils to be approved by the Minister.

The application of the Whitley scheme, both quantitatively and qualitatively, fell short of its original promise. At the same time, however, the scheme has been responsible for a considerable advance in voluntary machinery of conciliation. The councils that remained in 1939 covered, in varying degrees of efficiency, some 3,000,000 workers. This in itself involved a very wide extension of organised and systematic negotiation into territory formerly covered only by intermittent and haphazard meetings. They have effected a considerable standardisation of terms of employment,[1] and a codification of agreements and customs, thus promoting a habit, not merely of collective dealing, but of collective dealing on a national scale. The scheme, that is to say, brought many trades to the stage of development in conciliation and negotiation to which the industries considered in Part I attained only after a much longer period of experimentation. But it represents something more than mere conciliation to prevent and settle industrial stoppages. It amounts to a progressive and significant experiment to achieve real unity of effort among hitherto conflicting elements in industry. Mr. (now Sir) Frederick Leggett hit the nail on the head at an industrial relations conference in 1937 when he said : "Whitley Councils with their wide scope and standing joint machinery for joint discussion represent the most advanced view of the proper relations between employers' and workers' organisations."

Since 1939 there has been a renewed interest in Whitley machinery. In November of that year the then Minister of Labour, speaking in the House of Commons, said : "I am glad to take this opportunity of paying tribute to the very real value in the national interest of the work that is being done by such bodies (joint industrial councils) and it is my policy to stimulate the provision of joint machinery in industries where it has not yet been established."[2] Since then 31 new national joint industrial councils have been established up to the middle of

[1]See Committee on Industry and Trade : *Survey of Industrial Relations.*
[2]*Parliamentary Debates*, Vol. 352, p. 2082.

1947. The great majority of these are in private industries and, a very welcome feature, many operate in respect of retail and distributive trades which have hitherto been neglected fields in respect of joint negotiation machinery. In almost every case the Whitley machinery has been established through the encouragement or with the assistance of the Ministry of Labour and National Service. The general objects of these new councils follow the usual Whitley principle of securing the largest possible measure of joint action between the respective employers and employees concerned, and almost invariably include the consideration of remuneration and working conditions and the settlement of differences.

THE WHITLEY SCHEME IN PRACTICE: FLOUR MILLING

The flour milling industry is selected to illustrate the working of Whitley machinery because, with the possible exception of the pottery trade, it has made a more determined effort to work the scheme than any other branch of private enterprise. Whereas, for instance, most industries have been content to establish a national joint industrial council only, this trade has succeeded in setting up the tripartite machinery over a fairly wide field. Moreover, since 1927[1] its national council has not, in the words of the 1938 annual report, "taken a rigid or limited view of its responsibilities."

[1]As a result of the violation of the national agreements in the general strike the Flour Milling Employers' Federation set up a committee in July, 1926, to review the working of the Whitley organisation in the industry. In their report which was approved and adopted by the Federation on 12th January, 1927, and concurred in by the trade unions' side of the council, certain recommendations were made of which the following were the most material:

1. That with certain modifications of organisation and procedure, the Whitley organisation be retained.
2. That all settlements between the two sides should continue to be made on a national basis, with due regard to local conditions.
3. That the council should extend its system of committees and should appoint such other committees as might be necessary from time to time, such committees to report to the council direct.
4. That where difficulties arise in securing meetings of the joint district council, it should be permissible for the council concerned to delegate its duties to a joint committee, say of three representatives on each side, which should be able to meet at short notice as and when required.

5. That a fresh effort should be made to establish works committees in mills where they were not in existence or had fallen into disuse.
6. That each district should be directly represented on both sides of the national council and that due regard should be paid to the claims of the districts in electing the members of any of the committees of the council.

Labour Gazette March, 1927, p. 94.

It is a good example of the scheme at work for the further reason that prior to its establishment the industry was comparatively unorganised, both as regards employers and workmen. In general, each miller dealt directly with his own men and although the personal relations have always been good, wages were low and the hours worked were long.[1] The council was formed in March, 1919. One of its first tasks was to establish a national working week of 44 hours for shift men and 47 hours for day workers. In 1937 these hours were further reduced by the council to 42 and 44 respectively. At the same time wages were maintained despite the reduction in working time. A threefold district classification of mills (subsequently increased by two new classes) was agreed upon for the purpose of wage determinations, the chief factor taken into consideration being the cost of living to the workmen in each district.[2]

(A) *The National Joint Industrial Council*

The national joint industrial council for this industry is composed of 42 members. This is somewhat larger than the average council which has about 24 members, although the numbers vary from 72 in the printing trade to 14 in the cement industry. The 42 members consist of 21 representatives of associations of employers and 21 delegates of trade unions. On the employers' side 18 members are appointed by the Flour Milling Employers' Federation, two by the Co-operative

[1]Prior to March, 1919, the normal working week was 56 hours for both shift and day workers. (*The Labour Gazette*, August, 1919, p. 346.) In some cases the hours worked amounted "to 80 or more per week" (Secretary of the Flour Milling Employers' Federation, "Planning or Opportunism" in *Unity*, September, 1938).

[2]See article "Labour Problems in The British Flour Milling Industry" by L. H. Green in *Industrial and Labour Relations in Great Britain*, a symposium edited by F. E. Garnett and B. F. Catherwood.

Wholesale Society Ltd., and one by the Scottish Co-operative Wholesale Society Ltd. The trade unions represented are the Transport and General Workers' Union with 15 members, the National Union of General and Municipal Workers, the Workers' Union, and the National Union of Distributive and Allied Workers, with two representatives each. These members retire annually in May, but may be reappointed by their respective associations.

The specified objects of the council follow the general lines indicated in the Whitley Committee's report. The first five relate more particularly to industrial and organisational matters and may be regarded as the primary objects. They cover consideration of means of increasing organisation among employers and employees; consideration of measures for securing loyal adoption of the council's decisions and conclusions; regular consideration of wages, hours and working conditions, sectionally if necessary, and in any case giving due regard to local and other conditions within the various districts; consideration of machinery for the settlement of differences between different parties and sections with the object of preventing disputes and securing a speedy settlement of such differences as arise; and prevention of any strike or lockout from taking place in any locality until the matter has been considered by the national joint council. The remaining objects cover training of young people in the industry, enquiry into special problems, representation of the needs and opinions of the industry to the government, consideration of matters referred to it by the government, promotion of joint district councils, consideration of health matters, and co-operation with industrial councils elsewhere.

The chairman and vice-chairman are appointed from opposite sides but neither can exercise a casting vote. Although the constitution makes provision for more than one secretary, so far agreement has always been reached on the choice of a joint secretary. A clerical staff may also be maintained. In addition to the annual meeting in May the council is required

to meet not less than twice yearly. Special meetings may be called by the chairman or vice-chairman at any time and must be called by the secretary within 10 days of receipt of a requisition from any of the constituent associations. The matters to be discussed at a meeting are stated on the notice summoning the meeting.

There must be a quorum of nine members on each side before a meeting can proceed to business. Discussions whenever practicable are the result of mutual agreement but when voting is necessary either in the council or in a committee of the council it is by show of hands or otherwise as agreed upon by the council. In any case, however, no resolution is regarded as carried unless it has been approved by a majority of the members present on each side.

Its constitution gives the council power to appoint an executive committee and "such other standing or sectional committees as may be necessary." To these committees may be co-opted or appointed by the council persons of special knowledge who are not members of the council provided :

(*a*) the two sides are equally represented ; and

(*b*) any appointed or co-opted members serve only in a consultative capacity.

It is through these standing committees that the real work of the council is carried on. For 1938-9 the council appointed the following committees :

(*a*) executive committee of 16 members ;

(*b*) factory committee of six members and a representative of the Home Office ;

(*c*) dermatitis committee of six members and two co-opted medical men ;

(*d*) technical education committee of 10 members and 11 co-co-opted experts ;

(*e*) joint transport committee of 10 members.

A liaison officer from the Ministry of Labour and National Service attends all meetings of the council and its committees.

This is in accordance with the suggestion of the Ministry made in 1918:

> "Where any Industrial Council so desires, a civil servant with the necessary experience will be assigned the duties of Liaison Officer by the Ministry of Labour. He will act only as and when required and in a purely advisory and consultative capacity, and will be available when desired for any meetings of the Council.
>
> By this means similarity of method and continuity of policy in the various Industrial Councils will be assured and the experience and proposals of one Council will be available for all the others."[1]

The council has reached agreement on many subjects. Wages, hours of labour and working conditions have predominated especially prior to 1927. Agreements on these matters have usually been made terminable at two months' notice from either side of the council and any question of interpretation of an agreement is referable to the executive committee whose decision is final.

Agreement has also been reached over a wider field. In the first year of its existence the council introduced holidays with pay for all mill hands. In another direction the technical education committee has worked out a scheme to enable workers to study mill technology and science and to qualify for the technological certificates awarded by the City and Guilds of London Institute. During 1939 classes were held in 22 centres for 750 students, while a further 180 were using the correspondence course. On 1st September, 1931, a group pension scheme came into operation to which employers and workmen contribute 1s. per week for retirement pensions at 65. This is open to all milling employees and is administered through trustees appointed by, and responsible to, the council. Having been jointly conceived it is free from the disadvantages which usually attach to pension schemes applicable to a single concern or industry. By 1938 approximately 7,500 employees had come under the arrangement. This scheme is supple-

[1]Suggestions as to the Constitution and Functions of a National Joint Industrial Council, etc., *Ministry of Labour Industrial Reports*, No. 4.

mentary to another part of the council's work, the resettling in new careers of men who have lost employment through rationalisation in the industry. Of recent years there has been no need for this activity but between 1928-1930, 404 men were resettled in jobs at a cost of £20,000. In 1938 an agreement was reached on the council for mill hands to receive the same amount of money when on short time as when fully employed, thus anticipating the "guaranteed wage" of the Essential Work Orders. It was intended that the employers should pay to employees during a temporary stoppage, the difference between what the workmen would draw under the Unemployment Insurance Act and their normal weekly wages. When, as a result of a legal decision, this arrangement was held to disentitle a workman to any benefit under the Act, the employers agreed to pay the full amount of the wage until the legal position had been remedied.

These examples by no means exhaust the good results achieved by the national council. They are indicative merely of what has and can be done through this agency.

(B) *Joint District Councils*

One of the most difficult problems in establishing the full Whitley machinery has been the adjustment of the district councils to the national council. The question has been what functions the local bodies can have which will not infringe on the work of the national council and yet will not be so limited as to stultify the local councils.

In the flour milling industry the national joint industrial council has set out five functions which a joint district council should undertake. The first is a consideration of any matters referred to it by the national council and the taking of "executive action within its district in connection with decisions arrived at and matters deputed to it by the national joint industrial council." The others are similar to the second to fifth functions of the national council over each particular district. A district council's powers in regard to wages, hours

and conditions of employment, however, are limited by the proviso that "no executive action shall be taken on these matters before first consulting and receiving the confirmation of the national joint industrial council if such action is likely to involve the interests of other districts."

There are 15 district councils each covering an area coinciding with a region of the district associations of the employers' federation. They vary in size from eight to 20 members according to local conditions, half representing employers and half workers, appointed by and from the members of the local associations. As in the national council the members retire annually and are eligible for reappointment. A chairman and vice-chairman (from opposite sides) and a secretary or joint secretaries, a treasurer and an auditor, are elected annually. In addition to the annual meeting, which the national joint industrial council requests should be held in the month before that of the national council, i.e., in April, the district councils meet quarterly and within ten days of being requisitioned by any of the constituent associations. Committees are appointed as required and non-members co-opted.

(C) *Joint Works Committees*

The national joint industrial council drew up model rules and constitution which could be adopted in any mill where a joint works committee was desired. The objects of such a committee were set out as :

(*a*) to provide a recognised means of consultation between the management and the workpeople ;

(*b*) to give the workpeople a wider interest in and greater responsibility for the conditions under which their work is performed ;

(*c*) to apply and enforce the agreements and decisions of the joint district council and the national joint industrial council.

A joint works committee should consider all matters of domestic importance, which include among other things :

(*d*) the settlement of grievances or disputes ;

(*e*) questions of discipline and conduct.

A committee has no power to come to an agreement which is inconsistent with the powers or decisions of the joint district council or the national joint industrial council. A decision of either of these bodies may at any time supersede an agreement of the committee.

A joint works committee consists of from three to 12 workers according to the number of persons employed, and representatives of the management. The workers' representatives are annually elected by ballot by and from the workers regularly employed by the firm. They need not be members of a union although it is recommended by the national joint industrial council that such should be the case. As far as possible it is sought to give representation to each department or section of the establishment. Any member leaving the employment of the firm ceases to hold office and a successor is elected by the department or section concerned. A vice-chairman is appointed by the workers' representatives and a chairman and the management representatives are appointed by the firm. Officials of a union with members in the mill or of the employers' association may attend any meeting in an advisory capacity if desired by either side.

The committee meets not less than once a quarter and whenever requested by the management or the workers' representatives. Meetings are held during working hours and the representatives are paid by the firm on the basis of the wages lost by them through absence from work. Any matter to be discussed must be notified in writing to the secretary not less than three days before the meeting except in cases of special emergency when a matter not on the agenda may be discussed by mutual consent. A quorum for business is one half of the members of each side.

The procedure which should be adopted when a matter of complaint or concern arises at a mill with a joint works committee, is as follows. If the matter concerns an individual worker only or a group or section of workers, it may be brought before the foreman or manager. The foreman, or manager,

should then deal with the matter if within his power, in such a way as to be mutually satisfactory to the employer and the man or men. If a satisfactory conclusion cannot be reached, the applicant should then refer the matter to the workers' representatives on the committee. Groups and sections or individuals may do this in the first instance if they so prefer, without applying to their foreman or manager. If the workers' representatives believe, after investigation, that there is reason for so doing, they should call a meeting of the joint works committee. If it is possible to settle the matter within the terms of the agreement of the joint district council, a mill settlement should be reached. Failing satisfaction, however, the matter can be sent to the secretary of the joint district council with a request that it be referred to the council.

The number of committees in the industry is not known. Some firms set a high value upon them but others, particularly in the smaller centres, do not trouble about them at all. The policy of the employers' federation, however, is to encourage their members to establish them wherever possible.

(D) *Dispute Procedure*

In addition to the above procedure which can only apply where a mill has formed a joint works committee, the national joint industrial council has agreed upon the procedure which should be adopted at each stage of a dispute. This procedure was set out in an agreement signed by all parties on the council on November 24th, 1921.

When a dispute has arisen at a mill which has no joint works committee the employer should, on the application of the aggrieved party, confer with a representative of the trade union whose member or members are concerned. Failing a settlement at the mill the matter must at once be reported to the secretary of the joint district council who should then arrange either for a meeting of the council or its emergency committee to be held within seven days and notify the secretary of the national joint industrial council of the dispute. An emergency

committee to deal promptly with disputes referred to the district council should be appointed in a district where it is not easy to get a full meeting of the council at short notice. It consists of an equal number of the representatives on each side of the district council.

If requested by the joint district council or its emergency committee, the executive committee of the national joint industrial council will send two or more of its members to confer with the joint works committee or with the body dealing with the dispute.

Should the joint district council or its emergency committee fail to arrive at a settlement the district secretary must report forthwith to the national secretary who will summon a meeting of the executive committee of the national joint industrial council within seven days.

In two instances a dispute may be referred direct to the secretary of the national council. The first is where the matter in dispute is one that might affect mills outside the particular district in which it has been raised. In this case, however, there must be mutual agreement by the parties to the direct reference. The second case is where the dispute is a question of interpretation of a national agreement in which case it can only be dealt with by the executive committee.

In whatever way a dispute does reach the executive committee the result is the same as regards the morally binding force of its decision. Only in cases concerning classification does a right of appeal exist to the national joint industrial council.

So far there has only been one occasion (during World War II) on which the two sides of the council have failed to reach agreement through this machinery. On that occasion the dispute was referred, as required by the wartime provisions, to the Ministry of Labour and National Service for reference to arbitration but was ultimately settled through the executive committee with the addition of an independent chairman to act, if need be, as an arbitrator. From time to time prior to

1940 there had been stoppages at individual mills but only once (with the exception of the occasion of the general strike in 1926) had a district been involved. In that case both employers and the unions joined to enforce the decision of the executive committee. On an average, prior to World War II, about seven or eight questions reached the executive committee for settlement each year.

CHAPTER V

The Industrial Courts Act, 1919

THE WHITLEY COMMITTEE issued its fourth report[1] at the beginning of 1918. As stated in the preceding chapter the earlier reports dealt with the means of providing "full and free discussion of matters affecting any industry," with a view to securing a greater measure of self-government to the workers therein. Such machinery as these reports suggested might be expected to reduce the number of industrial disputes. It could hardly be hoped to eliminate them entirely. The fourth report, therefore, dealt with the measures "that should be taken by the State in the event of those directly concerned in industry being unable to adjust their differences themselves." The report was concerned, that is to say, with the provision of State conciliation and arbitration.

In outlining the form which this should take the committee emphatically rejected any system of compulsory arbitration which, they stated, the experience of wartime had shown to be "not a successful method of avoiding strikes." They proposed, instead, the extension of voluntary machinery by the provision of:

(*a*) . . . means by which an independent inquiry may be made into the facts and circumstances of a dispute and an authoritative pronouncement made thereon but without compulsory power of delaying strikes and lockouts, and

(*b*) . . . a standing arbitration council for cases where the parties wish to refer any dispute to arbitration.

The value of the second suggestion lay, the committee believed, in the fact that as a standing body the council would be in a position to give to trade disputes involving differences

[1]Cmd. 9099.

of general principles or affecting whole industries or large sections, a systematic treatment that could not be expected under the pre-war system of *ad hoc* courts. But single arbitrators should also be available, they recommended, for matters of relatively small importance which the parties desire to be heard locally. Co-ordination of awards of single arbitrators might be ensured through the secretariat of the standing arbitration council.

Once again the committee's report was a summing up of the best practices of past and present experience rather than a launching into new schemes. The standing arbitration council envisaged was a Committee on Production shorn of compulsory powers, while single arbitrations were already the most successful feature of the Conciliation Act, 1896. The proposal in regard to courts of inquiry was no more than the giving of statutory effect to a suggestion made in the minority report of the Select Committee of 1856,[1] approved by the Trade Union Congress in 1888 and again brought forward by Sir George Askwith in 1912.[2]

It was not until a year after the Armistice that any attempt could be made to carry out the committee's recommendations. The immediate post-war months were too unsettled to venture suddenly from wartime to permanent peace time machinery. As already mentioned, the Wages (Temporary Regulation) Act, 1918, designed to bridge only the difficult months of demobilisation and resettlement, was prolonged from six to twelve months. Even so, before the expiry of the second six months, in November, 1919, representation was made to the government by the trade unions for a further extension in view of the still unsettled economic condition of the country. The employers raised no serious objection to the maintenance of the minimum rates prescribed by the Act but opposed a continuation in the form in which the Act stood, on the ground that, whilst it made it incumbent upon them to observe the

[1]See above Chapter I, Part II.

[2]Report on Industrial Disputes Investigation Act of Canada, cmd. 6603.

decisions of the Interim Court of Arbitration, no legal compulsion was placed upon the workmen or their unions.

The Minister of Labour thereupon prepared a draft Bill designed in the first place to incorporate the Whitley recommendations, with some modifications, in permanent sections, and in the second to continue for ten months after their expiry certain clauses of the Wages (Temporary Regulation) Act adapted to the new machinery. The draft diverged from the Whitley suggestions in making a decision of the standing arbitration tribunal legally binding throughout the trade affected for a period of at least four months. To apply the sanction mutually it purported to make it illegal for trade unions to pay strike money in the case of a strike against a decision during this period. To this clause, however, the unions took most strenuous objection as constituting an infringement of their rights under the Trade Disputes Act, 1906. Since the bill required mutual consent to arbitration, persistence with the clause in the face of union opposition would have meant an end to arbitration altogether by the court, whilst the employers felt as strongly against a one-sided removal of the sanction. The only solution, therefore, was to shed the compulsory powers completely as the committee's report had recommended. In this form the Industrial Courts Bill became the Industrial Courts Act[1] on the 20th November, 1919.

Apart from the temporary provisions the Act deals with two main matters, namely, the establishment of a standing industrial court and the appointment of *ad hoc* courts of inquiry. Under these heads its provisions are now considered along with the actions following from them. A brief survey is then made of state action as a whole since 1919.

THE INDUSTRIAL COURT

Section I of the Act directs that for the purposes of the settlement of trade disputes "there shall be a standing Indus-

[1] 9 and 10 Geo. V. c. 69.

trial Court." To it may be referred by the Minister of Labour, under certain conditions, any trade dispute as defined by Section 8. That definition includes "any dispute or difference between employers and workmen, or between workmen and workmen connected with the employment or non-employment, or the terms of the employment or with the conditions of labour of any person." The term "workman" in the definition means "any person who has entered into or works under a contract with an employer whether the contract be by way of manual labour, clerical work or otherwise, be expressed or implied, oral or in writing and whether it be a contract of service or of apprenticeship, or a contract personally to execute any work or labour." The only limitation in the application of the Act to workmen is in regard to "persons in the naval, military or air services of the Crown." Other employees of the Crown are in the same position under the Act as those employed by a private person.

Whether a dispute actually exists or is merely apprehended, it may be reported by any interested party to the Minister of Labour who, if he sees fit, can refer the matter to the Industrial Court subject to two conditions. The first, and most important, is that both parties must consent to the reference. While this consent may be given orally the Minister usually endeavours to obtain written agreement to circumvent future doubts. The second condition is that conciliation or arbitration arrangements existing in the trade or industry pursuant to an agreement between organisations of employers and workmen representative respectively of substantial proportions of the totality of employers and workmen in the trade or industry must first be resorted to. In practice the Ministry implies the fulfilment of the second condition from the agreement to refer to the court.[1]

No particular statutory authority in the hearing or determining of a case is conferred upon the court to render it superior to that of any other arbitration tribunal. Its advantage

[1]Lord Amulree : *The Industrial Court, Practice and Procedure.*

over other forms arises from its continuity and from the prestige of its personnel. Permanency gives it the chance to acquire a reputation for impartial decisions based on a thorough understanding of industrial matters. Moreover it makes possible a more consistent application of principles particularly in regard to wage decisions. This advantage was in the mind of the Minister of Labour when he said in the discussion on the Bill in committee:

> "You want a body of people who are able to take a comprehensive view of the labour question and in particular who are able to take a comprehensive view of the wage question. Every set of wages in every trade is related in some degree to every other set of wages in every other trade. You cannot dissociate what is decided in one case from what may be asked in another case. Therefore, it would be futile to have a court *ad hoc* for each case that might come up, because then you would get a series of dissociated judgments which would have no relation to each other and which would tend to cause confusion where you hoped for harmony."[1]

The composition of the court follows that of the Committee on Production, the Act providing that it shall consist of persons appointed by the Minister of Labour "of whom some shall be independent persons, some shall be persons representing employers and some shall be persons representing workmen and, in addition, one or more women." The tenure of office of each is fixed by the Minister at the time of appointment. The Act further stipulates that the president of the court and the chairman of a division shall be appointed by the Minister from among the independent members. The members to hear any matter referred to the court are selected by the president.

Pursuant to these provisions the Minister of Labour appointed Sir William Mackenzie (later Lord Amulree) as president with three chairmen.[2] The president was appointed

[1] Sir R. Horne in *Parliamentary Debates* 121 (10th November, 1919), 127.

[2] See list of original members in *Report on Conciliation and Arbitration for* 1919, 221 of 1920.

for a term of six years at an annual salary, while the chairmen are appointed from year to year. The chairmen are not wholly engaged in the work of the court and only receive a fee for each day on which they sit or take part in court business. Seven members representative of employers and workmen and two women members were also appointed. Of these, one representing employers and two representing workmen were appointed full-time members at an annual salary. The terms of appointment of the other representative members and of the women members are similar to those of the chairman.

The Minister of Labour, and not the parties, must refer a question to the court. Where a stoppage of work has actually occurred he usually requires work to be resumed before submitting the matter to arbitration.[1] In most cases the parties draft the terms of reference in agreement sometimes with the assistance of a conciliation officer of the industrial relations department of the Ministry. Where the issues between them are complicated, the terms of reference are often in the form of claim and counter-claim ; sometimes they are in the form of a statement of facts followed by the contention of each side. The reference is signed by an official of the Ministry of Labour.

Upon receipt of the terms of reference the president fixes the date of hearing and personnel of the court. As a rule he presides over all sittings. Only where pressure of work necessitates two or more divisions sitting at the same time, or where the president himself is unable to be present, does he select chairmen or a chairman. Likewise the other members of a hearing will normally be the permanent representative members unless they are unable to attend or additional divisions are required. In cases where women are concerned the president appoints one of the women representatives to the division.

The secretary of the court then informs the parties of the

[1]Sir William Mackenzie : *The Industrial Court, Practice and Procedure.*

date, time and place of hearing. The latter is usually the Court House, Abbey Gardens, Westminster, but the court has heard cases in Scotland and the provinces where that was more convenient. In the same communication the secretary advises that if either party intends to use any document or documents at the proceedings, six copies should be available at the hearing for the use of the court.

The court is bound by very few formal rules of practice and procedure. The only specific directions given by the Act itself are: that the Arbitration Act, 1889, shall not apply to any reference;[1] that where the members of the court are unable to agree as to their award, the matter shall be decided by the president or chairman of the division acting with the full powers of an umpire in England and Wales and of an oversman in Scotland;[2] and that where a dispute involves questions of wages, hours of work or other terms of employment which are regulated by any Act other than the Industrial Courts Act, the court shall not make any award inconsistent with the provisions of that Act.[3] Section 3 (2), however, enables the Minister to make, or authorise the court to make, rules regulating its procedure. Under this provision the Minister drew up the Industrial Court (Procedure) Rules[4] dated 15th March, 1920, which furnish a mere skeleton procedure within which the court has wide discretion. They consist of ten rules, of which the first concerns interpretation of terms in the rules and the last the mode of citation of the rules. The others are the following:

2. The court may sit in two or more divisions.
3. Any matter referred to the court for settlement may at the discretion of the president be heard and determined by a single member of the court.

The president has availed himself of this power but not frequently.

[1]Section 3 (3).
[2]Section 3 (4), 12 (1).
[3]Section 3 (5).
[4]*Labour Gazette*, April, 1920, p. 207.

4. The court may at the discretion of the president, in any matter in which it appears expedient to do so, call in the aid of one or more assessors and may settle the matter wholly or partly with the assistance of such assessor or assessors.

The court only sits with assessors when that is desired by the parties, which is very rarely. The parties are usually well able to explain the technical points to the members of the court whose trade knowledge is considerable. To help them in case of technical detail, the court will view the *locus in quo*, or the machinery, plant, etc., as may be necessary. When assessors are appointed they do not sign the decision and are in no way responsible for it.

5. The court may, with the consent of the parties, act notwithstanding any vacancy in their number, and no act, proceeding or determination of the court shall be called in question or invalidated by reason of any such vacancy, provided such consent has first been obtained.
6. The court may correct in any award any clerical mistake or error arising from an accidental slip or omission.
7. If any question arises as to the interpretation of any award of the court the Minister or any party to the award may apply for a decision on such question and the court shall decide the matter after hearing the parties, or without such hearing provided the consent of the parties has first been obtained. The decision of the court shall be notified to the parties and shall be final in the same manner as the decision in an original award.

Questions of interpretation are often brought before the court, the parties finding it more convenient to raise the point in issue this way than by a fresh substantive reference. The advantage is that the matter can be forwarded by either party without the delay of reporting to the Minister. It can then be dealt with very speedily on written statements without a hearing, provided both parties consent.[1]

[1]For example, Award No. 528, National Union of General Workers and Ors *v.* West of Scotland Hosiery Manufacturers' Association.

8. Persons may appear by counsel or solicitor on proceedings before the court with the permission of the court.

On the whole the parties have preferred to conduct their own cases. The cases involve industrial rather than legal points and are better comprehended and expounded by the secretaries of a trade union and employers' federation than by a lawyer. But where application is made for leave to appear by counsel it is readily granted, though the party is asked as a matter of courtesy to notify the other side.

9. Subject to these rules the court may regulate their own procedure as they think fit.

The court has so far issued no written rules under this provision. The aim of the court at a hearing is to make the procedure as informal and easy as possible but at the same time to maintain a judicial atmosphere. In general the party seeking a change in the *status quo* presents the case first, supporting it with any evidence available. The court may take evidence on oath but this is rarely done and the strict rules of evidence are not applied unless the other party takes serious objection, or it is clear that the statement would lead to an injustice through the impossibility of testing it by cross-examination or rebutting evidence. The court has no power to order production of documents or to compel the attendance of witnesses. This is no real disadvantage since the parties having consented to the court's jurisdiction serve their interests best by complying with the court's requests. At the conclusion of the claimants' case, the case for the respondents is presented in similar manner and the claimants have a final reply. Only once up to 1939, apart from questions of interpretation, has the court given a decision on written statements without a hearing.[1] This was done at the express wish of both parties. The hearing is in private unless one party desires it to be in public and the other party does not object. Shorthand notes are taken throughout and copies may be obtained by the parties

[1]Sir Harold Morris in *Industrial and Labour Relations in Great Britain*, p. 56.

at the usual expense. Proceedings are absolutely privileged so that anything said at a hearing cannot be made the basis of a defamation action.[1]

The court's decision is given as a written award setting out the facts of the case, the arguments of the parties, and, in some cases, the grounds for the decision. Unless the date on which it is to come into effect is stated in the award it operates from the date which the award bears. Typewritten copies are forwarded to the parties usually within a few days of the hearing and subsequently the award is printed and published by the Government Stationery Office.

The aim of the government in establishing the court being to encourage the utmost use of it, the Act provides that the expenses of the court shall be met from monies made available by parliament. No court fees are, therefore, payable and the court does not award costs or expenses against a party.

The decision of the court cannot be enforced under penal provisions in the event of a party refusing to accept it. But once it has been accepted or acted upon by individuals it forms a term or condition of the contract of employment and the parties have the same legal rights and powers in respect thereof as in respect of any other term of the contract. Moreover, in two instances it has been held by local courts that when the parties to a case "through the union and through the association consented to the reference of the dispute between them as to wages to the Industrial Court they entered into a contract to accept the Award" and to act upon it during the currency of the contract of service which was running at the date of the reference.[2] Unfortunately this proposition has not been tested in a higher court. Should it be upheld it would seem that where a union or association consents to a reference but subsequently rejects the court's award the individual

[1]Slack and Barr (1918) 82 J.P. 91 ; *Labour Gazette*, June, 1918, p. 243.

[2]Cases in Newcastle and Kilmarnock reported in the *Newcastle Daily Chronicle*, 12th August, 1922, and the *Kilmarnock Standard*, 2nd April, 1924. Referred to in Fisher : *Wages and Their Regulation in Great Britain since* 1918.

members must, in order to safeguard themselves, give notice terminating their existing contracts. Legal enforcement in this way, therefore, is likely to produce no better result, as far as prevention of a stoppage of work is concerned, than non-enforcement of rejected awards. The small fraction of awards which are rejected make it scarcely worth while running the danger of limiting the willingness, particularly of the trade unions, to take advantage of the facilities of the court. Already the local court's decision in one of the instances quoted above has been reported to have had this effect.[1]

In addition to the reference of a dispute for decision, the Act enables the Minister to refer to the court for advice, "any matter relating to or arising out of a trade dispute or trade disputes in general or trade disputes of any class or any other matter which in his opinion ought to be referred." The idea behind this provision is to place at the disposal of the Minister the advice of an independent body of great experience for the guidance of himself and his officers in dealing with a dispute which the parties are not willing to have referred for final judgment in the usual way. Very few references have been made under this provision for the industrial relations department of the Ministry is itself a very experienced conciliation machine.

The Industrial Court being endowed with "the tradition of respect and authority acquired by the Committee on Production"[2] naturally did much of its early work among the trades which had already acquired the habit under compulsory arbitration of reporting disputes to the court's predecessors. A large number of cases were carried over from the Interim Court of Arbitration under the continued provisions of the Wages (Temporary Regulation) Act. But having once become established, the field of its operations has expanded although the volume of its work has declined. The greatest number of

[1]A. J. Walkden in *The Daily Herald*, 26th February, 1924, p. 6.

[2]H. Wolfe : *Labour Supply and Regulation*, p. 203.

cases has come, as was expected, from the less-organised trades and industries.

From a third to a half of the court's awards have amounted to wage determinations. It was in respect of these cases that the Minister of Labour in 1919 had referred to the value a standing court could have in co-ordinating wage rates throughout industry. But his anticipations required two conditions to be fulfilled. In the first place the court's wage decisions must cover the widest possible area of wage movements. In the second the court must adopt and apply a wage policy with consistency to the particular cases brought before it.

A perusal of the court's awards shows that the major industries such as coal mining, iron and steel, engineering after 1920, cotton manufacture and the railways, having their own well-developed methods, have seldom appeared before the court for the general settlement of wage questions. This and the exclusion of the Trade Board industries have prevented the court's decisions from having much effect upon the general character and direction of wage movements.

The fulfilment of the second condition has been equally incomplete. Miss Rankin, in an analysis of the court's wage awards over a period of ten years, demonstrates that the court has wavered between criteria of "subsistence," "fairness" and various aspects of "ability to pay," while in the application of awards it has been undecided between a craft and an industrial principle.[1] This vacillation seems to suggest that, contrary to Sir William Mackenzie's belief that "in stating the considerations to which members of the court had agreed the court has taken the first step towards the formation of a body of industrial case law," the court has found insurmountable difficulties in determining principles applicable to the ascertainment of the terms of future employment. It is significant that of late years the members of the court have given less concern to stating the reasoned grounds for their decisions and have usually contented themselves with the formula: "The court

[1] *Industrial Principles and The Industrial Court.*

have given careful consideration to the facts and arguments submitted to them and decide," etc.

The court has in fact proceeded in wage as in other matters along lines of conciliation and opportunism rather than of strict adherence to preconceived principles. It is interesting to note in this respect the large percentage of cases (between 40 per cent. and 50 per cent.) the decision in which has amounted to a compromise between conflicting claims. It is also noteworthy that the percentages of the court's awards which constitute respectively compromise, wins for the employers and wins for the workers are very similar to those obtained from direct action over the same period.[1]

It is difficult to see how else the court could have operated with equal success. Despite its name the Industrial Court is not in any real sense a court. It is but an arbitration tribunal with no powers beyond those bestowed by the consent of the disputing parties. In this position a strict judicial stand is impossible. For unless its decision is mutually accepted the court has achieved nothing at all.

When the court is judged not as a co-ordinating authority but on its ability to compose disputes by issuing acceptable awards, its value is beyond doubt. Over a period of twenty years up to World War II it made 1,755 awards in addition to cases where advice has been given and no award published. In four instances only have the parties refused to abide by the terms of its decisions.

On these figures the court can justly claim to have been the most important single agency in the inter-war period for the settlement of trade disputes within the voluntary principle.[2]

[1]Approximately 42-43 per cent, 35 per cent. and 22-23 per cent. up to the end of 1939.

[2]In qualification of this, however, it must be added that the total number of cases heard by the court in the inter-war period was by no means evenly distributed over the 20 years. 539 cases, or between a quarter and a third, were heard in the first year. From 1921 until after 1926, with the exception of 1922, the annual references numbered between one and two hundred but dropped by 1929 to under 50 where it subsequently remained. It does

In addition to its normal jurisdiction special powers have been bestowed upon it by various statutes which are examined in the next chapter. The effect of the far-reaching decisions which it is called upon to make under them has added, it is believed,[1] to the court's standing. During the recent war and post-war period the Industrial Court has operated side by side with the National Arbitration Tribunal. From the beginning of 1939 to the end of 1946 it issued 361 awards, of which 83 were in respect of cases reported to the Minister under the Conditions of Employment and National Arbitration Orders. In addition, three matters were referred by the Minister for advice. The total number of actual awards issued by the court from its establishment until the end of 1946 was 2,078.

COURTS OF INQUIRY

The powers of the Minister of Labour under Part I of the Industrial Courts Act are limited by the necessity of obtaining the consent of the parties and exhaustion of the conciliation and arbitration arrangements of the industry before referring any matter to the court other than for advice. Under Part II the Minister is unfettered by these conditions and may on his own initiative refer any matter arising from a trade dispute, whether existing or apprehended, to an *ad hoc* court of inquiry.

Such a court consists of one or of several members at the discretion of the Minister and sits in public or in private as it

not follow necessarily that this decline indicated a gradual disillusionment on the part of industry with the court's operation. The steep decline at the end of 1920 was obviously a result of the completion in the cleaning-up of cases left over from the war. The further drop after 1926 is largely accounted for by the general decline in labour disputes due to the weakened position of the trade unions following the failure of the general strike and later by the economic depression of the early thirties. The effect of the recovery from both events later is not fully shown in the figures for subsequent years owing to the deflection, in 1937, to a separate tribunal, of civil service cases formerly heard by the court. But for this separation the number of cases brought to the court in 1938 would have exceeded that for any year since 1927.

[1]See the view of the then President of the Court in Industrial and Labour Relations, 1939.

sees fit. The Minister is authorised to regulate its procedure and in particular may make rules enabling the court to summon and examine on oath any persons appearing to the court to have any knowledge of the subject matter of the inquiry. No general rules have been made under this provision as in the case of the Industrial Court but in the minute appointing each court of inquiry the Minister directs that certain rules "regulating the procedure of the court shall have effect." These are invariably in the following form adapted to fit each case :

1. Any person may, by notice in writing signed by the chairman of the court, be requested to attend as a witness and give evidence before the court, or to attend and produce any document relevant to the subject matter of the inquiry, or to furnish, in writing or otherwise as the court may direct, such particulars in relation to the subject matter of the inquiry as the court may require.
2. The court may require any witness to give evidence on oath and the chairman or any person duly authorised by him, may administer an oath for that purpose.
3. The court may act notwithstanding any vacancy in its number and blank members shall form a quorum.
4. The report and any interim reports of the court shall be made to the Minister in writing and shall be signed by such of the members as concur therein, and shall be transmitted to him as soon as practicable after the conclusion of the inquiry ; and any minority report by any dissentient member of the court shall be made and transmitted in like manner.
5. Subject to these rules the court may regulate its own procedure as it thinks fit.
6. In these rules the expression "Act" means the Industrial Courts Act, 1919 ; the expression "Minister" means the Minister of Labour ; and the expression "court" means the court of inquiry appointed by the Minister under the Act.

Where the inquiry is likely to involve technicalities a further rule is added permitting the court to "call in the aid of one or

more assessors specially qualified for the purpose of assisting the court in their inquiry."[1]

Upon receipt of a report or interim report the Minister must lay it before both Houses of Parliament. Either before or after doing so he may cause to be published any information obtained or conclusions reached by the court. But no information given to the court in regard to any trade union or individual business may be made public without the consent of the secretary of the union or of the person, firm, or company concerned.

The appointment of a court of inquiry is not a usual procedure. The first complete report of the Minister of Labour stated that the power to appoint "is used with reserve" and only "where the Minister considers that the public interest requires this course."[2] It differs therefore from the power to refer disputes to the Industrial Court which is the course the Minister will adopt whenever possible. A court of inquiry differs from the Industrial Court also in its immediate object which is not so much to settle the case by direct contact with the parties as to elucidate the facts for the benefit of the parties and the public.[3]

Nevertheless in several cases a court of inquiry has been able to report that a settlement has been reached before the conclusion of the inquiry enabling an adjournment *sine die* pending official disbandment.[4] In three cases[5] a court has taken it upon itself to act as mediator and conduct private conversations with the parties. As the parties have not necessarily

[1]e.g., The London Central Omnibus Services Inquiry, 1937, cmd. 5464, and the Plasterers and Joiners' Enquiry, 1937, cmd. 5554.

[2]Report for 1923-24, cmd. 2481 of 1924-25.

[3]The Whitley Committee recommending legislative provision in regard to Courts of Inquiry stated that this should include in regard to results of inquiries, provision for "immediate publication, for the information of those affected by the dispute and of the public generally, of an independent and authoritative account of the matters in difference."

[4]e.g., the Electrical Trades Dispute, Penistone, cmd. 990 of 9120.

[5]Coal Tippers' Dispute, cmd. 1948 of 1923; Hull Fishing Industry, cmd. 4913 of 1935, and Scottish Plasterers and Joiners' Dispute, cmd. 5554 of 1937.

consented to the appointment of a court of inquiry there is always a possibility that one or both will refuse to participate in the inquiry. However, in only two instances[1] has a party declined to take part in proceedings for the very good reason that the court has official standing and draws considerable publicity so that refusal is likely to be construed as weakness of case and to alienate sympathy. For a similar reason the parties usually find it politic to take account of the court's findings when published. It usually happens, therefore, that the report is made a basis for compromise and settlement.

When the disputants fail to reach agreement nothing more can be done by the court beyond suggesting a settlement in the report to the Minister. There is no statutory reason why the matter could not, even after the failure of a court of inquiry, be referred to the Industrial Court. In practice, however, a court of inquiry will not have been appointed while there remains any likelihood of the parties consenting to arbitration.

Up to the outbreak of World War II 20 courts had been held.[2] In most cases they consisted of three members (13 cases) but as many as nine members have been appointed,[3] while in 2 cases[4] a court was constituted with a single member. The references have nearly all been in respect of industries of national importance such as transport (9 courts), building (3 courts), engineering (3 courts) and coal mining (2 courts).

Just as the period of greatest activity for the Industrial Court was in the years immediately following the passing of the Act so the greatest number of courts of inquiry was needed in this period. Sixteen of the 20 courts were appointed during the first six years, the largest number in any one year being 7 in 1924. Since 1925 courts have been held 1 in 1930 and 1935 and 2 in 1937.

[1]Railway Shopmen's Dispute, cmd. 2113 of 1924 and Coal Mining Dispute, cmd. 2478 of 1925.

[2]Twenty-four courts of inquiry were held during the period 1939 to 1946.

[3]Dock Workers' Dispute, cmd. 55 of 1920.

[4]Engineers' Dispute, cmd. 1653 of 1922 and Woollen Textile Workers' Dispute, cmd. 3505 of 1930.

The issues which the courts confronted have included some of the most contentious questions of post-war years. They involved such matters as, the question whether wages should be a first charge on industry ;[1] the extent of the workers' right to a say in matters of management ;[2] the right to employ strike breakers ;[3] the standardisation of working conditions ;[4] the need for government co-ordination and control of public utility services ;[5] and problems of craft demarcation.[6] In some cases[7] national stoppages were already in progress but more often the courts have been appointed on the threat of a strike or lockout. The appropriate moment for action by the Minister depends largely on the nature of the machinery which each industry possesses. This necessitates the closest possible connection between the Minister and the internal organisation of each trade.

SURVEY OF STATE ACTION SINCE 1919

As originally introduced into the House of Commons the Industrial Courts Bill contained a clause to repeal the Conciliation Act, 1896.[8] The explanation given for so doing was that except that no provision was made for registration of conciliation boards, which was an obsolete feature of the 1896 Act, the new enactment would cover everything in the old one.[9] The opposition raised in committee, however, induced the Minister to delete the repealing clause. Both the Conciliation

[1]Coal miners' claim for revision of wage rates to meet increased cost of living in 1924 and 1925, cmd. 2129 of 1924 and cmd. 2478 of 1925.

[2]Engineering Dispute, cmd. 1653 of 1922.

[3]Leith Coal Trimmers' Dispute, cmd. 2149 of 1924.

[4]Building Dispute, cmd. 2192 of 1924, and Railway Shopmen's Disputes, cmd. 2113 of 1924 and cmd. 2583 of 1926.

[5]London Tramways Dispute, cmd. 2101 of 1924.

[6]Steel Houses Disputes, cmd. 2392 of 1925, and Scottish Plasterers' and Joiners' Dispute, cmd. 5554 of 1937.

[7]Notably the Engineers' Dispute, 1922 ; Dock Workers' Dispute, 1924, and Building Dispute, 1924.

[8]Clause 13 (2) of Bill 201, 1919.

[9]*Parliamentary Debates* 121 (12th November, 1919), 441.

Act and the Industrial Courts Act appear, therefore, on the statute books. Except for the new provisions of the latter Act already examined there is little distinction between the powers conferred by each Act. Other than in regard to the Industrial Court and courts of inquiry, State action since 1919 can be justified equally by reference to either statute. It is usually assumed, however, that in so far as the activities of the Ministry of Labour are in the nature of conciliation only, they are based on the Conciliation Act, whilst references to arbitration are made under the Industrial Courts Act. No real differentiation need be made and the Ministry does in fact report its proceedings simply as "Proceedings under the Conciliation Act, 1896, and the Industrial Courts Act, 1919," etc.[1]

The arbitration provisions of the latter Act are contained in section 2, which enables the Minister of Labour to refer, under the conditions set out earlier in this chapter, any existing or apprehended dispute for settlement:

(*a*) to the Industrial Court; or

(*b*) to the arbitration of one or more persons appointed by him; or

(*c*) to a board of arbitration consisting of one or more persons nominated by or on behalf of the employers concerned and an equal number of persons nominated by or on behalf of the workmen concerned, and an independent chairman nominated by the Minister. To facilitate the nomination the Minister is directed to "constitute panels of persons appear- to him suitable so to act" including some women.[2]

In short, arbitration under the Act may be provided with the consent of the parties by the new Industrial Court or by the pre-war methods of single arbitrators and *ad hoc* courts.

The total number of references under this section between

[1]Annual Reports of the Ministry of Labour, Industrial Relations (Arbitration and Conciliation).

[2]In 1920 the Minister drew up the three panels consisting of 22 chairmen, 47 employers and 36 workers' representatives.

the end of 1919 and the end of 1938 was 1,984. Of these, 1,669 were to the Industrial Court, 224 to single arbitrators and 91 to *ad hoc* bodies. The statutory conciliation settlements effected by the Ministry over the same period were 1,199. In addition to the 20 courts of inquiry there have been 3 committees of investigation of a less formal nature held under the Conciliation Act, making a total of 3,206 cases handled by the Ministry under the two enactments over 19 years.

If we exclude the figures since 1936 we have a period of 17 years for comparison with the 17 complete years from the Conciliation Act to 1914. Between 1920 and 1936, inclusive, 2,994 disputes were passed through the Ministry. A comparison with the figures given in Chapter II shows that between four and five times as many disputes were handled in the later period as in the earlier. Despite the greatly increased use of arbitration due to references to the Industrial Court, the greatest advance has not been in arbitration but in conciliation, the 1,050 settlements reported up to the end of 1936 being a sixfold increase on the 172 reported up to 1914. At the same time the total number of strikes and lockouts were greater for the pre-war 17 years, being 11,492 as compared with 7,145 for the post-war 17 years. The number of workers involved remained practically the same at between six and seven millions.

It is true that the increase in state activity was partly the result of industrial dislocation following a return to peace conditions during which greater state action was inevitable. But if we take the last 5 complete years before World War II, that is 1934 to 1938 inclusive, and compare them with the 5 years of greatest activity under the Conciliation Act, 1909 to 1913 inclusive, the result still shows a substantial increase. Approximately 525 disputes were dealt with other than by courts of inquiry in the first mentioned period and only 388 in the second. And yet 3,846 strikes and lockouts were reported in the more recent period involving only some one and a half

million workers as compared with 4,224 stoppages recorded in the earlier years involving approximately four million workers. From this it is reasonable to conclude that the increased use of state facilities has not been due solely to immediate readjustment after World War I but has indicated a more permanent trend.

The increase is, of course, indirectly the outcome of wartime developments. For one thing, necessarily wider departures from *laissez faire* policy than had ever before been taken, went a long way to ridding the country of traditional inhibitions against State interference. For another the building up of trade unionism during war years increased the proportion of disputes which arose as between organisations and which were, therefore, more amenable to organised settlement.

But due account must also be taken of the efforts of the Ministry of Labour, as executive agency of the Conciliation and Industrial Courts Acts, to cultivate in the parties the habit of resorting to facilities offered by the Acts rather than to stoppages of work. In addition to a department of industrial relations in London conducted by experts in this field it also maintained in the inter-war period 6 outstation offices in the principal industrial centres, each with a staff of conciliation officers. Through its officers the Ministry is in touch with the employers' and workers' organisations and few major industrial disputes break out without having first received the careful study and skilful intervention of the Ministry.

The form that intervention takes in normal times depends on the independent conciliation and arbitration arrangements already existing in the industry. Where no effective arrangements are operating it is likely to be as follows. In the first place the Ministry's local conciliation officers are at the disposal of the parties. These officers are well known to the parties in advance and the annually increasing number of settlements in which they participate at some stage shows that their experience and skill are being recognised and made use

of by both employers' and workers' organisations.[1] If conciliation fails, the Ministry will try to obtain the consent of the parties to refer the issue to arbitration by the Industrial Court unless a preference is shown for a single arbitrator or an *ad hoc* court. Finally, if the dispute involves national interests it may, without waiting for the consent of the parties, appoint a court of inquiry. In many cases, of course, the Ministry labours in vain to prevent a stoppage of work. But whether it succeeds or not its mediation is always of value if only as a restraining influence in times of heated controversy.

Since 1939 there has been a very considerable extension of the Ministry's conciliation work despite the operation, after 1940, of the compulsory arbitration provisions referred to in a later chapter.[2] In fact, during the eight years 1939 to 1946, the number of settlements reached directly under the auspices of the Ministry substantially exceeded the total number under all forms of arbitration by statutory tribunals being 2,350 as against 1,676.[3]

[1]Only where the Ministry's officials have arranged the final conciliation meetings are the settlements recorded as effected by the Ministry. The number of discussions with which officials are associated at an early stage only, runs into several hundreds every year. For 1928, for instance, a year comparatively free from trade troubles, the Ministry estimated the number at over 500. *Ministry of Labour Annual Report for* 1928, cmd. 3333 of 1928-9.

[2]Part II, Chapter VII.

[3]*Report of the Ministry of Labour and National Service for the years* 1939-1946. Cmd. 7225, 1947.

CHAPTER VI

Minimum Wage and Similar Compulsory Legislation

THROUGH THE Conciliation and Industrial Courts Acts and by official encouragement and recognition of Whitley Councils and the informal mediation of the Ministry of Labour and National Service, the state has provided facilities for the settlement of labour problems without compulsion. These measures constitute the state's general contribution to industrial peace. But, for the settlement of certain labour problems and for particular industries, parliament has found it necessary to depart from the voluntary principle and to provide for the protection of employees through machinery supported by legal sanction. This machinery ranges from the general minimum wage arrangements of the Wages Councils Act to somewhat similar but specialised provisions for coal mining, agriculture, road haulage and the catering industry and to the enforcement of collective bargains in the cotton manufacturing industry, and finally embraces a series of statutes with fair wages requirements as considerations incidental to other purposes.

WAGES COUNCILS

The most extensive use of compulsion in normal times is the minimum wage fixation of the Wages Councils Act. Originally established for the limited purpose of preventing the worst abuses of sweating, Trade Boards, as they were then termed, have acquired, partly by subsequent legislation and partly by practice, far wider purposes.

Trade Boards Act, 1909[1]

The first trade boards were established under the Trade Boards Act passed in 1909 on the recommendation of a Select Committee of the House of Commons on Home Work. The immediate factors leading up to this development were the insistent propaganda of the Anti-Sweating League, an inquiry by the Board of Trade which revealed the exceptionally low wages being paid in a number of industries such as tailoring, jute and linen trades, and a survey, made on behalf of the Board of Trade, of the minimum wage legislation of Australia and New Zealand.

The Select Committee recommended that the general principle should be adopted of establishing wages boards to fix minimum time and piece rates for homeworkers and that payment of lower rates should be made an offence. Realising that this proposal represented a radical departure from existing industrial practice and legislation, they recommended that parliament should proceed experimentally and apply the principle to a few trades at first and extend it as experience was gained in its use.

The 1909 Act, therefore, was applied only to four trades in which sweating was a serious problem, namely, ready-made and wholesale bespoke tailoring, paper-box making, machine-made lace and net finishing, and chain making. The Board of Trade were authorised, however, to apply the Act to other trades by provisional order, subject to confirmation by parliament, if satisfied that the rate of wages prevailing in any branch of the trade was "exceptionally low as compared with that in other employments." Four trades, namely, sugar confectionery and food preserving, shirtmaking, hollow-ware making and linen and cotton embroidery, were added by this procedure in 1914.

[1] 9 Edw. 7 c. 22.

Trade Boards Act, 1918[1]

As already mentioned in Chapter IV the second report of the Whitley Committee in 1917 dealt with the extension of the system of trade boards to industries in which there existed little or no organisation of employers and workers. The committee recommended that in those industries the machinery of the Trade Boards Act should be applied "pending the development of such degree of organisation as would render possible the establishment of a national council or district councils." This implied a considerable change from the negative anti-sweating approach of 1909.

In 1918 an Act was passed amending the earlier Act along the lines of the Whitley proposal. This Act empowered the Minister of Labour to establish by special order a trade board in any trade where, in his opinion, "no adequate machinery exists for the effective regulation of wages throughout the trade and that accordingly, having regard to the rates of wages prevailing in the trade or any part of the trade, it is expedient that the principal Act should apply to that trade." It was thus no longer necessary to establish that rates were "exceptionally low" whilst the procedure of the provisional order was replaced by the special order. This procedure was used extensively in the next 3 years when 37 new trade boards were set up. Thereafter, however, comparatively few new boards were established. The total number in existence in June, 1944, was 52, of which 40 covered Great Britain, 6 operated in England and Wales and 6 only in Scotland. It was estimated that at September, 1939, approximately a million and a quarter workers were employed in trades covered by the Acts.[2]

Wages Councils Act, 1945[3]

The third stage in general minimum wage fixation in Great Britain began on 28th March, 1945, when the Wages Councils Act came into operation.

[1] 8 and 9 Geo. 5 c. 32.
[2] Ministry of Labour and National Service, *Industrial Relations Handbook*, Section VIII.
[3] 8 and 9 Geo. 6 c. 17.

That Act repealed the Trade Boards Acts of 1909 and 1918 but re-enacted their provisions with modifications under which existing trade boards become wages councils. Three important changes are made. In the first place councils are now related to "workers" and not to particular trades as under the Trade Boards Acts. Until varied by ministerial order those councils which had been set up as trade boards are empowered to continue to operate in respect of the workers and employers previously within their ambit. New councils operate in relation to the workers described in the creating orders and their employers. The second change enables wages councils to recommend "statutory minimum remuneration" instead of the more limited "minimum rates of wages."[1] Thirdly, wages councils are able to recommend paid annual holidays beyond one week.[2]

New wages councils can be established by an order of the Minister of Labour and National Service either,

(*a*) if he is of opinion that no adequate machinery exists for the effective regulation of the remuneration of any workers and that, having regard to their remuneration, it is expedient that a Council should be established ; or

(*b*) on the recommendation of a commission of inquiry which is of opinion that voluntary machinery is not and cannot be made adequate or does not exist or is likely to cease to exist or be adequate, and that as a result a reasonable standard of remuneration is not being or will not be maintained.

An application for a wages council may be made to the Minister by a joint industrial council or similar body or jointly by the employers' organisations and trade unions that habitu-

[1]This enables wages councils to submit proposals for guaranteed weekly or other minimum remuneration. Four such proposals based broadly on the Essential Work Orders were given effect to by wages regulation orders in 1946.

[2]This extends the power previously given, by the Holidays with Pay Act, 1938, to Trade Boards, as statutory wage regulating authorities, to direct that workers, for whom statutory minimum rates of wages were fixed, should be entitled to be allowed a holiday with pay of not more than one working week a year.

ally take part in the negotiation of remuneration and conditions of employment of the workers concerned. If satisfied that there are sufficient grounds for the application the Minister may refer it to a commission of inquiry. Before so doing he must give notice of the application to any other joint body or organisations likely to be affected and consider any observations made by them.

The Minister may, without such an application, refer to a commission of inquiry the question of establishing a wages council if he is of opinion that adequate machinery does not exist or is likely to cease to exist or cease to be adequate and that a reasonable standard of remuneration will not be maintained.

Commissions of inquiry are appointed *ad hoc* to deal with each particular reference and are constituted, in accordance with the second schedule to the Act, of not more than three independent members and either two or four members, of whom one half represents employers and one half workers. All are chosen by the Minister who also nominates one of the independent members as chairman. The representative members are chosen after consultation with the employers' and workers' organisations concerned but must not be persons likely to be affected by the matters which are to be inquired into by the commission. Experts may be appointed as assessors but may not vote or otherwise be a party to any report or recommendation. Except where specifically provided for by the Act or by regulations made by the Minister, the procedure to be followed can be fixed by the commission itself.

It is the duty of a commission to consider not only the subject matter of the reference but also any other relevant matter and, in particular, whether there are any other workers in closely allied work whose position should also be dealt with.

Where a commission comes to the conclusion that the existing machinery is, or can reasonably be made, adequate for regulating the remuneration and conditions of employment of the workers concerned, it so reports to the Minister and

may include any suggestions for its improvement. If it reaches the contrary conclusion it may recommend the establishment of a Wages Council.

In the first event the Minister must take any practicable steps to secure the improvements suggested. If, on the other hand, the Minister proposes making a Wages Council order, whether on his own initiative or in pursuance of a recommendation by a commission of inquiry, he must first publish notice of this intention in the prescribed manner and allow forty days for receipt of objections by persons likely to be affected. If substantial objections are received at this stage the Minister may amend the draft order and publish the new draft or refer the objections to a commission of inquiry. The Minister is required to publish concurrently with a Wages Council order any report of a commission of inquiry and the order takes effect from the date of publication unless a later date is specified in it. The order (and any report) must be laid before parliament as soon as possible and may be annulled by resolution of either House within 14 days of tabling.

The same procedure applies to the making of any order abolishing or varying the field of operations of a Wages Council. Publication of intention to vary an order is not necessary, however, when the transfer of workers from one Council to another is the only matter involved, but in this case the Minister must first consult the Councils concerned.

An application for the abolition of a Wages Council may be made jointly by organisations of workers and employers respectively representing substantial proportions of the workers and employers affected, on the ground that those organisations provide adequate joint machinery for the regulation of wages and conditions of employment. The Minister must either give effect to the application or refer it to a commission of inquiry.

The Minister is empowered to establish a central co-ordinating committee to co-ordinate the work of two or more Councils. He may do so on the recommendation of a com-

mission of inquiry or on his own initiative after consulting the Councils concerned.

The constitution of new Wages Councils and central co-ordination committees are similar. They are composed of not more than three independent persons, one of whom is chairman, and such number as the Minister determines representing the employers concerned and an equal number representing the workers concerned. Before appointing the representative members the Minister must consult the relevant organisations of employers and workers. A Wages Council may delegate any of its powers, other than the submission of wages regulation proposals, to committees of its own members and a central co-ordinating committee may similarly delegate to sub-committees, providing numerical equality between employers' and workers' representatives is maintained.

All appointments are made by the Minister for the period and on the conditions specified by him. The Minister may, subject to the provisions of the Act, regulate the procedure for meetings but otherwise the procedure is determined by the bodies themselves.[1]

The Wages Councils previously constituted in pursuance of the Trade Boards Acts, retain their constitution until varied by ministerial order. The number of representative members on these Councils ranges from as low as 4 on each side to 25 a side, with about 15 being the average over all Councils. These members are normally appointed for periods of 2 years but their appointments may be renewed so long as they continue

[1]In pursuance of these powers the Minister has made the following Regulations : the Wages Councils and Commissions of Inquiry (Notices and Orders) Regulations, 1945 (Statutory Rules and Orders, 1945, No. 433), prescribing the manner of publishing notices, orders, proposals and reports, and requiring employers to post notices of proposals and orders ; the Wages Councils (Meetings and Procedure) Regulations, 1945 (Statutory Rules and Orders, 1945, No. 483), prescribing the quorum to constitute a meeting of a Wages Council, the system of voting and the method of giving notice of a meeting ; and the Wages Councils and Central Co-ordinating Committees (Conditions of Office) Regulations, 1945 (Statutory Rules and Orders, 1945, No. 484) prescribing the conditions of office of members of a Wages Council or central co-ordinating committee.

to represent the respective interests in the trade. District committees already established under the Trade Boards Acts are permitted to continue but the Wages Councils Act contains no provision enabling new district committees to be set up.

The functions of a Wages Council are:

(i) to report, or make recommendations, to the Minister or any government department, on the industrial conditions prevailing with respect to the workers and employers in relation to whom it operates;

(ii) to submit to the Minister "wages regulation proposals"; and

(iii) to issue permits in respect of infirm and incapacitated persons.

(i) A Wages Council must consider any matter relating to industrial conditions referred to it by the Minister or government department and report thereon. It may, however, take this action on its own initiative and make recommendations to the Minister or government department in relation to those matters. This aspect of its work is, however, of a secondary nature and the primary function is the submission of proposals on which wages regulation orders are based.

(ii) A wages regulation proposal may be made:

(*a*) for fixing the remuneration (including holiday remuneration) to be paid either generally or for particular work by employers to all or any of the workers within the Council's field of operation, and

(*b*) for requiring the granting of holidays to all or any such workers.

Proposals for holidays cannot be made unless both holiday and other remuneration have been, or are being, fixed for the workers concerned and the length of holiday is related to length of service.

Before submitting a wages regulation proposal to the Minister, a Council must give notice of it stating where copies of the proposal may be obtained. The Council must consider any written representations made to it within the specified period and make any further inquiries necessary before submitting the proposal, with or without amendment, to the Minister.

On receipt, the Minister is required to give effect to the proposals by means of a "wages regulation order." He may, however, if he so wishes, refer the proposals back to the Council for further consideration.

The Minister's order sets out the proposals in the form of schedules and must specify a date (subsequent to the date of the order) for commencement. In the case of workers paid at intervals of not more than 7 days the order takes effect at the beginning of the first pay period on or after the specified date.

Remuneration fixed by a wages regulation order is known as statutory minimum remuneration and replaces any less remuneration in the contracts of employment of workers concerned. Similarly, paid holiday times and conditions of individual contracts at variance with an order are replaced by the times and conditions specified but no order can prejudice rights to remuneration or holidays conferred by any other legislation.

Statutory remuneration must be paid in cash, without deduction except in respect of income tax, unemployment and health insurance or any statutory superannuation or provident fund, and certain deductions which are permitted at the written request of the worker. Specified benefits or advantages arising out of the employment may be evaluated in wages regulation proposals and, if authorised in wages regulation orders, may be reckoned as payment of wages in lieu of cash up to the amounts fixed.

(iii) Permits authorising the employment of a worker at remuneration less than the statutory minimum remuneration, may be issued by a Wages Council if satisfied that the worker

is incapable, through infirmity or physical incapacity, of earning the statutory minimum remuneration. At the end of 1946 the number of workers holding such permits was somewhat under two and a half thousand.

The provisions of the Act and orders made under it are policed by authorised inspectors of the Ministry of Labour and National Service who have powers of entry and inspection of books, and may initiate proceedings against employers for breaches of the Act.

Failure to maintain proper wages records or notices or to pay the statutory minimum remuneration or observe the holiday provisions, renders an employer liable, on summary conviction, to a fine not exceeding £20, whilst the amount of any underpayment may be ordered to be paid. The same penalty applies to acceptance of premium from an apprentice or learner covered by a wages regulation order and the employer may be ordered to repay the amount of the premium. In addition, any worker who is underpaid may recover by way of civil proceedings.

The Act applies to Scotland but not to Northern Ireland which, however, is covered by the substantially similar provisions of the Wages Councils Act (Northern Ireland) which received the Royal Assent on 13th December, 1945.

The first requests for the establishment of new Wages Councils under the Act came from the retail food trades joint industrial council, the national joint industrial council for the retail drapery, outfitting and footwear trades, the national joint industrial council for the hairdressing (including beauty specialists) craft, and the national joint industrial council for the retail furnishing and allied trades. Commissions of inquiry to consider these applications were appointed by the Minister before the end of 1945. Subsequently the Minister appointed a commission to consider the question of the establishment of Wages Councils for the retail bookselling, newsagency, stationery, tobacco and confectionery trades. The commissions having recommended the establishment of 8 Wages Councils,

the Minister of Labour and National Service, in May, 1947, gave notice of his intention to make the necessary orders for this purpose which will bring into being the first Wages Councils to be formed under the 1945 Act.

Meanwhile, of course, wages regulation proposals have continued to be made by the Wages Councils already established as trade boards under the earlier Acts and wages regulation orders have been made by the Minister on an average of about 6 a month.

In April, 1947, an order was signed by the Minister abolishing the Furniture Manufacturing Wages Council (Great Britain). That body had been set up as a trade board in 1940 because of the absence of effective organisation and satisfactory working conditions. In 1945, however, voluntary machinery on the Whitley model was established and, in view of that and the increase in trade union organisation during wartime, the Minister is now satisfied that the decisions of the voluntary machinery will be adequately enforced without statutory aid. This is the first occasion on which a Trade Board or Wages Council has been abolished in fulfilment of the Whitley proposal that the statutory machinery should continue to operate in a trade only until such time as the degree of organisation made possible the establishment of voluntary machinery.

COAL MINES MINIMUM WAGE

Mention has already been made in Chapter II, Part I, of the Coal Mines (Minimum Wage) Act, 1912,[1] which provided for the fixing of local minimum rates for coal miners to protect those required to work in "abnormal places." As in the case of the Wages Councils and other statutory minimum wage systems the coal mining minima do not apply to workers handicapped by age or infirmity. Unlike those systems, however, no specific enforcement provisions were included in the legislation, the strength of miners' organisations being

[1] 2 Geo. 5 c. 2.

considered sufficient safeguard against non-observance. In practice this legislation has long since ceased to have any operative effect, the rates fixed by the voluntary machinery in the industry having in most cases been well in excess of the statutory minima.

AGRICULTURE

Relatively low wages and the absence of effective organisation of employers and workers are features of British agriculture. But for the use of the term "trade" in the Trade Boards Acts, those Acts might well have been applied to this industry. Instead, however, separate legislation has provided machinery similar in pattern but able, unlike the Trade Boards and Wages Councils, to prescribe minimum remuneration without the intervention of a ministerial order.

The first provisions for agricultural wages were contained in the Corn Production Act of 1917.[1] Passed during the grim stage of the submarine warfare of World War I, the primary aim of that Act was the encouragement of grain production. In return for a government subsidy, farmers in England and Wales were required to pay their employees a minimum rate of wages determined on a county basis by a Central Agricultural Wages Board, guided, where necessary, by district wages committees.

The wartime subsidy ceased in 1921 and with it the central control of agricultural wages. In its place the Corn Production (Repeal) Act[2] substituted a system of voluntary district conciliation committees. Wage agreements of these bodies could be registered with the Ministry of Agriculture and thereupon become legally binding in the districts concerned. Without registration the wage rates operated as voluntary agreements only.

In fact only six registrations were made and with the decline in prices the system ceased to protect wages. The Agricultural

[1] 7 and 8 Geo. 5 c. 46.

[2] 11 and 12 Geo. 5 c. 48.

Wages (Regulation) Act, 1924,[1] therefore, reverted to the system of minimum wage fixation by statutory bodies. Under it the Minister of Agriculture and Fisheries was required to set up in each county or group of counties an agricultural wages committee consisting of representatives, in equal numbers, of employers and workers, together with two impartial members appointed by the Minister and a chairman selected by the committee or, in default of agreement, by the Minister. Each committee was required to fix minimum rates for agricultural work in its area. The Act required that as far as practicable the rates fixed must be such that an able-bodied man's earnings would be "adequate to promote efficiency, and to enable a man in an ordinary case to maintain himself and his family in accordance with such standard of comfort as may be reasonable in relation to the nature of his occupation." Whilst the normal agricultural rate is a time wage, the Act also enabled piece-work minima to be prescribed whilst any rates fixed might be made applicable generally throughout the area or specifically to classes of workers or particular areas. In addition, exemptions or special rates could be provided for workers handicapped by physical injury, mental deficiency or infirmity due to age or other cause.

Unlike Trade Boards and Wages Councils the agricultural committees operated on a local basis. Co-ordination was provided under the 1924 Act through a Central Agricultural Wages Board consisting of equal numbers of representatives of employers and workers, and independent members (including the chairman) appointed by the Minister not exceeding one-quarter of the total membership of the Board.

The determinations of the agricultural wages committees did not become effective until confirmed by the Central Board which might refer any rate back to a committee for reconsideration but could only fix local rates in certain circumstances, e.g., in default of a committee or on request by a committee.

[1] 14 and 15 Geo. 5 c. 37.

The Act was amended in 1940 by the Agricultural Wages (Regulation) Act[1] and again in 1944 by the Agriculture (Miscellaneous Provisions) Act.[2] The effect of those amendments was to enable a national minimum wage to be fixed for both time- and piece-work by the Central Agricultural Wages Board after consultation with the committees. County rates fixed by committees were required to be such as to ensure that no man of full age employed whole-time would receive less than the national minimum wage. Regard had also to be taken of the national minimum when committees fixed rates for women and young persons.

In Scotland a similar system of district committees and Central Wages Board were set up by the Agricultural Wages (Regulation) (Scotland) Act, 1937.[3] The Scottish procedure differed from that operating in England under the 1924 Act chiefly in enabling the Department of Agriculture to order reconsideration by a district committee of any rate fixed by the committee. In 1940[4] this authority to direct review was transferred to the Scottish Agricultural Wages Board which was also empowered to vary the decision of a district committee after taking into consideration any representations made by the committee.

In 1942 the powers of the committees in England to fix district rates were transferred to the Central Agricultural Wages Board under Order in Council[5] made under the Emergency Powers (Defence) Acts, 1939 and 1940. The effect of that Order was to suspend local fixation of rates for "the period of the war emergency and so long as the present system of nationally-fixed agricultural prices and an assured market for agricultural produce is in operation." County wages committees remained as consultative bodies and continued to

[1] 3 and 4 Geo. 6 c. 17.
[2] 7 and 8 Geo. 6 c. 28.
[3] 1 Edw. 8 and 1 Geo. 6 c. 53.
[4] Agricultural Wages (Regulation) (Scotland) Act, 3 and 4 Geo. 6 c. 27.
[5] Statutory Rules and Orders, 1942, No. 2404.

exercise their functions of determining benefits and advantages to be allowed as part payment of minimum rates and of dealing with applications for permits of exemption from the minimum rates for infirm workers. A similar Order in Council was made for Scotland in 1944.[1]

The wartime arrangements in both countries were made permanent by the Agricultural Wages (Regulation) Act[2] which received the Royal Assent on 11th March, 1947. This Act repeals in entirety the Agricultural Wages (Regulation) Amendment Act, 1940, the Agricultural Wages (Regulation) (Scotland) Act, 1940, and also repeals certain provisions of the Agricultural Wages (Regulation) Act, 1924, the Agricultural Wages (Regulation) (Scotland) Act, 1937, the Holidays with Pay Act, 1938, and the Agriculture (Miscellaneous Provisions) Act, 1944.

Under the 1947 Statute the power to fix, cancel or vary minimum rates is exercised, in England and Wales, by the Agricultural Wages Board, and, in Scotland, by the Scottish Agricultural Wages Board. In determining rates those Boards can operate on a county or district or national basis, and in relation to agricultural workers generally or special classes, and are not required, as were the county and district committees, to have regard to certain general economic considerations. The Act also transfers from the committees to the Boards the task of defining overtime and those benefits and advantages, such as the occupation of a cottage or the supply of milk or vegetables, which may be taken into account as part payment of wages. The county agricultural wages committees in England and Wales and the district agricultural wages committees in Scotland still exercise local functions in relation to such benefits and advantages and also to learners' certificates, etc., but are subject to limitations imposed, and directions given, by the Boards. The Boards are required to consider any representations made by committees before

[1] Statutory Rules and Orders, 1944, No. 326.

[2] 10 and 11 Geo. 6 c. 15.

exercising any functions in relation to the counties or districts covered by those committees and must also serve on the committees notice of proposal to make an order affecting their areas.

The 1947 legislation extends the power to order holidays with pay. Under the Holidays With Pay Act, 1938, the agricultural wages committees were empowered to give directions to employers to allow workers up to 7 paid holidays a year and for not more than 3 days to be taken consecutively. These provisions are now amended to give to the Boards the same powers as the wages councils have in relation to the ordering of paid holidays. The Act also extends the scope of agricultural wages regulation to cover market gardening.

Orders made by the Agricultural Wages Boards have legal effect and enforcement similar to wages regulation orders under the Wages Councils Act, 1945. Inspection and enforcement, however, are not carried out by the Ministry of Labour and National Service but by the Ministry of Agriculture in England and the Department of Agriculture in Scotland.

ROAD TRANSPORT

The statutory machinery for road transport combines features of the Trade Boards and Wages Councils Acts with principles of the "fair wages" legislation dealt with later in this chapter. The development of special provisions for this industry has been associated with the attempts at general economic co-ordination of road and rail transport and the industrial machinery has been devised to fit the special circumstances of the separate branches comprising passenger transport, public haulage of goods and private haulage of goods.

Motor transport is a comparatively recent activity. Its rapid development in the nineteen twenties resulted in a high degree of competition which, in the absence of effective organisation of employers and workers, was reflected in low wages, long

hours of work and exceptionally bad conditions of employment in general.

The very nature of the industry has militated against effective organisation either of employers or employed. Comparatively little capital is needed to start business, at least in the goods section, whilst any district reasonably well populated affords opportunities for this enterprise. As might be expected, therefore, road haulage has been in the hands of a large number of small and scattered units. The total number of persons or firms licensed, in 1936, to carry goods by road for hire, was over 60,000 and the average number of vehicles in respect of which each was licensed was only two and a half. Including the numbers licensed to carry, not for hire, but in connection with their trade or occupation, the figure in that year was 223,095 and the number of vehicles 486,640. Except in a few of the more densely populated areas, conciliation machinery and standard wages and conditions of work were non-existent prior to 1934.[1]

The first legislative excursion in the regulation of road transport conditions was dictated by the need to protect the public from risks which are present when the drivers of motor vehicles are sweated or overtired workers. The most obvious danger is, of course, in the case of passenger transport and it was this branch that received attention in the Road Traffic Act of 1930.

Road Traffic Act, 1930[2]

Only two sections of the Act are relevant to the subject of regulation of working conditions. Section 19 imposes limitations on the time during which drivers of certain vehicles may remain continuously on duty. The Minister is empowered to vary the periods by order, "on the application of a joint industrial council, conciliation board, or other similar body,

[1]See Report of Committee on the Regulation of Wages and Conditions of Service in the Road Motor Transport Industry (Goods), cmd. 5440, 1937.

[2]20 and 21 Geo. 5 c. 43.

or on a joint application by such organisations representative of employers or workpeople in the industry, as the Minister of Labour may certify to be proper bodies to make such an application." But before doing so, the Minister (i.e., the Minister of Transport who administers the Act) must refer the matter to the Industrial Court for advice.

Where the application for alteration of the times comes directly from trade associations the certification by the Minister of Labour as to the propriety of the bodies is an essential step prior to the reference to the Industrial Court by the Minister of Transport. Until 1933, the application was required to be a joint application. Section 31 of the Road and Rail Traffic Act, 1933, however, amended the section to enable an application to be made by any organisation representative of either employers or workpeople.[1]

On an average, up to the start of World War II, about half a dozen references under this section were heard by the Industrial Court each year since 1930.[2] The hearing is publicly advertised by the Minister of Transport, to enable persons representing organisations of employers or workers to give notice of their desire to be heard. The matter is then dealt with by the court as an ordinary reference under the Industrial Courts Act, 1919, with the exception that its decision, being in the form of advice, is not published as an award but is sent through the Minister of Labour to the Minister of Transport. The latter is not compelled to follow the advice of the court and may only make an order if he is satisfied that the variation is not likely to be detrimental to the public safety. When an order is made, it has the same effect as the original terms set out in the section. Any person acting in contravention is guilty of an offence punishable in the first instance by a fine not

[1] A further amendment was made by Section 7 of the Road Traffic Act, 1934, to enable an order under the section to affect only a particular class of public service vehicles or to affect them only when used in particular circumstances.

[2] *Annual Reports of the Ministry of Labour.*

exceeding £20 and on any subsequent conviction by a fine not exceeding £50 or imprisonment up to three months.

The second section of the Road Traffic Act which needs to be examined also imposes special duties upon the Industrial Court. But, whereas section 19 referred only to the drivers of certain vehicles, section 93 refers to all workers employed, but only in connection with the operation of a public service vehicle, i.e., passenger transport. It requires the holder of any road service licence to pay the wages and observe the conditions of employment stipulated for government contractors by the Fair Wage Resolution. To this extent, the section is similar to the Sugar, Air Navigation, Cinematograph Films, and Bacon Industry, Acts.[1] But the duties of the Industrial Court and the method of enforcement are somewhat different in this case. Subsection (2) provides :

> "Any organisation representative of the persons engaged in the road transport industry may make representations to the Commissioners (i.e., the Traffic Commissioners in the area in which the road service licence was granted) to the effect that the wages paid to, or the conditions of employment of, any persons employed by the holder of any road service licence are not in accordance with the requirements of the preceding subsection, and if the matter in dispute is not otherwise disposed of it shall be referred by the Minister of Labour to the Industrial Court for settlement."

Under this subsection the question for the decision of the court is whether the employer has been guilty of a breach of the provisions and for this purpose it would be sufficient for the court to give a decision simply in the form "yes" or "no." In the first cases submitted to it, the court did award simply that the employer was in breach.[2] The question was then likely to be asked by the employer, what were the wages which he should pay in order to avoid a breach of the Act. Such a question, however, could only come before the court by

[1] See below.

[2] Awards 1530 and 1535.

consent of the parties as a normal reference under the Industrial Courts Act, 1919, or as a special reference from the Minister of Labour and National Service for advice. To avoid this difficulty, the court has since adopted the procedure of setting out as a schedule to the award, the minimum wages and conditions which satisfy the Act in the district concerned and then giving their decision by comparing the wages and conditions in the particular instance. In practice, therefore, the court's decision under the Road Traffic Act amounts to the same thing as its decision under the Fair Wages Acts dealt with later.

The payment by an employer of a wage which contravenes this section will not necessarily give a right of action by the employees for breach of contract. But where the Industrial Court decides that any person is guilty of a breach, he may be dealt with in all respects as if he had failed to comply with a condition attached to his road service licence. Persistent breach would, therefore, involve revocation of the licence.

Road and Rail Traffic Act, 1933[1]

The Road and Rail Traffic Act, 1933, introduced a system of licensing according to the class of work undertaken and made the issue of a licence conditional on the vehicles being maintained in fit condition and on driving hours being limited in the interest of public safety. It also extended the provisions of section 93 of the Road Traffic Act to certain classes of goods transport. Three types of licences are issued under this Act:

> An "A" or public carrier's licence entitles the holder to use the authorised vehicles for the carriage of goods for hire or reward or in connection with his business as a carrier of goods but not for the carriage of goods for, or in connection with, any other trade or business carried on by him.
>
> A "B" or limited carrier's licence entitles the holder to use the authorised vehicles for the carriage of goods for hire or

[1]23 and 24 Geo. 5 c. 53.

reward (subject to any special conditions attached to the licence) or in connection with any trade or business carried on by him.

A "C" or private carrier's licence entitles the holder to use the authorised vehicles for the carriage of goods only in connection with any trade or business carried on by him.

Section 32 (2) applied the provisions of section 93 of the Road Traffic Act to all persons employed by the holders of "A" and "B" licences as drivers or statutory attendants of authorised vehicles. Section 32 (1), however, amends section 93 by adding a direction to the Industrial Court to take into account, in arriving at a decision on the question of the fair wage or conditions, any relevant determination of a joint industrial council, a conciliation board or any similar body or any relevant collective bargain brought to its notice.

Section 8 (2) made it "a condition of every 'A' licence and every 'B' licence that the provisions of Section 93 of the Road Traffic Act, 1930, as amended and applied, are complied with in relation to the authorised vehicles." Failure to comply with a condition of a licence is an offence for which penalties are provided on conviction under the Summary Jurisdiction Acts. In addition the licensing authorities may revoke or suspend a licence or reduce the number of authorised vehicles on a licence for frequent or wilful breach of conditions, or on the ground of any public danger involved.

After 1933, therefore, the only employers engaged in road haulage who were not required to comply with the Fair Wages Resolution as regards wages and conditions of drivers and statutory attendants were the "C" licence holders. It was realised that the protection which section 93 of the Road Traffic Act (as extended by section 32 (2) of the Road and Rail Traffic Act) sought to give, would be weakened by the absence of joint conciliation machinery, capable of establishing national rates of wages and conditions of work, which could be taken by the Industrial Court as the standard required by the Resolution. During the passage of the Road and Rail

Traffic Bill, therefore, an undertaking was given by the government[1] that the Minister of Labour would "consult with the organisations of employers and workpeople, with a view to the establishment of a joint voluntary body or bodies which will have as their object the settlement of proper working conditions." An advisory committee of employers and unionists was appointed by the Minister to assist in the planning and establishment of suitable machinery. On the 16th March, 1934, a national joint conciliation board for the road motor transport industry (goods) in England and Wales held its inaugural meeting. The board had no statutory basis, being no more nor less than an ordinary voluntary conciliation board such as exists in the older industries. Its functions were set out as, *inter alia*, the determination of wages and working conditions, nationally or otherwise, for all workpeople employed in the goods section of the road transport industry. It consisted of 15 representatives of the employers, appointed by the Associated Road Operators Limited (an amalgamation for that purpose of the National Road Transport Employers' Federation, the Motor Transport Employers' Federation and the Road Haulage Association), 15 representatives of the transport unions (10 being appointed by the Transport and General Workers' Union, 2 by the United Road Transport Workers' Association of England, 2 by the Liverpool and District Carters' and Motormen's Union and one by the National Union of General and Municipal Workers) and an independent chairman. The board, as the national body, had power to co-operate with, or set up, local machinery to deal with district matters. Ten such local boards were established, one in each licensing area. Disputes arising in the application of national agreements to local conditions were to be referable, if unsettled locally, to an appeals committee of the national board, presided over by the independent chairman.

[1]Through the Parliamentary Under-Secretary of State for the Colonies, the Earl of Plymouth, *Parliamentary Debates* (*Lords*) 89 (7th November, 1933), 44-45.

A separate conciliation board was established in Scotland in December, 1934. It differed from the English board only in selecting its chairman from the board members, but in exceptional cases it might request the Minister of Transport or the Minister of Labour to nominate an independent chairman for a particular meeting or meetings.

Had the industry been better organised, the provisions of the Road and Rail Traffic Act, supplemented by this voluntary machinery, might have effected a much-needed improvement in the conditions of the industry. In fact, however, the 2 national boards were national in name only. The 3 organisations which, as the Associated Road Operators Limited, formed the employers' side of the English board, covered, through their branches and local associations, only about one quarter of the 60,000 holders of "A" or "B" licences, while on the workers' side, the unions represented a minority of the workers concerned.[1]

This weakness was felt as soon as the boards endeavoured to establish national schemes of wage rates and conditions which were to be a basis for section 32 of the Act. In England and Wales certain decisions were reached before the end of 1934. They included a classification of wages according to the carrying capacity of vehicles and according to whether the service was trunk or a restricted service. In the case of the latter the board established 3 grades and left it to each local board to determine the grades of its area. Appeal from the local decision was provided to the appeals committee and finally to the independent chairman. Appeals were made in all but four cases, and an interim arrangement involving a scaling down of the rates had to be instituted, pending settlement of grading questions. The local acceptance and application even of this interim scheme was incomplete. On the ground that inadequate consideration had been given to local wage agreements and conditions, many employers and associations within

[1]Report of Committee on the Regulation of Wages and Conditions of Service in the Road Motor Transport Industry (Goods), cmd. 5440, 1937.

the scheme severed their connection with the national board in order to be able to meet the competition of others who were outside it. The rates paid by these employers were invariably lower and less favourable than the national rates, but being, in fact, "district rates," could not be regarded by the Industrial Court as unfair under the Fair Wages Resolution.[1]

The position was aggravated by the absence of regulation of wages and conditions in the case of "C" licence holders. These were entirely outside the scope of the conciliation boards, the licence being not in respect of the industry of haulage itself, but incidental to an infinite variety of industries and businesses each with its own conditions and methods of wage payment. Even in those which were organised, there was rarely any general agreement regulating conditions for motor drivers specifically. On the whole, therefore, wages in connection with "C" licences (which in 1936 represented 72 per cent. of the total licences issued, and controlled 68 per cent. of the total vehicles authorised) were even lower than in the case of "A" and "B" licences upon which they reacted.

In March, 1936, the national board of England and Wales sent a deputation to the Ministers of Labour and Transport, to point out the difficulties encountered by the board and to urge that further legislation be introduced to give more effective force to the decisions and to apply the same measure of regulation to the holders of "C" licences. As a result, the Ministers announced, in July, the appointment of a committee with the following terms of reference:

> "To examine the present position in regard to the regulation of wages and conditions of service of persons employed in connection with the carriage of goods by road (whether in

[1]In Industrial Court Award No. 1659 (H. Tuckwell & Sons Ltd., Oxford) the Court said: "The issue in the present case is as to whether the firm concerned are or are not complying with the provisions of the Fair Wages Resolution, and for this purpose the Court have to determine as regards rates of wages, for example, what are the rates paid in the trade in the district concerned. It is not part of the duty of the Court to determine under the present reference what those rates should be. The rates having been determined, the question of whether the firm concerned are or are not paying them is merely one of comparison."

vehicles authorised under "A," "B" or "C" licences) and to make recommendations as to the action which it is desirable to take."

In April, 1937, the committee made their report, and it is upon their recommendations that the Road Haulage Wages Act, 1938, is based.

Road Haulage Wages Act, 1938[1]

The previous Acts adopted the technique of the fair wages legislation rather than that of the Trade Boards Acts. In the 1938 measure, whilst the fair wages principle is retained for certain sections, the other branches are brought under statutory machinery of the trade board type. The Road Haulage Wages Act is wider in application than the Road and Rail Traffic Act and legislates for all sections of the road transport of goods. The workers covered are those (*a*) driving or assisting in the driving or control of goods vehicles ; (*b*) collecting or loading goods to be carried on or in the vehicle ; (*c*) attending to goods while so carried ; (*d*) unloading or delivering goods after being so carried ; and (*e*) acting as attendants to the vehicle. The Act does not extend, however, to any such workers whose remuneration is the subject of other statutory wage regulation or who are railway employees covered by the voluntary machinery established with the railway trade unions. At its commencement the Act extended over somewhat more than half a million workers.

The Act is divided into three parts. Part I applies to work carried on under "A" and "B" licences ; Part II affects "C" licence holders ; Part III contains general provisions common to the other parts.

Part I. This part sets up new machinery consisting of a Road Haulage Central Wages Board, 10 area boards and a special area board for Scotland. The Central Board is appointed by the Minister of Labour and National Service and consists of from 39 to 47 members. Of these, from 12 to 18 are repre-

[1] 1 and 2 Geo. 6 c. 44.

sentative members, one half representing employers and one half representing workers, and are nominated by the Minister after consultation with employers' and workers' organisations. Of the remainder, 24 members are appointed from the area boards and from 3 to 5 are independent members and include the chairman and deputy chairman.

Each area board consists of such members as the Minister thinks fit, provided, however, that one half shall be persons representing employers in the area and one half persons representing workers in the area, appointed after consultation with organisations of the employers and workers, respectively, affected in the area.

The main function of the Central Board is to submit to the Minister of Labour and National Service proposals for fixing the remuneration, including holiday pay, of road haulage workers employed in respect of "A" and "B" licences. In so doing the Board is required to take into consideration any decision of a joint industrial council, conciliation board or other similar body, relating to the remuneration of workers employed on road haulage work, which is brought to its notice. Before submitting a proposal to the Minister the Board must forward a draft to each area board likely to be affected and must give public notice of the proposals in order to enable any persons to raise objection or require modification of the proposals. When submitted to the Minister, he must, unless he considered it necessary to refer them back to the Central Board, give effect to the proposals as soon as may be by making a "road haulage wages order." Amendment or cancellation of an order is made by the same procedure.

The Central Board is not only, although it is primarily, a wage-determining body. It has power to make recommendations to government departments generally in respect of safety on the roads as well as health and comfort of workers and any other matter affecting the efficiency of, and conditions of work in connection with, "A" and "B" licensed vehicles. And it is required to consider and report upon any question referred to

it by the Minister relating to road haulage. The Central Board and every area board may make, or assist in making, arrangements for the settlement of disputes between "A" and "B" licence holders and their road haulage employees, and the promotion of voluntary organisation among them. This power extends to disputes generally and not merely to wage disputes.

The proceedings of the Central Board are conducted according to the Road Haulage Central Wages Board (Meetings and Proceedings) Regulations[1] and, in the case of the area boards, by the Road Haulage Area Wages Boards (Meetings and Proceedings) Regulations.[2] These Regulations were made by the Minister of Labour on 2nd January, 1939.

Part II. Part II adopts a different arrangement for the regulation of the remuneration of workers employed in respect of "C" licences. Under section 4 (1) any such road haulage worker or his union or any other union which, in the opinion of the Minister, represents a substantial number of road haulage workers, may, if the wages paid in the particular case are considered unfair, apply to the Minister to have the matter referred to the Industrial Court. To prevent the indiscriminate use of this right by individuals, section 4 (3) provides that no remuneration shall be considered unfair if:

(*a*) it corresponds to a road haulage wages order made under Part I;

(*b*) it is in accordance with a collective agreement to which the employer is a party;

(*c*) it is equivalent to the remuneration payable to similar workers in the same trade under a collective agreement in force in the district;

(*d*) it is in accordance with a relevant decision of a joint industrial council, conciliation board, or other similar body; or

(*e*) it is equivalent to wages paid by another employer engaged in the same trade in the district and such wages have been fixed by the Industrial Court upon a reference under this part of the Act.

[1]Statutory Rules and Orders, 1939, No. 2.

[2]Statutory Rules and Orders, 1939, No. 3.

If the Minister is satisfied that the complaint is not frivolous or vexatious he must, after communicating the complaint to the employer concerned, and on the application not being withdrawn, refer the matter to the Industrial Court within one month from receipt of the application. But where conciliation or arbitration arrangements exist in the industry as a result of an agreement made between organisations representing substantial proportions of the employers and workers, then unless the employer is not a member of any of those organisations, the Minister must refer the matter for settlement in accordance with those arrangements and may not refer it for settlement by the Industrial Court unless requested to do so by both parties to the agreement after the voluntary arrangement has failed to obtain a settlement. Thus by binding themselves to joint conciliation arrangements employers can put themselves in the same position, as regards references to the court, as they are in under the Industrial Courts Act, 1919, with the exception that the necessary consent is not that of the parties to the dispute but of the parties to the conciliation agreement. The Minister of Labour gave the true significance of this provision when he said in debate on the measure in the House of Commons :

> "It is rightly anticipated that this will result in increasing organisation in all industries, in strengthening existing joint machinery and in steps being taken to set up machinery in those industries where it does not now exist."[1]

When the matter comes before the Industrial Court that body has a double duty under section 5 (1). It must first decide whether the employer is paying a "fair wage." If it finds that the wage is in fact unfair it must then fix the remuneration which shall be paid in respect of that work as "statutory remuneration." In so doing, the court is directed by section 5 (3) to take into account not only the five standards of fair wages set out in section 4 (3) but also (*a*) any agreements brought to its notice which are in force between organisations

[1] *Parliamentary Debates* 335 (11th May, 1938), 1620.

of employers and trade unions regulating the remuneration of workers engaged on similar work in trades or industries which, in the opinion of the court, are comparable; (*b*) the general level of remuneration paid to workers who are not engaged on road haulage work in that trade or industry, and (*c*) such further circumstances as the court considers relevant.

The statutory remuneration fixed by the court remains in force as between the employer in respect of whom the application was made and all road haulage workers employed by him, for a period of 3 years. As between the employer and the worker by whom or on whose behalf the reference was made, the court may give the statutory remuneration retrospective force for a period not exceeding 6 months prior to the application. At any time after 3 months either party or their association or trade union may apply to the Minister for a review. This is heard by the court as in the case of an original reference.

Part III. This part deals mainly with the enforcement of statutory remuneration and the general administration of the Act.

When statutory remuneration is in force, whether in respect of work in connection with "A" and "B" licences as a result of a road haulage wages order under Part I, or in respect of work in connection with "C" licences as a result of a determination of the Industrial Court, the employer or employers affected are required to pay their workers remuneration not less than the statutory remuneration clear of all deductions other than statutory deductions. Any contract for the payment of less remuneration is construed as providing for the payment of statutory remuneration.

Contravention of these provisions by an employer may give rise to one or more of 3 consequences :

1. Summary action may be taken against him resulting, upon conviction, in a fine not exceeding £20 for each offence and, if notice of intention to prove contravention during a past period not exceeding two years has been served with the

proceedings, an order to pay such sum as the court finds to be the difference between what should have been paid during the period and what actually was paid.

2. Civil proceedings may be instituted by any worker entitled to statutory remuneration to recover any sum due.
3. Where the employer is convicted under 1 above, his licence may be revoked or suspended by the licensing authority in like manner as a breach of a condition under Section 13 of the Road and Rail Traffic Act, 1933.

The administration of the Act is in the hands of special officers who are appointed by the Minister and who have statutory powers of entry and inspection of relevant documents.

Part II was expressed to take effect only upon the making of an order by the Minister concurrently with the coming into force of the first road haulage wages order. This order was made on 8th January, 1940, and brought the Part into force as from the 29th of that month. As from that date, sections 8 (2) and 32 (2) of the Road and Rail Traffic Act, 1933, were repealed.

The post-war position in the various branches of road transport may be summarised as follows.

In the passenger transport section the fair wages requirement of section 93 of the Road Traffic Act, 1930, still apply. The section first came into operation on 1st April, 1931. Between that date and the end of 1940 some twenty odd cases were heard by the Industrial Court. These represented but a small proportion of the total number of complaints laid under the Act, the remainder being settled with the aid of the conciliation staff of the Ministry of Labour without recourse to the court. The statutory provisions have become of less importance with the development of voluntary conciliation machinery in this branch of the industry. Since 1937, a national joint industrial council has negotiated wages and other conditions of employment, on a national, but not a uniform, basis for municipal passenger transport employees (other than

skilled maintenance workers). In the event of disagreement on this council, the matter is referred, for arbitration, to the Industrial Court. The London Transport Executive is not a member of this council but maintains its own arrangements with the Transport and General Workers' Union. In respect of company-owned passenger transport, wages and conditions are negotiated through a national council for the omnibus industry. This body was established in 1940 and is representative, on the employers' side, of most of the large omnibus undertakings in England and Wales. During wartime the parties represented on the council agreed to resort to arbitration in the event of disagreement on the council but since the end of the war there has been greater difficulty and in 1946 it was necessary for the Minister of Labour and National Service to appoint a court of inquiry under his statutory powers in order to end a deadlock on the negotiation of new national wage rates and general conditions.

In the goods haulage section covered by "A" and "B" licences, statutory minimum remuneration and holiday pay are prescribed by orders made under Part I of the Road Haulage Wages Act, 1938, and based on proposals submitted by the Central Wages Board after consultation with the area boards. The first statutory road haulage wages order under this procedure came into effect on 29th January, 1940. These orders fix minimum rates only and do not preclude agreement for the payment of higher rates. In January, 1947, a national joint industrial council was constituted for the road haulage industry including provision for the speedy settlement of any differences that may arise. With this voluntary machinery in operation the functions of the statutory machinery in relation to safety on the roads, health, welfare and similar matters in connection with "A" and "B" licensed vehicles, are likely to be of diminishing importance.

Statutory remuneration in the case of road haulage workers employed in connection with "C" licensed vehicles is determined by the Industrial Court on a reference by the Minister

of Labour and National Service based on complaint by the worker or a union concerned. Statutory remuneration applies to all workers employed by the employer on the same work and operates for a period of three years subject to a right of review at quarterly intervals. Part II of the Road Haulage Wages Act has been in force only in wartime and the exceptional conditions of the post-war years. As a result of this, no doubt, the Industrial Court has been called upon to exercise its powers under the Act on but two occasions. Once again, however, it must be pointed out that this does not take account of the cases which have been referred to the Ministry of Labour and National Service on which a reference to the court has not been necessary.

In 1940 the Minister of Labour and National Service was empowered by the Trade Boards and Road Haulage Wages (Temporary Provisions) Act[1] to modify or suspend by regulation the operation of the Trade Boards and Road Haulage Wages Acts during wartime. In pursuance of this power the Minister extended the provisions of the latter Act to cover road haulage work in connection with vehicles operating under "A" or "B" defence permits granted by the Regional Transport Commissioners. The Minister also modified, in minor respects, some of the procedural details of the Road Haulage Wages Act. These extensions and modifications, however, were effected only for the wartime emergency.[2]

Under the Transport Act, 1947, to which reference has been made earlier,[3] there is provision for the acquisition by the Transport Commission of road haulage undertakings operating under "A" or "B" licences and predominantly engaged in "ordinary long-distance carriage."[4] After an appointed day,

[1] 3 and 4 Geo. 6 c. 7.

[2] Road Haulage (Emergency Provisions) (Procedure) Regulations, 1940, and Road Haulage (Emergency Provisions) (Miscellaneous) Regulations, 1940. Statutory Rules and Orders, 1940, Nos. 314 and 438.

[3] Part I, Chapter VIII.

[4] "Ordinary long distance carriage" is defined to mean the carriage of goods for 40 miles or more provided that the carrying vehicle is at some time more than 25 miles from its operating centre.

goods may not, except with the consent of the Commission, be carried for hire in any "A" or "B" licensed vehicles if the vehicle is at any time more than 25 miles from its operating centre. Certain types of long-distance haulage traffic are exempted.[1]

It is estimated that between 30,000 and 35,000 vehicles will be transferred. With virtually a single employer in long-distance road haulage, it is likely that the present wages arrangements of Part I of the Road Haulage Wages Act will no longer be necessary and that in their place, voluntary machinery will be set up under the section of the Transport Act which requires the Commission to establish appropriate machinery in consultation with the unions. In connection with "A" and "B" licensed vehicles remaining under private control, it may be considered either that the rates and conditions of employment for the Commission's operations will be sufficiently adopted with the aid, perhaps, of a fair wages requirement, or that this remaining field of private employment could best be covered by the application of the Wages Councils Act, 1945. Either course would enable the special machinery of Part I of the Road Haulage Wages Act to be dispensed with. Undertakings involving "C" licensed vehicles will not be acquired under the Act although their activities beyond a certain radius will be subject to control. The multiplicity of employing interests which has precluded more definite wage arrangements than those of Part II of the Road Haulage Wages Act, will, therefore, remain and it seems unlikely that any fundamental changes will be made in the provisions for regulating this section of road haulage employment.

CATERING

The passing of the Catering Wages Act in 1943[2] ended

[1]Ordinary furniture removals, the carriage of liquids in bulk in tanks, meats, livestock, and heavy individual loads.

[2]6 and 7 Geo. 6 c. 24.

18 years of controversy as to the merits of bringing the catering industry under the Trade Boards Acts. Representations for the establishment of trade boards in 1925 were rejected by the Minister of Labour after a departmental inquiry into conditions in the light refreshment and dining room (non-licensed) branch. A further inquiry in 1929 extended to licensed premises and the Minister gave notice of intention to make a special order. This was strongly opposed by the employing interests and, following lengthy litigation and a change of government in 1931, the project was dropped.[1]

The Catering Wages Act of 1943 anticipated the procedural outline of the Wages Councils Act, and the catering wages arrangements are really little more than a particular application of the general minimum wage provisions with minor modifications and broader functions at the central level.

The central agency is a catering wages commission constituted in similar manner to a commission of inquiry under the Wages Councils Act and having functions, in regard to catering wages, similar to such a commission. Unlike a commission of inquiry, however, it is a permanent body and reports annually to the Minister of Labour and National Service. Unlike that body, too, it is concerned with welfare and general conditions of employment in the industry and the requirements of the public, including the tourist traffic.

The Catering Wages Commission is empowered, on its own initiative or at the request of the Minister, to examine the arrangements for regulating the remuneration and conditions of employment of workers in the catering trades, and to investigate any other matters affecting remuneration, conditions of employment, health or welfare of those workers. Where satisfied that existing joint machinery for the regulation of remuneration and conditions of employment of any workers in the industry can be made adequate, it can include in its report suggestions for improvement of that machinery and the

[1]Ministry of Labour and National Service : *Industrial Relations Handbook*, p. 160.

Minister is required to take all steps expedient and practicable to secure the improvement. Where voluntary machinery does not exist or is inadequate and cannot be sufficiently improved, the Commission may recommend the appointment of a wages board. Before doing so, however, the Commission must make full investigation, publish notice of its intention to recommend and consider any representations made by interested parties.

A wages board order under the Catering Wages Act is similar in form and effect to a Wages Councils order under the Wages Councils Act and almost identical provisions, as regards procedures, apply.

A wages board may consider and report to the Commission on any matter affecting the remuneration, conditions of employment, health or welfare of the workers within its scope or affecting the general improvement or development of its portion of the industry. Such report is transmitted by the Commission, together with the view of the Commission, and, after consultation with other appropriate joint bodies, to the government department concerned.

A "wages regulation proposal" is, however, made direct to the Minister of Labour and National Service by a wages board as in the case of similar proposals by Wages Councils. In addition to the matters of remuneration and holidays to which the proposals of the latter bodies relate, catering wages boards may include proposals for fixing intervals for meals and rest for employees. The provisions of the Act empowering the Minister to make wages regulation orders fixing statutory minimum remuneration and the consequential sections are similar to those inserted in the Wages Councils Act.

The workers covered by the Catering Wages Act are "all persons employed in any undertaking, or any part of an undertaking, which consists wholly or mainly in the carrying on (whether for profit or not) of one or more of the following activities, that is to say, the supply of food or drink for immediate consumption, the provision of living accommodation for guests or lodgers or for persons employed in the

undertaking and any other activity so far as it is incidental or ancillary to any such activity as aforesaid of the undertaking." The Act applies "to civilian workers employed by or on behalf of the Crown in connection with any industrial undertaking as it applies in relation to workers employed otherwise than by or on behalf of the Crown," but does not extend to workers in ships.

The Catering Wages Commission was appointed by the Minister of Labour and National Service in July, 1943, and has since then made annual, as well as special, reports to that Minister. On its recommendation an order[1] was made by the Minister in March, 1944, for the establishment of an Industrial and Staff Canteen Undertakings Wages Board consisting of 30 representative members and 3 independent members. In order to enable this Board to commence to function the Minister issued, in October, 1944, the Catering Wages Regulation Proposals and Orders (Notices) Regulations[2] which set out the procedures to be adopted by wages boards to bring wages regulation proposals and orders to the notice of employers and workers affected. The Wages Board (Industrial and Staff Canteen Undertakings) Order was followed at the end of the year by the Wages Board (Unlicensed Place of Refreshment) Order[3] and in 1945 by the Wages Board (Licensed Residential Establishment and Licensed Restaurant) Order,[4] the Wages Board (Licensed Non-Residential Establishment) Order[5] and the Wages Board (Unlicensed Residential Establishment) Order.[6]

The five wages boards established by these orders extend over practically the whole of the catering industry as defined

[1]Statutory Rules and Orders, 1944, No. 266.

[2]Statutory Rules and Orders, 1944, No. 1145.

[3]Statutory Rules and Orders, 1944, No. 1399.

[4]Statutory Rules and Orders, 1945, No. 226.

[5]Statutory Rules and Orders, 1945, No. 334.

[6]Statutory Rules and Orders, 1945, No. 1510.

by the Catering Wages Commission,[1] and cover nearly a quarter of a million establishments in which approximately 760,000 persons are employed either full or part-time.

With the completion of the greater part of their inquiries in connection with the establishment of machinery for regulating wages and conditions of employment in the industry, the Catering Wages Commission have, in more recent years, given attention to matters of general concern in relation to the industry, such as basic training, staggering of holidays, tipping, and the development of tourist traffic and of catering, holiday and tourist services.[2]

COTTON MANUFACTURING

In the statutes so far examined in this chapter, the legislation has been compelled to enter the field of wage fixation because of the absence of voluntary machinery and has provided alternative methods of determining minimum wage rates. This it has done by giving legal force, either directly or indirectly, to the decisions of specially-created statutory bodies or the Industrial Court.

In cotton manufacturing, voluntary machinery does exist, but has been rendered temporarily ineffective by the economic conditions of the industry. The object of the Cotton Manufacturing (Temporary Provisions) Act, 1934,[3] therefore, is not to establish separate minimum wage arrangements but to strengthen the industry's own machinery. Legal sanction is given to the wage decisions of that machinery at the request of the parties subject only to precautions against misuse.

There is no novelty in the principle of this Act. As far back as 1912 a Bill was introduced into the House of Commons by

[1] See *First Annual Report*: 1943-1944. The principal branches not covered by wages boards are catering activities of the Crown, of theatre managements and catering in railway trains, but certain improvements in the existing voluntary machinery have been recommended by the Catering Wages Commission.

[2] See *Third and Fourth Annual Reports.*

[3] 24 and 25 Geo. 5 c. 30.

the late Ramsay MacDonald to make voluntary agreements between employers and workmen in the Port of London legally enforceable over the whole trade.[1] One year later the Industrial Council came to the conclusion that "subject to an inquiry made by an authority appointed by the Board of Trade an agreement entered into between associations of employers and of workmen representing a substantial body of those in the trade or district should, on the application of the parties to the agreement, be made applicable to the whole of the trade or district concerned."[2] Similar words were used by the Commission of Inquiry into Industrial Unrest in 1917[3] and their recommendation was given legislative expression in the Munitions of War Act, 1917, and the Wages (Temporary Regulation) Act, 1918.[4] Moreover, as mentioned earlier, unsuccessful attempts have been made to obtain legal enforcement for the decisions of Whitley councils.[5]

The Cotton Manufacturing Industry (Temporary Provisions) Act is, however, the only enactment of this kind now in force. The special circumstances in the cotton weaving industry which threatened the collapse of voluntary arrangements, have already been outlined in Chapter V of Part I. In January, 1934, a joint delegation from the Cotton Spinners' and Manufacturers' Association and the Amalgamated Weavers' Association requested the Minister of Labour to introduce into parliament legislation to combat the wage-cutting of non-associated firms. The Cotton Manufacturing Industry (Temporary Provisions) Bill was read a first time on May 3rd[6] and much of the opposition which had been threatened when the Minister announced his intention, died down when it was seen that ample safeguards had been inserted to protect the independence of the industry and the position of

[1] *Parliamentary Debates XL* (25th June, 1912), 220-222.
[2] Cmd. 6952 of 1913.
[3] Cmd. 8696 of 1917.
[4] See above Part II, Chapter III.
[5] Part II, Chapter IV.
[6] *Parliamentary Debates* 289 (3rd May, 1934), 489-490.

minorities. It passed through all stages with little difficulty and received the Royal Assent on June 28th, 1934.

The Act provides that if an employers' organisation and a trade union in the cotton manufacturing industry make joint application to the Minister of Labour for an order with respect to any collective wage agreement, the Minister shall (unless satisfied that the organisations do not represent the majority of the looms on the employers' side and the majority of the work persons on the labour side who would be affected by the order which he is asked to make) appoint a board to consider the application and report to him thereon. This board first inquires whether the applicants are sufficiently representative of the industry or of that part of it which would be affected by the making of the order. If their finding is unfavourable they so report to the Minister and no further action can be taken. Where however the board is satisfied on this point they must next proceed to inquire whether it is expedient that the order be made. Should their report unanimously recommend that an order be made bringing into force, as respects all persons employed in the industry of the class or description to which the agreement relates, the rates of wages provided for by the agreement, the Minister may make such an order. This must set out the rates of wages brought into force and any provisions of the agreement relating to the conditions for earning or the method of calculating the wages. The order may not modify the terms of the agreement other than to make plain who are the employers and the employed persons affected by it.

When an order is made it becomes a term of the contract between every person for whom a rate is provided, and his employer, that wages shall be paid not lower than the prescribed rate. Without prejudice to any civil proceedings that may be taken by way of breach of contract, a defaulting employer is liable to a fine not exceeding £10 on summary conviction. He may also be fined up to £5 on summary conviction if he fails to exhibit conspicuously on the work premises a copy of the order or to keep proper records to show

that the rates paid are not less than those applicable under the order.

An order made under the Act may be revoked in three circumstances. If either of the parties to the joint application in writing request the Minister to revoke it wholly or in part this must be done at the end of 3 months from notification of the request in the *London Gazette*. If a board appointed by the Minister to consider the expediency of revoking an order unanimously reports in favour of revocation the Minister may make a revoking order. But a board may not be appointed sooner than 12 months after the order came into force or the last board was appointed. If the Minister considers that by reason of imminent national danger or great emergency it is necessary so to do he may revoke an order without any prior proceedings.

A board consists of a chairman and 2 members, none of whom may be connected with the industry. Each organisation, party to the joint application for the order, may appoint 6 of its members to sit with the board as assessors. In making inquiry the board must consider any written objections which have been duly sent to the Minister, and may take oral evidence given by or on behalf of the objectors.

Finally, two limitations to the Act must be noted, the one as to its field of operation and the other as to its duration. The Act only applies to cotton manufacturing in certain areas. These include the main centres of the industry in Lancashire, the West Riding of Yorkshire, Derbyshire and Cheshire. As to duration, section 8 (2) continued the main provisions only until the 31st December, 1937. Since then they have been continued from year to year by the Expiring Laws Continuance Acts.

Two orders have been issued under the Cotton Manufacturing Industry (Temporary Provisions) Act. A joint application was made in March, 1935, in respect of a piece price list agreement just concluded between the Cotton Spinners' and Manufacturers' Association and the Amalgamated

Weavers' Association. On the unanimous recommendation of the board of inquiry the Minister made the formal order[1] under the Act giving effect to the wage rates as from 15th July, 1935.

In January, 1937, a fresh agreement was concluded between the same parties, increasing the rates. Effect was given to the new agreement by an order dated 12th April, 1937.[2] The board of inquiry whose report[3] preceded the order were able to review the working of the Act since 1935. They recorded that only one prosecution had taken place in respect of the first order but expressed their satisfaction that this did not suggest that a "high standard of compliance" had not prevailed. Since the making of the first order, they reported, the industry had "for the first time for many years enjoyed immunity from the evil effects of wage-cutting and price-cutting."

The success of this Act raised the question of enacting similar legislation for other industries.[4] In few cases, however, do conditions exist comparable to those which induced the Cotton Act. On the one hand, where a fairly high degree of organisation does exist, there is little need for legal sanction. On the other, an industry which has not yet reached that stage of organisation is best suited by a Wages Council appointed under the Wages Councils Act. "While the experiment in the well-defined cotton manufacturing industry has worked well," the Ministry of Labour reported in 1937, "the examination of the circumstances in certain other industries has indicated that there is no simple solution to this problem." Should, however, the position arise in an industry where organisation and voluntary action having reached a certain stage, its effectiveness is checked by the acts of a minority, then, faced with a request from the industry itself, parliament would

[1]Statutory Rules and Orders, 1935, No. 602.

[2]Statutory Rules and Orders, 1937, No. 298.

[3]Report to the Minister of Labour, etc., dated 2nd March, 1937.

[4]Before the advent of war in 1939 the prospect of extending the machinery of the Act to the spinning branch of the industry was under consideration. See above Chapter V, Part I.

probably be compelled to repeat the provisions of the Cotton Act. It was suggested in some quarters prior to World War II that this stage was approaching in certain sections of the retail distributive trades. An agreement for the establishment of conciliation machinery and minimum wage rates signed by the Shop Assistants' Union and the grocery and provisions multiple shops section of the trade in November, 1937, contained the following explanation: "This agreement has been entered into as a step towards the ultimate object of the establishment of national standards of wages and working conditions in the distributive trades which will be statutorily enforceable. Both parties place on record their view that such agreements require to be fortified by statutory action." Since then the question of the form of statutory enforcement seems likely to be answered by the establishment of Wages Councils in the least-organised branches of the retail trades[1] whilst other sections operate under the voluntary machinery of joint industrial councils.[2]

After 1940 much the same effect as an order under the Cotton Manufacturing Industry (Temporary Provisions) Act, was secured by the automatic operation of Part III of the Conditions of Employment and National Arbitration Orders which applied to all fields of employment.[3] This and the general increase in trade union strength over recent years, accounts, no doubt, for the absence of further applications under the Act from the cotton manufacturing organisations despite substantial wage changes.

FAIR WAGES ACTS

The legislation falling under this heading is of a piecemeal nature concerned with the organisation of particular industries or enterprises. The industrial relations provisions are only incidental features of each Act.

[1] See above under Wages Councils.

[2] Seven such councils were established in 1941 and the following years in various sections of the retail trade in England and Wales, whilst a separate council was set up for the retail grocery and provision trade in Scotland.

[3] See next Chapter.

The principal statutes are: British Empire Exhibition (Guarantee) Act, 1925 ;[1] Sugar Industry (Reorganisation) Act, 1936[2] (replacing the British Sugar (Subsidy) Act, 1925[3]) ; Air Navigation Act, 1936 ;[4] Cinematograph Films Act, 1938 ;[5] and the Bacon Industry Act, 1938.[6]

A common feature of all is the granting of preferential treatment to the industry or enterprise, as a result of which the legislature has felt justified in demanding special protection also for the employees.[7] It is noticeable that, whereas in the first instances, nothing short of considerable financial assistance justified the insertion of labour provisions, in more recent legislation they have been imposed in return for less direct advantages, as, for example, the immunity from indiscriminate competition secured under a licensing system in the case of the bacon industry.

Before dealing with the legislation in detail it is necessary to refer to the Fair Wages Resolution of the House of Commons which is the yardstick of the labour provisions. The original Fair Wages Resolution adopted by the Commons in 1891 was in the following terms :

> "That in the opinion of this House it is the duty of the Government in all Government contracts to make provision

[1] 15 and 16 Geo. 5 c.

[2] 26 Geo. 5 and 1 Edw. 8 c. 18.

[3] 15 and 16 Geo. 5 c. 12.

[4] 26 Geo. 5 and 1 Edw. 8 c. 44.

[5] 1 and 2 Geo. 6 c. 17.

[6] 1 and 2 Geo. 6 c. 71.

[7] This form of legislative bargaining is not an exclusive feature of the "fair wages" Acts. It first appeared in the Corn Production Act, 1917. Since then there have been several Acts requiring fair wage conditions in return for government assistance in particular enterprises. They differ from the Acts dealt with above, however, not only in the form of application of the fair wage principle but also in containing no provision for arbitration in the event of a dispute. They include the Housing (Financial Provisions) Act, 1924 ; the Housing Acts, 1930, 1935 and 1936 ; the Housing (Scotland) Acts, 1930 and 1935 ; The London Passenger Transport (Agreement) Act, 1935 ; and the Railways (Agreement) Act, 1935. The Colonial Development and Welfare Act, 1940, contains an interesting attempt to apply similar wage provisions to workers engaged in colonial development financed under the Act.

against the evils recently disclosed before the Sweating Committee, to insert such conditions as may prevent the abuse arising from sub-letting, and to make every effort to secure the payment of such wages as are generally accepted as current in each trade for competent workmen."

There appears to have been no uniformity in the application of this Resolution to government contracts or in the methods of enforcement of its requirements. Following the deliberations of a Treasury Committee in 1907 a new Resolution was adopted by the House in 1909 as follows :

"That in the opinion of this House, the Fair Wages Clauses in Government contracts should be so amended as to provide as follows : The contractor shall under a penalty of a fine or otherwise, pay rates of wages and observe hours of labour not less favourable than those commonly recognised by employers and trade societies (or in the absence of such recognised wages and hours, those which in practice prevail amongst good employers) in the trade in the district where the work is carried out. Where there are no such wages and hours recognised or prevailing in the district, those recognised or prevailing in the nearest district in which the general industrial circumstances are similar, shall be adopted. Further, the conditions of employment generally accepted in the district in the trade concerned shall be taken into account in considering how far the terms of the Fair Wages Clauses are being observed. The contractor shall be prohibited from transferring or assigning directly or indirectly, to any person or persons whatever any portion of his contract without the written permission of the Department. Sub-letting other than that which may be customary in the trade concerned shall be prohibited. The contractor shall be responsible for the observance of the Fair Wages Clauses by the sub-contractor."

This was the Resolution in operation when the Acts dealt with in this section were passed. In October, 1946, a further Resolution was adopted. This was the result of a decision by the government nine years before to revise the 1909 Resolution in the light of the changed circumstances resulting from the wide extension of collective agreements arrived at through

joint machinery. The British Employers' Confederation and the Trades Union Congress concurred in the terms of the draft new Resolution proposed by the government and only the war prevented its adoption before 1946. The terms of this Resolution which is now, of course, the operative Resolution for the purposes of the various Acts, are:

"That, in the opinion of this House, the Fair Wages Clauses in Government contracts should be so amended as to provide as follows:

1. (*a*) The contractor shall pay rates of wages and observe hours and conditions of labour not less favourable than those established for the trade or industry in the district where the work is carried out by machinery of negotiation or arbitration to which the parties are organisations of employers and trade unions representative respectively of substantial proportions of employers and workers engaged in the trade or industry in the district.

(*b*) In the absence of any rates of wages, hours or conditions so established the contractor shall pay rates of wages and observe hours and conditions of labour which are not less favourable than the general level of wages, hours and conditions observed by other employers whose general circumstances in the trade or industry in which the contractor is engaged are similar.

2. The contractor shall in respect of all persons employed by him (whether in execution of the contract or otherwise) in every factory, workshop or place occupied or used by him for the execution of the contract comply with the general conditions required by this Resolution. Before a contractor is placed upon a department's list of firms to be invited to tender, the department shall obtain from him an assurance that to the best of his knowledge and belief he has complied with the general conditions required by this Resolution for at least the previous three months.

3. In the event of any question arising as to whether the requirements of this Resolution are being observed, the question shall, if not otherwise disposed of, be referred by the Minister of Labour and National Service to an independent tribunal for decision.

4. The contractor shall recognise the freedom of his workpeople to be members of trade unions.

5. The contractor shall at all times during the continuance of a contract display, for the information of his workpeople, in every factory, workshop or place occupied or used by him for the execution of the contract, a copy of this Resolution.

6. The contractor shall be responsible for the observance of this Resolution by sub-contractors employed in the execution of the contract, and shall, if required, notify the department of the names and addresses of all such sub-contractors."

The first Act to incorporate labour provisions, in the fair wages form, was the British Sugar (Subsidy) Act, 1925. That Act sought to encourage the development of a British sugar beet industry. To do so it authorised the payment of a subsidy in respect of sugar and molasses manufactured from home-grown beet. The subsidy was to be paid for a period of ten years from 1st October, 1924.

The labour provisions were contained in the following section :

Section 3 (1). The wages paid by any employer to persons employed by him in connection with the manufacturing of sugar or molasses, in respect of which a subsidy is payable under this Act, shall, except where paid at a rate agreed upon by a joint industrial council representing the employer and the persons employed, not be less than would be payable if the manufacture were carried on under a contract made between the Minister and the employer, containing a fair wages clause which complied with the requirements of any resolution of the House of Commons, for the time being in force, applicable to contracts of Government departments ; and if any dispute arises, as to what wages ought to be paid in accordance with this section, it shall be referred, by the Minister, to the Industrial Court for settlement.

(2). Where any award has been made by the Industrial Court upon a dispute referred to that court under this section, then as from the date of the award, or from such later date as the court may direct it shall be an implied term of the contract between

> every employer or worker to whom the award applies, that the rate of wages to be paid under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.

The effect of the section was to establish a standard for wages and to make any wage disputes referable to the Industrial Court at the discretion of the Minister of Agriculture and Fisheries in England and Wales, and of the Board of Agriculture in Scotland. The court's award, when given, became legally binding on the employer as a term in the contract of service, and any underpayment could be recovered by the workman in civil proceedings.

The legislature repeated these provisions in section 2 of the British Empire Exhibition (Guarantee) Act, passed 6 weeks later. This Act, however, had a very limited duration, its purpose being to raise to £1,100,000 the guarantee which the Board of Trade could give against loss incurred in holding the British Empire Exhibition. The labour provisions applied to the wages of all workers engaged in connection with the Exhibition.

The ten-year period covered by the British Sugar (Subsidy) Act was extended in 1934[1] for a further 11 months, finally terminating on 31st August, 1935. Early in 1936 the Sugar Industry (Reorganisation) Act was passed. This was primarily a rationalisation measure. It provided for the amalgamation into a single corporation of existing companies manufacturing sugar from home-grown beet, and established a Sugar Commission to supervise the reorganisation and granting of financial assistance by the Treasury to the corporation and the component companies. The wages requirements in the earlier Act were again adopted and also extended to other conditions of work. An additional provision was inserted to clarify the criteria to be adopted by the Industrial Court as follows :

> Section 23 (2). Where any matter is referred to the Industrial Court under this section, the court, in arriving at its decision,

[1] 25 and 25 Geo. 5 c. 39.

> shall have regard to any determination that may be brought to its notice, relating to the wages or conditions of service of persons employed in a capacity similar to that of the persons to whom the reference relates, being a determination contained in a decision of a joint industrial council, conciliation board, or other similar body, or in an agreement between organisations representative of employers or workpeople.

Practically identical provisions were incorporated in the Air Navigation Act, which was passed later in 1936. That Act makes provision for the payment, until 1953, of subsidies to persons engaged in the carriage by air of passengers or goods. The special labour provisions apply to workers employed on subsidised air transport work. They have also been extended by the British Overseas Airways Act, 1939,[1] to employees of the British Overseas Airways Corporation.

The Cinematograph Films Act, 1938, adopted similar provisions for the film industry. Those affected are all persons employed in the business of making films other than those consisting wholly or mainly of photographs, or made for the purpose of commercial advertisement or of an educational nature as certified by the Board of Education. Here, it is the Board of Trade which is required to refer disputes to the Industrial Court. In this Act no mention is made of wages and conditions fixed by a joint industrial council, but the standard of the Fair Wages Resolution does not apply where wages or conditions have been agreed upon "by the employer and by organisations representative of the persons employed."

The last of the pre-war statutes to include these labour provisions was the Bacon Industry Act, also passed in 1938. This Act prohibits the production of bacon, except under a producer's licence and the sale of bacon except by a registered curer. The labour provisions cover the employees of persons and firms holding a producer's or a curer's licence. The Act is administered by the Minister of Agriculture and Fisheries and the Secretary of State for Scotland.

[1] 2 and 3 Geo. 6 c. 61.

The special provisions of the Fair Wages Acts contain features of both the compulsory and the voluntary method of labour regulation. On the one hand they introduce compulsory arbitration by the Industrial Court in disputes over wages and conditions of work. This compulsion applies both to the reference to the court and to the effect of the award. The reference is independent of the consent of the parties, the Minister having power to act wherever there is a dispute "not otherwise disposed of." The court's award is compulsory in that it automatically becomes a term in the contract or service of the parties to whom it applies. There is the further sanction that failure to recognise the award may involve loss of the advantage which the particular Act bestows upon the employer.

On the other hand the Acts provide a direct encouragement to voluntary action. The suspension of the operation of the Fair Wages Resolution where wages or conditions have been agreed upon by the employer and trade unions, or by a joint industrial council, was intended as an inducement to employers to enter into negotiations. Again, the provision that disputes shall be referred to the court "if not otherwise disposed of," means, in practice, that no reference will be made to the court so long as there is voluntary machinery in the industry capable of dealing with the matter.

In assessing the significance of these statutory provisions it must be borne in mind that not only are they of a temporary nature pending the development of adequate negotiation and conciliation machinery within each industry, but that the workers affected by each Act have been relatively small in number and of minor importance in the national labour force.

Since 1940 the purpose of the labour provisions has, to a large extent, been covered by the Conditions of Employment and National Arbitration Order.[1] Up to that date they had remained in operation for any length of time only in respect of the sugar industry. One case was referred by the Minister to the Industrial Court during the first year of the British Sugar

[1]See Part II, Chapter VII.

(Subsidy) Act, 1925.[1] In 1938 the British Sugar Corporation failed to reach agreement with the union as to the wages and conditions which the Corporation should observe under the Sugar Industry (Reorganisation) Act, and the matter was referred to the court. The parties were again in disagreement at the end of 1939 and a further reference was necessary. One dispute was also referred, in the early years of World War II, under the Cinematograph Films Act.

GENERAL

The place of the Acts examined in this chapter in relation to conciliation and arbitration must be judged no less by their purpose than by their provisions. When that is done the compulsion which is the essential feature in them all is seen as supplement to, rather than substitution for, voluntary methods. This purport has been made clear by government spokesmen in the course of parliamentary debates on the various bills. In the case of the Road Haulage Wages Act, for instance, the Minister of Labour was careful to point out the real purpose of the measure. Speaking on Part II, he said :[2]

> "I wish to make clear that the aim of this part of the Bill equally with Part I is also to help industry to self-government .... The Government are anxious to minimise compulsion and to do everything possible to encourage and help voluntary wage negotiation machinery."

From such expressions and in view of the guarded form of the compulsory provisions it is safe to conclude that whatever changes these Acts may represent in the field of state interference in industry, they do not signify any loss of faith by parliament or industry in voluntary methods. Viewed in their correct perspective they are nothing more than temporary statutory crutches to industries where joint organisation is temporarily weakened or has not yet grown to sufficient strength to bear, unsupported, the full weight of industrial relations.

[1] Industrial Court Award No. 1140.
[2] *Parliamentary Debates* 335 (11th May, 1938), 1620.

CHAPTER VII

State Action Arising out of World War II

UNLIKE THE STATUTORY MEASURES dealt with in the preceding Chapter, which were affected only incidentally by the conditions of wartime and the exercise of emergency powers, the provisions now to be examined are those which were occasioned directly by World War II. They are, that is to say, emergency measures which were not intended to affect peacetime industrial relations. Nevertheless, they are for the main part of more than mere historical interest. Some are still in force and are likely to remain well into the post-war period, whilst others, more particularly the Essential Work Orders, though no longer in existence, have left behind influences and habits which are reflected in the present activities of the voluntary machinery.

CONDITIONS OF EMPLOYMENT AND NATIONAL ARBITRATION ORDERS, 1940-1944

Of all the war measures the Conditions of Employment and National Arbitration Orders have most direct bearing on the subject of dispute settlement. They represent the furthest extent to which compulsory arbitration has yet been imposed over industry in general in Great Britain.

As in World War I this method was resorted to only after the war had reached a critical stage. For the first 9 months after the outbreak of hostilities, the policy adopted by the government in agreement with the National Joint Advisory Council, on which the British Employers' Confederation and the Trade Union Congress were represented, was one of non-interference with the existing machinery of conciliation and

negotiation. But, following the fall of France in the Spring of 1940 the increase of war production became a vital need. With this in mind, the Minister of Labour and National Service placed before the National Joint Advisory Council for advice and recommendations the question of the best means of removing general wages problems from the field of controversy during the critical period and of settling trade disputes without interruption of work. The Council immediately appointed a special Consultative Committee which, in June, made the following unanimous report and recommendations to the Minister:

"1. In this period of national emergency it is imperative that there should be no stoppage of work owing to trade disputes. In these circumstances the Consultative Committee representing the British Employers' Confederation and the Trade Union Congress have agreed to recommend to the Minister of Labour and National Service the arrangements set out in the following paragraphs.

"2. The machinery of negotiation existing in any trade or industry for dealing with questions concerning wages and conditions of employment shall continue to operate.

"Matters which cannot be settled by means of such machinery shall be referred to arbitration for a decision which will be binding on all parties and no strike or lockout shall take place. In cases where the machinery of negotiation does not at present provide for reference to such arbitration the parties shall have the option of making provision for such arbitration, failing which the matters in dispute shall be referred for decision to a National Arbitration Tribunal to be appointed by the Minister of Labour and National Service. The Minister shall take power to secure that the wages and conditions of employment settled by the machinery of negotiation or by arbitration shall be made binding on all employers and workers in the trade or industry concerned.

"3. In any case not covered by the provisions of paragraph 2, any dispute concerning wages or conditions of employment shall be brought to the notice of the Minister of Labour and National Service, by whom, if the matter is not otherwise

disposed of, it shall be referred within a definite time limit to the National Arbitration Tribunal for decision, and no strike or lockout shall take place.

"4. The foregoing arrangements shall be subject to review on or after 31st December, 1940."[1]

The principles of these recommendations were accepted by the Minister, and on 10th July an Order in Council added Regulation No. 58AA to the Defence (General) Regulations, 1939, to enable him to give effect to the proposals.[2] This regulation gave power to the Minister to make provision by order: for establishing a tribunal for the settlement of trade disputes and for regulating its procedure; for prohibiting a strike or lockout; for requiring employers to observe recognised conditions of employment; for recording wartime departures from common practice in labour matters; and for incidental or supplementary matters. But no order could be made to affect the power of referring trade disputes or other matters for settlement or advice under the Industrial Courts Act, 1919.

The resulting Conditions of Employment and National Arbitration Order[3] was drawn up by the Minister in consultation with the Committee and the National Joint Advisory Council and came into force on the 25th July. It has, since then, been amended on four occasions but the main provisions remain substantially unchanged. They are contained in four parts.

Part I establishes the National Arbitration Tribunal in accordance with provisions in the schedule. It then provides for reference of disputes to this Tribunal in certain circumstances. Either party to a trade dispute[4] may report it in writing to the Minister who shall consider whether there exists in the industry or trade concerned suitable joint machinery for

[1] *The Ministry of Labour Gazette*, August, 1940, p. 210.

[2] Statutory Rules and Orders, 1940, No. 1217.

[3] Statutory Rules and Orders, 1940, No. 1305.

[4] The term "trade dispute" is defined as "any dispute or difference between employers and workmen or between workmen and workmen connected with the employment or non-employment, or the terms of the employment or with the conditions of labour of any person."

settlement to which the matter may be referred. If the voluntary machinery fails to achieve a settlement or if in the opinion of the Minister a settlement is unduly delayed, he may cancel the reference and refer the dispute to the National Arbitration Tribunal. Where no suitable voluntary arrangements exist the Minister may take such steps as seem expedient to promote a settlement. But in all cases, unless a settlement has been reached, the Minister must refer the matter to the National Arbitration Tribunal within 21 days from the day on which it was reported to him unless there are special circumstances which make it necessary or desirable to postpone such action. Any agreement, decision or award resulting from a reference by the Minister, whether to the existing joint machinery or to the National Arbitration Tribunal, is binding upon the parties and the terms of settlement become implied terms of the contract between the employers and workers concerned. In addition to references for binding awards the Minister may refer any matter to the Tribunal for advice in like manner to a reference to the Industrial Court under the Industrial Courts Act, 1919.

The Tribunal consists of 5 members, 3 of whom, including the chairman, are appointed members, while the remaining 2 represent employers and workers respectively. All are appointed by the Minister from panels.[1] The 2 panels of representative persons are constituted by him after consultation with the British Employers' Confederation and the Trade Union Congress. At any hearing by the Tribunal both representative members and at least one of the independent members must be present.

The Tribunal must make its award or furnish advice without delay and, whenever practicable, within 14 days from the

[1]The 1940 Order made no provision for an appointed members' panel, as it was intended that the three appointed members should serve in a full-time capacity. This was found to be impracticable and the Order was amended on 14th November, 1941, to provide for the constitution of a panel of not more than five appointed members. A further amendment on 24th December, 1942, removed the limitation to five. Statutory Rules and Orders, 1941, No. 1884 and 1942, No. 2673.

date of reference. It may make its award retrospective to a date not earlier than the day on which the dispute or question first arose. Its decision as to this date is conclusive. Any question of interpretation of an award may be referred by the Minister or any party to the original dispute, to the Tribunal for a binding decision. Except where expressly provided in the Order the Tribunal is free to regulate its proceedings as it thinks fit.

Part II of the Order corresponds to section 2 of the Munitions of War Act, 1915. It prohibits strikes and lockouts except where the dispute has been reported to the Minister and he has failed to refer the matter for settlement within 21 days. Contravention of this provision as of other parts of the Order amounts to an offence under the Defence (General) Regulations and is punishable in the case of each offender by a sentence of imprisonment up to 3 months or a fine not exceeding £100 on summary conviction, and up to 6 months or £200 on indictment.[1]

Part III gives a wider application to the principle adopted in World War I by section 5 of the Munitions of War Act, 1917. The difference in scope between the 2 provisions is significant of the increasing regard for voluntary joint machinery and collective bargaining. Whereas the 1917 Act vested in the Minister the discretion to make an award or collective agreement relating to wages in munitions work a common rule in the trade or branch, provided it already bound employers employing the majority of workers in that trade or branch, under the Order no such ministerial intervention is necessary and the agreement may relate to any conditions of employment in any branch of industry in a particular district. So long as the collective agreement has been reached through machinery of negotiation or arbitration operated by employers' associations and trade unions representing, respectively, substantial pro-

[1]Since the end of hostilities with Germany prosecutions have not been launched for taking part in stoppages of work contrary to the Order. Prior to that there had been 109 cases of prosecution of workers involving 6,281 individuals and 2 of employers. These were mainly confined to instances where workers acted in defiance of their union and the strike directly impeded the war effort.

portions of the employers and workers in that trade or industry in the district, all employers must observe terms and conditions of employment not less favourable. Terms and conditions are deemed to be not less favourable if they are in accordance with provisions relating to workers engaged in similar work and are applicable under :

(*a*) any agreement between organisations of employers and trade unions which are representative respectively of substantial proportions of the employers and workers in the trade in the district in which the employer is engaged ;

(*b*) any decision of a joint industrial council, conciliation board or other similar body constituted of organisations of employers and trade unions representing respectively substantial proportions of the employers and workers in the trade in the district in which the employer is engaged ;

(*c*) any agreement between the employer and a trade union which is representative of a substantial proportion of workers employed in the trade in the district provided no agreement or decision as in (*a*) or (*b*) has been made or reached ;

(*d*) any award made by the National Arbitration Tribunal or the Industrial Court or any other body or person acting as arbitrator, relating to the terms and conditions of employment observable by an employer in the same trade or industry in the same district ; or

(*e*) any statutory provisions relating to remuneration, rates of wages, hours or working conditions, unless such provisions are less favourable than the terms and conditions of an agreement, decision or award as above to which the employer or the association of employers of which he is a member, is a party.

Questions as to the nature, scope or effect of these terms and conditions in any district or as to their observance in individual cases may be reported to the Minister as a dispute to be settled under the procedure of Part I. But these questions can only be raised by an organisation of employers or a trade union which, in the opinion of the Minister, habitually takes part in the

settlement of wages and working conditions in the trade concerned. In determining these questions the National Arbitration Tribunal has regard not only to the provisions of Part III but also to any collective agreements affecting similar workers in comparable trades or industries. Its decision has the same binding force as a decision under Part I. Part III was amended on 5th December, 1944, to provide, (*a*) a time limit of twelve months for the reporting of a question to the Minister and (*b*) that where the National Arbitration Tribunal is satisfied that the employer was aware of the recognised terms and conditions and also was aware, or ought to have been aware, that those conditions should have been observed by him, the award of the Tribunal shall be made retrospective to the employer's "date of knowledge."[1]

It is obvious that this Part has taken its form from the labour provisions of the "fair wages" Acts dealt with in the preceding chapter in which the Industrial Court plays a role assigned under the Order to the National Arbitration Tribunal. Part III was intended to accomplish throughout industry what those Acts were designed to effect in individual trades.

Part IV was concerned with post-war problems rather than immediate industrial disputes. It was in the nature of a tentative measure pending the passing of the special legislation referred to below. Part IV makes provision for recording wartime departures from trade practices at local offices of the Ministry of Labour by employers, employers' organisations and trade unions. Where the parties were unable to agree as to the facts each side was permitted to lodge its own statement and a third statement was prepared after inquiry by a duly authorised officer of the Ministry. By this means it was hoped to eliminate disputes as to the nature of the practices should the parties desire to restore them after the war.

As already mentioned, the Conditions of Employment and National Arbitration Orders were made under Regulation 58AA of the Defence Regulations, 1939. That regulation was

[1]Statutory Rules and Orders, 1944, No. 1437.

due to lapse with the expiry of the Emergency Powers (Defence) Acts, 1939-1945, on 24th February, 1946. However, as a result of a recommendation by the Joint Consultative Committee that the provisions of the Orders should be continued subject to a right of review of the question of compulsory arbitration at the request of either side on the Committee, an Order in Council[1] was made on 20th December, 1945, under the Supplies and Services (Transitional Powers) Act, 1945, and, as a result, Regulation 58AA now has effect by virtue of that Act until December, 1950. The Conditions of Employment and National Arbitration Orders, therefore, continue to operate. Independent provision for the continuance, during "the transition period," of Part III with minor modifications, was made in section 19 of the Wages Councils Act, 1945.[2] This is to come into operation only in the event of Part III ceasing to have effect under the 1940 Order as amended and to last until the 31st December, 1950, and no longer unless parliament otherwise determines. The chief modification is the submission of questions to the Industrial Court instead of the National Arbitration Tribunal. As, however, the Conditions of Employment and National Arbitration Orders are still in force, section 19 of the Wages Councils Act has not yet taken effect.

Not all cases reported to the Minister under the Orders have been dealt with by the National Arbitration Tribunal.[3]

[1]Statutory Rules and Orders, 1945, No. 1620.

[2]See Part II, Chapter VI.

[3]2,559 cases have been reported to the Minister up to the end of 1946 and had been dealt with as follows :

(*a*) Referred to National Arbitration Tribunal	1,060
(*b*) Referred to arbitration under the Industrial Courts Act, 1919 :	
(i) Industrial Court	83
(ii) Arbitrators appointed by the Minister	109
(*c*) Referred to arbitration under Conciliation Act, 1896 ..	1
Total referred to arbitration	1,253
(*d*) Settled by reference to suitable joint machinery under Article 2 (2) of the Order	26
(*e*) Settled as a result of other Ministerial action under Article 2 (3) of the Order	51

Approximately half have been withdrawn or settled by agreement between the parties or by reference to suitable joint machinery. Nearly 90 per cent., however, of the cases referred to arbitration have gone to the Tribunal. The first award of that body was issued on the 20th August, 1940, and award No. 1,000 was issued on 1st October, 1947. During those 7 years of compulsory arbitration almost every type of worker, from engineers and shipbuilders to football players and town clerks, have appeared before the Tribunal. Sometimes the disputes have involved national industries and millions of pounds in wages ; sometimes only a single worker and a few shillings have been concerned. Whilst cases have been referred on the initiative of employers, in the majority of cases the workers have been the claimants. During the early war years the disputes dealt with were mainly concerned with special problems arising out of the pressure on industry to produce munitions of all kinds, the manpower shortage, the employment of women in men's work and other matters with which the joint voluntary machinery in industry had not previously been concerned, and which it was found difficult to settle through that machinery. Since the summer of 1945 the type of case referred to the Tribunal has reflected the changeover from war conditions and the movements towards a shorter working week and improved wages, holidays and other normal conditions of employment. Only a small proportion at any time has been concerned with the observance by employers of recognised terms and conditions of employment under Part III of the Order.

On 1st January, 1946, Sir John Forster, who had replaced Sir Gavin Turnbull Simonds (now Lord Simonds) in May, 1944, as chairman of the Tribunal, was appointed president of the Industrial Court but remained an "appointed member" of

(*f*) Withdrawn or settled by agreement between parties	1,174
(*g*) Cases in action at end of 1946	55
Total	2,599

the Tribunal, sitting as its chairman whenever present. Through this, an identity of personnel and co-ordination of policy has been aimed at between the Tribunal and the court. With the penal aspect of the Conditions of Employment and National Arbitration Orders becoming more nominal than real, this move suggests that the long-range policy of the government is to secure the gradual merger of the two arbitration bodies so that by 1950 when the Orders cease to operate, the Industrial Court, strengthened by the experience of its new members, will be able to cope with the increased references to it which the habit of reference to state authorities under the Orders has produced.

REGULATIONS 1A AND 1AA OF DEFENCE (GENERAL) REGULATIONS, 1939

Unlike Regulation 58AA, these regulations are now of mere historical interest. Defence Regulation 1A made it an offence for a person to do any act with reasonable cause to believe that it would be likely to prevent or interfere with the carrying on of their work by persons engaged in the performance of essential services ; but a proviso stated that a person would not be guilty of an offence solely by reason of his taking part in, or peacefully persuading any other person to take part in, a strike. This regulation was amended by Order in Council[1] of 17th April, 1944, and the proviso was altered to read :

> "Provided that no person shall be deemed to have committed an offence against this Regulation by reason only of his having, in the course of a strike, ceased to work or refused to continue to work or to accept employment."

At the same time a new Regulation 1AA was added which provided that "no person shall declare, instigate or incite any other person to take part in, or shall otherwise act in furtherance of, any strike among persons engaged in the performance of essential services or any lockout of persons so engaged." Under provisos to this regulation, no person was deemed to

[1]Statutory Rules and Orders, 1944, No. 461.

have committed an offence against the regulation[1] by reason only of (*a*) ceasing work or refusing to continue to work or to accept employment or (*b*) any act done at a properly constituted trade meeting. Regulation 1AA was revoked on 9th May, 1945.[2] A few spectacular prosecutions were launched under this regulation in 1944 but the regulation was never of major importance.

RESTORATION OF PRE-WAR TRADE PRACTICES ACT, 1942[3]

Reference has been made in Part I of this book to joint agreements reached in particular industries, especially in engineering and shipbuilding, for the relaxation of trade practices in order to supplement the available supply of skilled manpower. In addition to such agreements, trade practices were likely to be overridden by the exercise by the Minister of Labour and National Service of the powers vested in him to control and use all labour and direct any person to perform such services as might be specified. In order to overcome the fears of the unions the government, in May, 1940, undertook to take steps to ensure that at the end of the war any trade practices which had been set aside or relaxed during the war would be restored if so desired. It was further agreed to deal with the problem in the closest co-operation with the unions and employers' organisations. Part IV of the Conditions of Employment and National Arbitration Order, 1940, was adopted as a preliminary measure and in February, 1942, the Restoration of Pre-War Trade Practices Act was passed to implement the government's undertaking.

"Trade practices" are defined for the purpose of this Act as rules, practices or customs with respect to "the classes of persons to be or not to be employed" and "the conditions of

[1]Though not guilty of an offence against the regulation, a person who ceased work or refused to continue work, etc., might infringe the Conditions of Employment and National Arbitration Order and be guilty of an offence against Regulation 58AA.

[2]Statutory Rules and Orders, 1945, No. 504.

[3]5 and 6 Geo. 6 c. 9.

employment, hours of work or working conditions." The Act is not concerned with wages, but with practices as those which govern the demarcation of work or which had to be relaxed for the application of schemes for the dilution of skilled labour.

The Act requires employers to restore or permit the restoration within 2 months of "the end of the war period" and to maintain for 18 months, trade practices departed from during the war. This includes certain trade practices departed from after the 30th April, 1939, and before the outbreak of war, for the purpose of accelerating munitions production. Employers in new undertakings are equally bound with those who have been in continuous production. The Act does not disturb any agreement which may be made between the employer and the appropriate trade union to modify or waive the obligation to restore a trade practice or to refer the question of modification or waiver to arbitration and if such agreement is complied with the employer will be deemed to have discharged his obligation under the Act. At the end of the 18 months' period, of course, normal methods of settling conditions of employment will again operate.

Questions arising as to an employer's obligation may be reported to the Minister of Labour and National Service by the appropriate employers' organisation or trade union. If suitable agreed machinery for settling the question already exists, the Minister must refer the matter to that machinery. If it does not exist, the Minister must take such other steps as appear to him expedient for settling the question. If the question is not settled by these means or a settlement is unlikely within a reasonable time, the Minister must refer it to a tribunal for compulsory arbitration. The Act provides for the setting up of arbitration tribunals and defines their powers and duties as well as prescribing legal proceedings in the event of failure to comply with an award of a tribunal.

The "end of the war period" for the purposes of the Act was defined as "such date as the Minister may, by Order, appoint, not being later than the date on which the Emergency

Powers (Defence) Act, 1939, expires." By virtue of section 8 of the Emergency Laws (Transitional Provisions) Act, 1946,[1] the end of the war for this purpose was extended to a date to be fixed by the Minister before 31st December, 1947. At the end of 1946 the Minister announced that on the advice of the Joint Consultative Committee he had decided to appoint a day some time in December, 1947. However, in view of the need for increased production for export which might be affected adversely by the restoration of restrictive trade practices, the Joint Consultative Committee in October, 1947, recommended a further extension. As a result the Emergency Laws (Transitional Provisions) Bill presented to Parliament on 23rd October contained a provision extending the period, during which the appointed day must be fixed, to 31st December, 1948.

ESSENTIAL WORK ORDERS

The purpose of the Essential Work Orders was the stabilisation of labour in essential war industries. As such, the Orders are not of concern in this survey. They are of concern however, in their incidental features, more especially the use of joint machinery and its adaptation to state purposes and the influence on post-war conditions of the guaranteed wage provisions.

The Essential Work Orders rested on paragraph (4A) of Regulation 58A of the Defence (General) Regulations, 1939. That paragraph was inserted by Order in Council[2] on 28th February, 1941, and empowered the Minister of Labour and National Service to make provision for securing that enough workers were available in undertakings engaged in essential work. In particular that Minister could peg workers in essential undertakings to their occupations and require payment of wages even if work was not available, providing the employees were capable of, and available for, work. The Minister's orders could also deal with absenteeism and

[1] 9 and 10 Geo. 6 c. 26.

[2] Statutory Rules and Orders, 1941, No. 302.

persistent bad time-keeping and for any incidental and supplementary matters including entry and inspection of premises. The purpose of the Order in Council was to enable the Minister to avoid loss of production by unnecessary turnover of labour and generally to ensure the most effective use of the manpower available in industries vital to the defence of the realm, the efficient prosecution of the war or essential to the life of the community.

The first and most important Order made by the Minister under this power was the Essential Work (General Provisions) Order[1] dated 5th March, 1941. It applied generally to "scheduled undertakings" and set the pattern for subsequent orders which applied to particular industries and occupations.

Before substantively scheduling any undertaking the Minister had to be satisfied that welfare and training arrangements were satisfactory and that the terms and conditions of employment in the undertaking were not less favourable than those provided for by the Conditions of Employment and National Arbitration Order of 1940. As scheduling meant, for the employers, a guarantee of labour in a declining labour market this requirement was a substantial aid to the unions in securing adherence to the terms and conditions of collective agreements.

Once an undertaking was scheduled no person employed in it (whether male or female, wages or managerial staff) could be discharged (save for serious misconduct) or have his or her services lent to any other undertaking, except in emergency cases for a period up to 14 days, without the written permission of a National Service Officer. Similarly, no employee could leave without that permission. Unless the contract of employment provided for a longer period, one week's notice of termination was required on either side. Scheduling also carried with it a guaranteed minimum wage at the normal weekly time rate. To be entitled to this the person must have been capable of, and available for, work during normal working

[1]Statutory Rules and Orders, 1941, No. 302.

hours and have been willing to perform any services which he could reasonably have been asked to perform when his normal work was not available. The operation of the guaranteed minimum did not, of course, prejudice employees' rights to more favourable terms under the Conditions of Employment and National Arbitration Orders.

Appeal from the decision of National Service Officers to give or refuse permission to terminate contracts of employment lay within 14 days to Local Appeal Boards consisting of an independent chairman and an employers' and a workers' representative. A person discharged on the ground of serious misconduct also had a right of appeal to the Local Appeal Board within 14 days and the board could suitably recommend to the National Service Officer. A further function of the Local Appeal Boards was to hear appeals from the directions given by National Service Officers in the case of absenteeism or persistent bad time-keeping. This, however, was in fact a minor function, since direct negotiations between a National Service Officer and the trade union representative, backed up by union discipline, more often than not sufficed without the necessity for the formal directions provided for in the Order. In dealing with appeals the Local Appeal Boards were acting in an advisory capacity to the National Service Officers who alone could issue the necessary directions. The policy of the Ministry, however, was to accept the recommendations of Local Appeal Boards in all save the most exceptional cases. The conduct of the proceedings was left to the discretion of the Boards acting through their chairmen.

Whilst the Order did not give any new powers to direct persons to take up specified employment the Local Appeal Boards were also used for hearing appeals from such directions given under Regulation 58A of the Emergency Powers (Defence) Regulations.

From time to time, in the light of experience, amendments were made to the original Order and to the special orders which followed for particular industries. So, for example, in

July, 1941, provision was made for suspension of workers and loss of guaranteed wage for not more than 3 days for causes not amounting to serious misconduct and a right of appeal, within 3 days of the beginning of the suspension, to a Local Appeal Board. The same amending Order[1] also added failure to comply with lawful and reasonable orders to the existing provisions covering absenteeism and lateness.

A new general Order[2] operating from 9th March, 1942, consolidated those two Orders and added new provisions to enable suspension of the guaranteed wage after 4 days' notice where no work was available because of illegal strikes in the undertaking. The new Order also dealt with questions of reinstatement of workers after appeal to a Local Appeal Board.

A further amendment[3] on the 25th March, 1942, provided for the use of works committees or other joint councils, where available, in cases of absenteeism and persistent lateness. The computation of the guaranteed wage was the subject of an amendment incorporated in a consolidating Order[4] dated 6th August, 1942, which was amended on 13th July, 1944,[5] in connection with dismissals for serious misconduct, and again on 22nd December, 1944,[6] in respect of the time from which termination of employment took effect.

The Essential Work (General Provisions) Order of 1941 was followed by special orders containing modifications of the general scheme to fit the particular needs of individual industries. In most cases these schemes were worked out with the representatives of the employers and unions in those industries. The modifications related, in the main, to details of application rather than to the principles of the general scheme and took account of existing negotiation and discipline machinery.

[1]Statutory Rules and Orders, 1941, No. 1051.
[2]Statutory Rules and Orders, 1942, No. 371.
[3]Statutory Rules and Orders, 1942, No. 583.
[4]Statutory Rules and Orders, 1942, No. 1594.
[5]Statutory Rules and Orders, 1944, No. 815.
[6]Statutory Rules and Orders, 1944, No. 1467.

The first of these special orders covered shipbuilding and shiprepairing establishments which, when scheduled, were excepted from the operation of the general Order. The Essential Work (Shipbuilding and Shiprepairing) Order[1] was made on 7th March, 1941. Before the end of the year special orders had been issued for the Merchant Navy and dock labour and for the coal mining, building and civil engineering, chemical, iron and steel and agricultural (Scotland) industries and for railway undertakings.[2] In 1942 Orders were made for the cotton manufacturing, chain manufacturing and electrical contracting industries.[3] The boot and shoe trades and trawler fishing were brought under Essential Work Orders in 1943.[4]

The process of scheduling under the Essential Work (General Provisions) Order began in March, 1941, and covered undertakings extending to 144 industries. Altogether about 67,500 undertakings and 24,400 building sites were ultimately scheduled under the various Orders covering 8¾ million workers.

The interference with personal liberty under the essential work scheme could be justified only so long as the national emergency continued. At the end of hostilities in Europe steps were taken to relax these controls through the Essential Work (Permission to Terminate Employment) (Exemption) Order[5] of 8th May, 1945, and by administrative action. Early in May, 1946, the process began of large-scale withdrawals of undertakings and industries from the scope of the Essential Work (General Provisions) Order and revocation of the special Orders. Three months' notice was given to the organisations of both sides of the industry concerned in each case. By the end of January, 1947, the number of workers still covered was less than 200,000, whilst notice had been given of the with-

[1]Statutory Rules and Orders, 1941, No. 300.

[2]Statutory Rules and Orders, 1941, Nos. 634, 707, 822, 1167, 1440, 1557, and 1602.

[3]Statutory Rules and Orders, 1942, Nos. 90, 614 and 2071.

[4]Statutory Rules and Orders, 1943, Nos. 186 and 1674.

[5]Statutory Rules and Orders, 1945, No. 560.

drawal, early in that year, of the bulk of the remaining industries.

The absence of friction in the operation of the Essential Work Orders was largely due to the co-operation of both sides of industry in the formation and supervision of the scheme. The majority of Orders were issued only after consultation with, or on the recommendations of, a joint advisory panel or national joint council or other appropriate body representative, at the national level, of both sides of the industry. Though drastically curtailing the right to terminate employment the scheme did not preclude the operation of the existing machinery of industrial relations. On the contrary, at least in relation to wage rates, it assisted the normal processes by the declaration of a guaranteed minimum wage. The Local Appeal Boards, which acted as a safeguard against unreasonable decisions by National Service Officers, also contributed to the absence of serious criticism of the scheme by labour. Over half a million appeals were dealt with by these Boards.

The Essential Work Orders have left their mark on post-war industrial relations. The Dock Workers (Regulation of Employment) Act[1] which received the Royal Assent on 14th February, 1946, makes provision for the adoption of permanent schemes for the decasualisation of dock labour to replace the temporary decasualisation effected under the Essential Work (Dock Labour) Order, 1941, and the special wartime schemes established on Merseyside and Clydeside. Of more general importance, perhaps, has been the negotiation of guaranteed wages to replace the compulsory minimum wage of the Orders. The Orders made provision for such a wage on a weekly basis in the case of time workers and as a daily wage for piece workers. The object of the 3 months' notice of descheduling was to give the two sides of the industry concerned an opportunity to consider any adjustments which might be needed in their industrial agreements to meet the changed circumstances when the Orders were withdrawn. As has been seen in the

[1] 9 and 10 Geo. 6 c. 22.

case of some of the industries dealt with in the earlier part of this book, this opportunity was taken to negotiate agreements for a guaranteed week to replace the guarantees of the Orders. By the end of 1946 voluntary agreements for this purpose were in operation in a large number of industries including engineering, iron and steel manufacture, cotton spinning and weaving, wool textile, hosiery, boot and shoe, rubber, pottery, government industrial establishments and, in modified form, the building industry.

REINSTATEMENT IN CIVIL EMPLOYMENT

Whereas the other measures dealt with in this Chapter are principally concerned with a group of employees or an occupation or occupations, the Reinstatement in Civil Employment Act, 1944,[1] goes direct to the individual contract of employment. It is an Act for reinstatement in civil employment and not for compensation for loss of civil employment. Its prime concern is not with the conditions of a relationship into which the parties are still, theoretically, free to contract or not, but with the creation of the employment relationship itself. It must be distinguished from those war-time measures which recruited labour compulsorily to certain occupations in as much as the nature of the work performed under the contract of employment is of no concern to the legislature.

It is not surprising that in framing the Act the government did not look for its enforcement to the normal process of law but incorporated, from the field of labour relations, the familiar process of committees representative of employers and employees chaired by a neutral chairman with appeal to a neutral umpire. Although we must not strain the analogy, there is in structure, at least, some similarity between Reinstatement Committees and the standing conciliation agencies already common in industry, and between the umpire and an industrial arbitrator.

[1] 7 and 8 Geo. 6 c. 15.

The Reinstatement in Civil Employment Act, 1944, was brought into operation, by Ministerial order[1] on 1st August, 1944. It replaced the reinstatement provisions contained in the National Service Acts and Defence Regulation 60DAA. Those provisions did little more than prohibit the penalising by an employer of an employee because of his liability to perform war service and created an obligation to reinstate whenever reasonable and practicable, any employee who had completed a period of war service.

The Act is a comprehensive measure and was designed to cope with mass demobilisation and to continue into the post-hostilities period up to 6 months after a date to be declared by Order in Council under section 7 of the Armed Forces (Conditions of Service) Act, 1939.

The benefits of the Act extend to persons, both male and female, who, after 25th May, 1939, entered full-time service in the Armed Forces or certain women's services or, after 10th April, 1941, began full-time service in a civil defence force.

A person desiring to exercise reinstatement rights must apply to his former employer not later than the fifth Monday after completion of war service and must notify to the employer a date at which he will be ready to begin work. This date must not be later than the ninth Monday but both dates can be extended for sickness or other reasonable cause. If the employer is not able immediately to re-employ the applicant, the latter can keep his application alive by renewing it at intervals of not more than 13 weeks. Applications and notices may be lodged direct with the employer or at a local office of the Ministry of Labour and National Service.

The former employer is the person by whom the applicant was last employed during the 4 weeks prior to the commencement of war service. The employer's obligation is to take the applicant into employment at the first opportunity (if any) at which it is reasonable and practicable for him to do so on or after the notified date. The employment must be in the

[1]Statutory Rules and Orders, 1944, No. 879.

occupation in which the applicant was previously employed and the terms and conditions may not be less favourable than those which would have applied had he not been absent on service. If, however, such reinstatement is not reasonable and practicable, then the employer must take him into employment in the most favourable occupation and on the most favourable terms and conditions which are reasonable and practicable. Priority of claims to employment is provided for in the Act in a way to give preference to seniority in employment.

After reinstatement the employment must continue for 26 or 52 weeks according to length of the pre-war service employment or for so much of that period as is reasonable and practicable.

The real administration of the Reinstatement in Civil Employment provisions is in the hands of the Reinstatement Committees appointed to deal with disputes and the Umpires and Deputy Umpires appointed to hear appeals from the committees. Each committee consists of a chairman, an employers' representative and an employed persons' representative, all of whom are selected by the Minister of Labour and National Service from panels of chairmen, employers' representatives and workers' representatives. Not as a matter of law but as part of the well-established practice of industrial democracy, the Minister is guided in the formation of the panels of representatives by the advice of the respective organisations of employers and workers in the areas concerned. The Minister may also appoint assessors to be available as experts to the committees but without the power to vote or otherwise be a party to a determination or order. The Umpire and Deputy Umpires are appointed by the Crown and sit with two assessors appointed by the Minister.

An application may be made to a Reinstatement Committee by any person who claims that he has reinstatement rights under the Act which have been denied him. The functions of the committee are not limited to the principal obligations on former employers to re-employ, but extend also to the inci-

dental obligations provided for in the Act in relation to reinstatement. Appeals from a decision of a Reinstatement Committee may be made to the Umpire or Deputy Umpire by an organisation of employers or employees of which the employer or applicant is a member. The employer or applicant may also appeal where the committee's decision is not a unanimous one or where the committee or Umpire gives leave to appeal.

If the committee (or Umpire on appeal) is satisfied that the employer concerned has failed to discharge his obligations under the Act, they may make either or both of the following orders, namely, (*a*) an order requiring him to make employment available; and (*b*) an order requiring the payment of compensation for loss suffered or likely to be suffered by the applicant by reason of the default, but not exceeding the amount of the remuneration the applicant would have received by the 6 or 12 months' employment specified in the Act. Any sum so ordered to be paid may be recovered as a civil debt, whilst an employer who fails to comply with an order for reinstatement is liable on summary conviction to a fine not exceeding £100 and may be ordered by the court to pay the applicant by way of compensation a sum not exceeding the amount of remuneration to which he would have been entitled had the order been complied with.

The procedure to be followed in respect of applications to Reinstatement Committees and appeals to the Umpire and the main lines of procedure to be followed in considering applications and appeals are laid down in the Reinstatement in Civil Employment (Procedure) Regulations which were made by the Minister under section 16 of the Act on 28th July, 1944.[1] On 1st August, 1944, the Reinstatement in Civil Employment (Exemption from Restriction) Order[2] was also made by the Minister to remove conflicts which might otherwise have arisen from the parallel operation of the

[1]Statutory Rules and Orders, 1944, No. 880.

[2]Statutory Rules and Orders, 1944, No. 902.

Essential Work Orders or other wartime measures governing the engagement and dismissal of workers.

As already stated the obligation to reinstate former employees under the Act is expressed to lapse 6 months after "the end of the present emergency." By virtue, however, of the National Service Act,[1] which received the Royal Assent on 18th July, 1947, the reinstatement provisions, with some modifications, will remain in operation at least until 1954. The National Service Act limits the application of the Reinstatement in Civil Employment Act to :

(*a*) persons to whom the last-named Act applies who began their period of whole-time service before the 18th July, 1947 ; and

(*b*) persons who after that date begin a period of whole-time service under the National Service Act.

The latter group includes certain male British subjects between the ages of 18 and 26 years (but excluding those who turn 18 years of age after the end of 1953) who will be liable after the 1st January, 1949, to be called upon to serve a 12 months' term of whole-time service with the forces. As regards the persons in group (*b*) the provisions of the Reinstatement in Civil Employment Act are modified and the former employer is relieved of his obligation to reinstate an applicant 6 months after the end of the applicant's period of whole-time service instead of 6 months after "the end of the present emergency." The modifications cut down the procedural periods referred to in the Reinstatement Act. The principal provisions, however, apply, unmodified in any material way, including the functions of committees and of the Umpire and Deputy Umpires. The operations of the committees and the Umpire will be extended as from 1st January, 1949, to cover disputes arising from the termination by an employer of the employment of any person because of that person's liability to perform the part-time service required under the National

[1] 10 and 11 Geo. 6 c. 31.

Service Act. In such case the Reinstatement Committee may make an order for the payment by the employer of compensation up to the equivalent of 5 weeks' remuneration.

Up to the end of September, 1947, Reinstatement Committees in Great Britain had dealt with 6,270 applications. In 1,238 cases reinstatement orders were made, and in 540 compensation orders, while in 1,359 cases orders for both reinstatement and compensation were issued, making a total of 3,137 applications decided in favour of the applicants. Applications totalling 3,133 were decided in favour of the employers by the issue of no order. In Northern Ireland 33 decisions have been given, of which 21 have been in favour of the applicants. The Isle of Man Reinstatement Committees have determined 4 cases in 2 of which the decision was in favour of the applicant.

Decisions have been given by the Umpire in Great Britain in respect of 789 appeals. In 456 cases he confirmed the action of the Reinstatement Committee and in 333 reversed their determinations. Seven appeals have been decided in Northern Ireland by the Deputy Umpire who confirmed the Reinstatement Committee's action in all but one case. There had been no appeals in the Isle of Man by 30th September, 1947.

Conclusion

THE DEVELOPMENT of their industrial relations system has been characteristic of the temperament of the British people. Empiricism rather than theory has moulded the conciliation and arbitration machinery in the voluntary form. It has many of the faults of an unplanned and piecemeal system but it escapes the rigidity of less spontaneous methods. Unlike compulsory state arbitration which can, at one stroke of the legislative pen, be extended over the whole of industry, the voluntary system is dependent on the organisation of employers and workers and its effectiveness varies from industry to industry largely in accordance with the degree of that organisation.

Since 1896, when the British parliament abandoned its attempts to find a means of settling industrial disputes within a quasi-judicial framework involving legal enforcement of decisions, the policy of the state has been to encourage and supplement the conciliation and arbitration arrangements established by collective agreements in industry. Whilst following this policy, parliament has been compelled to intervene in some industries with the full force of law. Nevertheless, despite minimum wage legislation and the continuation into the post-war period of the compulsory arbitration of the Conditions of Employment and National Arbitration Orders, the policy of the state remains substantially unaltered from that of the Conciliation Act, 1896.

The foundation of conciliation and arbitration is, therefore, still to be found in the joint arrangements between employers

and unions.[1] Unco-ordinated though these arrangements often are as between the various industries, they do show common lines of approach. For the most part, a distinction is drawn between disputes which arise from the application of an existing agreement, or otherwise involve local questions of existing rights, and those which arise from fresh demands and the creation of new rights. The former matters are usually required to be settled, whenever possible, by those immediately concerned, and only failing agreement are subject to district, and ultimately to national, review by representatives of the organisations concerned. Questions which affect the industry as a whole are taken up immediately by the national representatives through the medium of a national conciliation board or conference.

In both cases, therefore, ultimate responsibility for non-settlement rests with the national organisations. This has both advantages and dangers. In the case of local disputes, it has the merit of applying the broader views and higher prestige of central peace agencies, thus enhancing the chance of settlement where those immediately concerned have failed to agree because of prejudice arising from limited knowledge or personal grievance. With regard to national questions, it has the merit of establishing uniform conditions on an industry-wide basis and eliminating wage and price-cutting which is likely to result when negotiations are conducted on a local and unco-ordinated basis. On the other hand, national settlement involves delays often arousing impatience and suspicion, and not infrequently resulting in unofficial strikes. National agree-

[1]With the nationalisation of certain industries the term "management" is now more appropriate than the term "employer." Subject to that, however, the above statement applies equally to state and privately-owned industries. The socialisation acts follow a common pattern in their industrial relations provisions. In each case the commission or corporations in which the control of the industry is vested replace the individual employers or their association as a party to the existing collective agreements, including those maintaining joint machinery. To the extent to which adequate joint machinery does not already exist the commissions are required to seek consultation with the unions with a view to its establishment. The only stipulation contained in the legislation in relation to this machinery is that it should provide for arbitration in default of settlement of terms and conditions of employment.

ment does not always take sufficiently into account local conditions and sectional interests. Moreover, the failure to reach a settlement at the national stage may mean a stoppage of work throughout the entire industry, much more disastrous than would be the case if the matter remained in the control of local bodies.

The greatest risk of stoppages, therefore, occurs at the extreme ends : local unofficial strikes due to impatience with the delays of the conciliation machinery, or the inability of the executive of the union to curb the firebrands of its rank and file ; and national strikes or lockouts arising from an ultimate breakdown of the national machinery. The first are likely to be frequent but brief, and to involve few individuals and establishments. The latter are more severe but less frequent. The statistics of strikes and lockouts over the 18 years immediately before World War II show that approximately 50 per cent. of all the disputes over that period involved less than 100 workmen on each occasion and accounted for less than 1 per cent. of the working days lost. On the other hand, the large disputes, those involving 5,000 workmen or over, accounted for less than 2 per cent. of the total number of disputes but for nearly 90 per cent. of the days lost.

Although the small local stoppage itself is not serious, its frequency can be extremely irritating and has a bad effect upon the relationship of employers and men, which in turn reacts on conciliation and negotiation over a wider field. The most effective method of reducing these local disturbances are : the speeding up of the machinery for district disputes, the extension of the workshop committee principle, and the strengthening of the local organisation of employers and, even more so, of workers. The first lessens the number of strikes which arise from exasperation at long delays in dealing with matters which may be of small consequence to the industry elsewhere, but are of prime concern to the particular workers involved. The second provides a channel through which grievances may be voiced on the spot before they develop into

"downing tools." The danger of unofficial strikes has been increased rather than lessened by the growth of the national union, very often at the expense of local associations. In an industry such as engineering with numerous grades of workers and specialised sections, the multiple union can lead to a central bureaucracy which finds increasing difficulty in maintaining contact with local developments or appreciating their significance in time to take remedial action in concert with the employers' central organisation. The Amalgamated Engineering Union, for instance, with a membership, at the end of World War II, of well over three-quarters of a million, and a host of salaried officials, is now more akin to a minor government department than to the craft organisation of earlier days. Perhaps it is not without significance that it was in this industry that the shop steward movement grew up as a counter to central administration. The stronger the central organisation of employers and workers becomes (and, in other respects, this is a desirable feature) the greater is the need for purely workshop consultation. The recent extension of joint committees in engineering establishments is, therefore, an encouraging development.

National stoppages are on a different footing. They rarely result from inadequacy of means of discussion or from lack of control over their members by the parties to the national dispute machinery. They are usually the result of final deadlock after exhaustion of the processes provided by the joint machinery. The means adopted to minimise these stoppages, therefore, are essentially different from those effective in the local field. In the case of many industries the parties to conciliation arrangements accept, in the last resort, the decision of a third party. Arbitration in various forms is a prominent feature in the boot and shoe industry, in the railways and in most sections of iron and steel manufacture, and national stoppages in these industries are rare occurrences. Other industries, such as the engineering and building trades, have refused to commit themselves in advance to arbitration, but have, in the

event of a deadlock, frequently resorted to the Industrial Court or to a single *ad hoc* arbitrator. It is in the case of the latter industries and of others with less developed machinery, that there is most room for government action. The state cannot afford to be indifferent to the prospect of a stoppage over a whole industry, especially where it is one essential to communal life. Where such a stoppage is likely, the aim of the government in normal times, as revealed by the work of the Ministry of Labour and National Service, has been, by tactful mediation, to prevent the parties from breaking off relations, or to restore them if already ruptured. Then, unless continued conciliation produces a settlement, the parties have been encouraged to use the voluntary arbitration facilities provided by the Industrial Courts Act. Finally, should the situation become serious, the Minister can appoint a formal court of inquiry, which, while nominally concerned with elucidating the facts for the enlightenment of the public and of the parties themselves, in fact, exercises a powerful influence in inducing the parties to come to a compromise, by removing the support which the party refusing a reasonable settlement might otherwise expect from public opinion.

Since 1940, of course, the Minister has had at his disposal the additional powers of compulsory arbitration under the Conditions of Employment and National Arbitration Orders. This has resulted in a considerable increase in state arbitration. Whilst the form is compulsory, in many cases the reference to the National Arbitration Tribunal has been supported by both sides. It is not unlikely, therefore, that, although the unions are as strongly opposed as ever to compulsory arbitration continuing beyond the transition period, a habit of state arbitration is being built up which will remain after the compulsory element is withdrawn.

On the whole the British methods have been reasonably effective in coping with the volume of differences which inevitably arise between labour and management in a complex industrial life. From 1900 to 1947, inclusive, 483,893,000

working days are recorded as having been lost through strikes and lockouts involving just under 27,000,000 workers. The yearly average of ten and a half million days lost amounts to approximately one half-day per head of the working population. These figures are swollen by the time lost during the industrial disturbances immediately after World War I and during the General Strike of 1926. The average time lost per year since 1926 would amount to about one day in seven years for the total working population. Compared with days lost through sickness these figures are small indeed, whilst the total time lost since 1900 is less than the loss of working days through unemployment in any one year of the depression in the 'thirties. Moreover, these strike figures compare favourably with losses in countries, such as Australia, which operate under a system of compulsory state arbitration.

These figures reveal but one side of the working of the voluntary system of joint action. On the other side must be considered the educative value of co-operation between labour and management and the development of initiative in overcoming problems of industrial relations. Contact over the years through negotiation and conciliation machinery has produced in unions and employers a mutual respect, even when objectives have been diverse. This is reflected in the absence of deep-rooted malice and reprisals when differences do give rise to direct action. And the realisation that the honouring of bargains made over the conference table rests on the good faith of the negotiators, strengthens that sense of collective responsibility on which industrial morale ultimately rests.

The weakness of the voluntary system lies in its piecemeal adjustment of industrial relations. In normal times this is, perhaps, of small consequence. In times of economic pressure or national crisis it can be a drag on national effort. One of the industrial problems facing Britain in the post-war period is the question of accepting new wage differentials which will assist the flow of labour to the basic industries. It is very much

easier to revise the wages structure in the light of national necessity through a single agency such as an award making arbitration court of the Australian or New Zealand model, than it is where each industry regulates its own relationships without full knowledge of national economic circumstances. Whether the faster revision imposed from without under the former method is likely to provoke greater industrial unrest than the slower process under the latter is another matter.

Attempts have been made at various times during the present century to overcome this difficulty of comparative detachment from national needs by establishing an instrument of central co-operation between employers and workers in matters of general policy in industrial relations, which can also afford a basis of collaboration with government. The Industrial Council[1] formed in 1911 was intended as such an instrument. The appointment of individuals to represent employers and workers, thus by-passing the central organisations themselves, condemned the Council to a short and unfruitful existence as a would-be industrial parliament.

This mistake was not repeated in the proposals of the Turner-Mond conference of 1928. That conference arose out of an invitation issued by a number of leading employers headed by Sir Alfred Mond (subsequently Lord Melchett) to the General Council of the Trade Union Congress on 23rd November, 1927, to discuss questions of industrial reorganisation and industrial relations.

The conference proposed the establishment of a National Industrial Council composed of the members of the General Council of the T.U.C., representing the workers of Great Britain, and an equal number of representatives of the employers of Great Britain, nominated by the Federation of British Industries and the National Confederation of Employers' Organisations.

This scheme was ultimately rejected by the employers' federations to whom it was referred on the ground of the

[1]See Part II, Chapter II.

limited "capacities and powers" of the federations. Although agreement was reached by the end of 1929 on a basis of "usefully consulting together upon matters of common interest to British industry,"[1] and a list of subjects[2] was drawn up for future discussion, the attitude of the employers' federations robbed the Turner-Mond proposals of any real vitality.

A renewed interest in national co-operation between the parties to industry was engendered by the prospect of war in 1939. Early in that year the Minister of Labour conferred with the British Employers' Confederation and the General Council of the T.U.C. on various matters which were likely to arise in wartime affecting labour and its relationship with employers. Following these discussions a National Joint Advisory Council was constituted in October comprising 15 representatives of the Confederation and 15 representatives of the General Council under the chairmanship of the Minister. The functions of the Council were "to advise the Government on matters in which employers and workers have a common interest." It was agreed that the Council would not encroach on the ground of the joint machinery in individual industries but would be concerned with general principles. In 1940, the Council appointed a Joint Consultative Committee consisting of 7 representatives of each side. After that date the full Council met only occasionally but the Committee met repeatedly at the request of the Minister, who acted as chairman. Few decisions of major industrial importance were taken by the government during wartime without prior consultation with the Council or the Committee. In most cases the initiative came from the Minister though it was open to members to raise any subject for discussion. As already mentioned, it was on the recommendations made at the first meeting of the Committee that the Conditions of Employment and National Arbitration Order, 1940, was based.

As a result of the success of wartime collaboration the

[1] *Ministry of Labour Gazette*, March, 1929, pp. 84-5.
[2] *Ministry of Labour Gazette*, January, 1930, p. 11.

government announced in July 1946, their desire to continue this arrangement as a permanent post-war feature. In this announcement it was made clear that there was no intention of departing from the policy of entrusting the responsibility for the determination of terms and conditions of employment to the joint machinery already operating in each industry, but that the government desired to reinforce that machinery by a regular system of general consultation with both sides of industry. The National Joint Advisory Council was accordingly reconstituted with the same terms of reference but with 2 additional members on each side and an obligation to hold regular quarterly meetings. The Joint Consultative Committee was retained as the Executive Committee of the Council to which it now reports on all its activities and is available for urgent consultation on matters arising between meetings of the Council.

The importance attached to the work of the Council in the post-war period has been shown by the presence at its meetings not only of the Minister of Labour and National Service, who remains its chairman, but also of the Lord President of the Council, the Chancellor of the Exchequer and the President of the Board of Trade. The reconstituted Council has been concerned with such matters as the general economic situation, production under full employment, the spreading of the industrial electricity load and the re-introduction of control of engagement of labour. In relation to conciliation and negotiation the Council has re-affirmed its faith in the purely voluntary character of the ordinary machinery of joint negotiation with each industry freely determining the form and scope of such machinery.[1]

The Council has thus already gone a long way to meet that need for regular consultation in general problems of industrial relations which was sought in the 1911 experiment.

Collaboration between industry and the government in solving post-war problems has not been limited to the indus-

[1] *Ministry of Labour Gazette*, August, 1947, pp. 254-5.

trial relations field. On general problems of production the National Production Advisory Council, supplemented by regional boards and district committees, is the medium of consultation between the government and industry. The National Council consists of representatives of the Trade Union Congress and of the British Employers' Confederation.

Organised employers and labour are now also associated with national economic planning. An outstanding example of the use of joint action in planning the reconstruction of individual industries was the appointment, by the President of the Board of Trade, of Working Parties to survey the resources and needs of about 20 industries. Each Working Party consisted of 12 members representative of the employers' organisations and the trade unions in the industry and the general public. Legislative provision has now been made in the Industrial Organisation and Development Act, 1947,[1] for the creation of similar bodies to be known as Development Councils to advise the government on any matters (other than remuneration or conditions of employment) relating to their respective industries.

In the field of general economic planning the government appointed on 7th July, 1947, a Planning Council under the chairmanship of the Planning Commissioner for the purpose of advising the government "on the best use of our economic resources both for the realisation of a long-term plan and for remedial measures against our immediate difficulties."[2] The Planning Council is composed of 6 members of the civil service and 3 representatives of the Federation of British Industries and the British Employers' Confederation and 3 representatives of the Trade Union Congress. The establishment of this Council follows the enunciation in the Economic Survey for 1947[3] of the principle that "Under a democracy the execution of the economic plan must be much more a matter for

[1] 10 and 11 Geo. 6, c. 40.

[2] Mr. Herbert Morrison. Reported in *The Economist*, 12th July, 1947, p. 56.

[3] p. 9.

co-operation between the government, industry and the people than of rigid application by the state of controls and compulsions."

Thus two movements are apparent in the relations between management, labour and the state. On the one hand the field of industrial relations has become of much greater concern to the state. Not only from a humanitarian interest but also because of the need for maximum essential production and the maintenance of full employment, the state has been compelled to ensure satisfactory relations between the parties to industry by supplementing, where necessary, the voluntary machinery of negotiation and conciliation by minimum and fair wage legislation and by the provision of voluntary state arbitration. On the other hand, the parties to industry have themselves been required to share with the state the responsibility for the economic well-being of the community.

The latter movement is no more than the culmination of that co-operation through joint action which has been developed by industry over the past hundred years for the settlement of its domestic relations. To what began as conciliation between the two parties in industry has now been added a three-party co-operation in the economic and social field. Whilst this extension could hold within itself the seed of the corporate state, it can, properly used, be a forward march in industrial democracy.

Addendum

THE IMPLEMENTATION of national policies designed to increase export production and to stabilise production costs has imposed increased responsibilities on the industrial relations machinery since the end of 1947. Contrary to some expectations, however, there have been no major structural changes. Apart from the further extension of certain temporary controls, the basic principle of voluntary negotiation is still unchallenged.

Voluntary Wage Stabilisation :

In a statement[1] to the House of Commons on 4th February, 1948, on personal incomes, costs and prices, the Prime Minister reaffirmed, in effect, the Government's faith in free collective bargaining but emphasised the responsibility of the parties to industry to avoid "unjustifiable increases in wages and salaries" which would lead to serious inflation. This policy of voluntary stabilisation of wages and prices was supported by the Federation of British Industries and the General Council of the Trade Union Congress. In September, 1948, the 80th Annual Trade Union Congress endorsed the recommendation of its General Council that the wage stabilisation policy be continued, with the rider that restraint on wage increases could be hoped for only if limits were imposed on profits and prices.[2] Wage stabilisation was again discussed at some length at the 81st Congress in September, 1949, and again a resolution put forward by the General Council was adopted pledging the greatest possible measure of restraint in seeking to increase personal incomes without relation to increased productivity but opposing any lowering of wages, lengthening of working hours, or contraction of social services.[3]

Such a policy has called for considerable patience in wage negotiation, especially on the part of organised labour which has been in

[1]Issued as a Command Paper (Cmd. 7321).

[2]Report of Proceedings of the 80th Annual Trade Union Congress held at Margate, 1948.

[3]Report of Proceedings of the 81st Annual Trade Union Congress held at Bridlington, 1949.

a strong bargaining position, and it is not surprising that the relatively small number of industrial disputes during 1948 and 1949 should have included an unusually high proportion of unofficial strikes. In particular, issues have arisen on "wages regulation proposals" of Wages Councils which require statutory authorisation by the Minister of Labour and National Service. In the main, however, both sides of industry have co-operated in implementing the principles contained in the Prime Minister's statement.[1] To recent proposals for replacement of the moral sanction by a statutory wage-freeze with a guaranteed minimum wage, organised labour has given a clear answer in the negative. What is not so clear is how long, in the face of rising living costs, union leaders will be able, without jeopardising their leadership, to secure a reasonable measure of restraint in local wage negotiations where national economic considerations are seen less clearly.

National Joint Advisory Council :

The National Joint Advisory Council, which is dealt with in the Conclusion to this book, has continued to function as the instrument of central co-operation between employers and workers in matters of general policy in industrial relations. Between August, 1947, and November, 1949, the Council held 10 sessions and dealt with such matters as the staggering of Bank Holidays, revision of the procedures of Wages Boards and Councils and the economic situation of the country in the light of the Economic Survey for 1949.[2] Two matters may be singled out for particular mention.

At a meeting in October, 1948, the Council advised the Minister of Labour and National Service that the general economic situation made it inappropriate to bring the provisions of the Restoration of Pre-War Trade Practices Act, 1942, into operation and recommended to the Minister that the date of termination of the war period for the purposes of the Act should again be postponed for a further year when the matter should be reconsidered. This recommendation was acted upon by the Minister and the date of termination was extended to 31st December, 1949, and will almost certainly be further extended.[3]

[1]See reply by Prime Minister to question on May 2nd, 1949. Hansard, Col. 645.

[2]Cmd. 7647.

[3]See Part II, Chapter VII.

At meetings in December, 1947, July, 1948, and again in January, 1949, the Council had before it the question of development of machinery for joint consultation in industry in relation to production. The reports examined by the Council showed the steady increase in the number of industries which were following the recommendation by the Council to establish joint consultative machinery. Arising from these meetings a move was made by some unions at the 80th Trade Union Congress to seek special legislation to make the establishment of such machinery compulsory. The resolution was finally referred to the General Council and it is most unlikely that any action on those lines will be taken.

An important extension of the National Joint Advisory Council was made in October, 1948, when it was agreed that representatives of managements of nationalised industries should join the Council. These representatives attended for the first time in January, 1949. The constitution of the Joint Consultative Committee has also been revised to include two representatives from nationalised industries.

Conciliation and Arbitration in the Nationalised Industries :

The legislative provision for conciliation and arbitration which first appeared in the Coal Industry Nationalisation Act, 1946,[1] and was repeated in the Transport and Electricity Acts of 1947,[2] has again been followed in the Gas Act, 1948,[3] and in the Iron and Steel Bill. The corporations charged with the management of the nationalised industries have, in terms of the statutory requirement, entered into negotiations with the unions for establishment or revision of conciliation machinery including ultimate resort to arbitration.

In the coal mining industry the National Coal Board has added to the negotiation machinery described in Part I, Chapter II of this book special conciliation machinery for clerical and junior administrative staff employed in the industry.

Many of the problems under nationalised industries mooted in the foregoing Chapters on the Coal Mining Industry and the Railway Industry have already become apparent. Perhaps because of too high expectations of the effect of socialisation, the industrial relations problems have in the first years, in many respects, been increased.

[1] See Part I, Chapter II.

[2] See Part I, Chapter VIII.

[3] 11 and 12 Geo. 6, c. 67.

These have mostly been occasioned by some disillusionment, best expressed through the feeling that the National Coal Board and the Transport Commission are the same old managements under a new guise. In the coal industry, although there were no official strikes (i.e., strikes sponsored by the National Union of Mineworkers) there were, in 1947, 1,635 unofficial strikes involving 303,452 men and, in 1948, 1,528 strikes involving 190,915 men. It is not without significance that apart from wages questions the greatest number of these strikes in both years arose over questions of methods of working and colliery organisation.[1] In an endeavour to remove this feeling by the workers that the industry was still under remote control, the National Coal Board set up in 1947 an extensive system of Consultative Committees and Councils through which representatives of the workers could be brought into the solution of problems of management.

Miscellaneous :

In order to bring the information in the foregoing chapters up-to-date over the years 1948 and 1949, it is necessary to mention various matters of miscellaneous detail.

In Part I, Chapter IV, it is pointed out that the distinctive feature of the arrangements in the engineering industry is the absence of provision for arbitration. Over recent years with major differences arising on wages questions, particularly from the claim by the Confederation of Shipbuilding and Engineering Unions for a national minimum consolidated skilled rate and a national minimum consolidated unskilled rate with *pro rata* adjustments in intermediate grades, there has been frequent resort to state machinery for settlement.

The agreement negotiated between the Confederation and the Engineering and Allied Employers' National Federation in 1946 failed to settle the real issues despite the establishment of a joint committee to investigate the wage structure of the industry. Early in 1948 the same issues led to a deadlock and the appointment by the Minister of Labour and National Service of a Court of Inquiry under the Industrial Courts Act, 1919. Following the report of the Court of Inquiry the parties entered into a new agreement to operate from the 4th October, 1948, accepting the recommendations of the Court

[1]National Coal Board Reports for 1947 and 1948.

of Inquiry relating to wages, and undertaking to establish a joint sub-committee to examine the recommendations relating to the establishment of a more simplified wage structure for the industry.

The parties in the various branches of the cotton industry have also been active in negotiating new bases for wage rates. Now wages agreements have been made following the recommendation by the Working Party that there should be a review of wages arrangements in all sections along the lines of the review undertaken in the spinning section by the Evershed Commission in 1945.[1] In the case of blowing rooms, card rooms and ring rooms this review was conducted by a joint negotiating committee under the independent chairmanship of Mr. V. R. Aronson. As a result, a new wages agreement known as the "Aronson Card and Ring Room Agreement" was signed, on the 30th December, 1947, by the Federation of Master Cotton Spinners Associations Ltd. and the Amalgamated Association of Card Blowing and Ring Room Operatives.

The Hughes Commission which was appointed in November, 1946,[2] to review the weaving trade, issued an interim report[3] in March, 1948, covering the weaving of cotton and rayon cloths for which piece rates were fixed under the "uniform list of prices." These were the prices enforceable by Order under the Cotton Manufacturing Industry (Temporary Provisions) Act, 1934.[4] To replace the uniform list the Commission put forward a new wages structure which they recommended should be applied immediately over a proportion of the industry. Whilst they accepted the principle that the new system should ultimately be made legally enforceable wherever the weaving of cotton or rayon is carried out in Great Britain, they felt that the urgent need for higher productivity made it desirable to apply the new system without delay over the widest voluntary field which could be secured by the joint efforts of the Cotton Spinners' and Manufacturers' Association and the Amalgamated Weavers' Association.

In 1946, Mr. Justice Evershed, as Chairman of the Commission on the Cotton Spinning Industry, had submitted a supplementary

[1]See Part I, Chapter V.

[2]*Ibid.*

[3]Cotton Manufacturing Commission: Interim Report of an Inquiry into Wages Arrangements and Methods of Organisation of Work in the Cotton Manufacturing Industry.

[4]See Part II, Chapter VI.

report on wages for mule spinners. This report was substantially implemented by agreement made on 31st December, 1948, between the Federation of Master Cotton Spinners' Association Ltd. and the Amalgamated Association of Operative Cotton Spinners and Twiners. An important feature of this agreement was the adoption as from 7th February, 1949, of a simplified universal list of prices in place of the varied and complex district price lists.

Reference is made in the Conclusion to this book to the Industrial Organisation and Development Act, 1947. The first Development Council to be set up under this Act was the Cotton Board, which was created by the Cotton Industry Development Council Order[1] issued by the President of the Board of Trade on 25th March, 1948. Subsequently, Development Councils were also established for the furniture industry and for the jewellery and silverware industry.[2]

Considerable progress has been made with the process of reconstitution of Wages Councils under the Wages Councils Act, 1945.[3] By Orders under that Act, the Minister of Labour and National Service has brought the constitution of many of the Councils originally created as Trade Boards into conformity with the provisions relating to the constitution of Wages Councils under the Act.[4] On 16th December, 1948, the Act was amended[5] in several directions in the light of experience gained since 1945. Among other changes, the Minister was given wider powers on the abolition or variation of a Wages Council, to establish new Councils in lieu of transfer of the workers affected to existing Councils. Furthermore, application for the abolition of a Wages Council could now be made not only, as previously, jointly by the organisations of workers and employers affected but also by a joint industrial council, conciliation board or other similar voluntary joint organisation representing substantial proportions of the workers and employers affected. The amending Act of 1948 also converted the Road Haulage Central Wages Board established under Part I of the Road Haulage Wages Act, 1938,[6] into a Wages Council and thereby applied to that Board the simpler

[1]Statutory Instruments, 1948, No. 629.

[2]Statutory Instruments, 1948, Nos. 2774 and 2801.

[3]See Part II, Chapter VI.

[4]In February, 1949, it was announced that Wages Councils existed for sixty industries or trades. Parliamentary Debates, 8th February, 1949, p. 29.

[5]12 and 13 Geo. 6, c. 7.

[6]See Part II, Chapter VI.

procedure for making "wages regulation proposals" under the Wages Council Act as amended. The 1948 Act did not alter in any way the provisions relevant to the Conditions of Employment and National Arbitration Order, 1940.[1]

In 1948 the various statutory provisions for regulating remuneration and conditions in agriculture in England and Wales, which are dealt with in Part II, Chapter VI, were consolidated without further amendment. The Agricultural Wages Act, 1948,[2] reproduces the law contained in the Agricultural Wages (Regulation) Act, 1924, in the Agricultural Wages (Regulation) Act, 1947 (so far as it amends the Act of 1924 in relation to England and Wales), and in the Holidays with Pay Act, 1948 (so far as it relates to agricultural workers in England and Wales), together with the regulations thereunder. A similar consolidation was effected in 1949 in respect of the laws relating to Scotland. The Agricultural Wages (Scotland) Act, 1949,[3] brings into a single statutory form without amendment the provisions contained in the Agricultural Wages (Regulation) (Scotland) Act, 1937, in the Agricultural Wages (Regulation) Act, 1947 (so far as it amends the Act of 1937), and in the Holidays with Pay Act, 1938 (so far as it relates to agricultural workers in Scotland), together with the regulations thereunder.

To the statutory measures mentioned in Part II, Chapter VII, in relation to reinstatement in civil employment must now be added the Army and Air Force (Women's Service) (Adaptation of Enactments) Order which was made on 28th January, 1949, in pursuance of the Army and Air Force (Women's Service) Act, 1948. That Act enabled women to be commissioned and enlisted in His Majesty's Land and Air Forces and for that purpose empowered the making of Orders in Council for consequential adaptations and modifications of other enactments. The modification of the Reinstatement in Civil Employment Act, 1944, effected by the Order extended the benefits of the Act beyond the 18th July, 1947 (the date of the National Service Act, 1947) in the case of members of the Women's Services who continue whole-time service in the new Women's Forces.

The statistics of activities of Reinstatement Committees and the Umpires under the Reinstatement in Civil Employment Act given in

[1] See Part II, Chapter VII.

[2] 11 and 12 Geo. 6, c. 47.

[3] 12 and 13 Geo. 6, c. 30.

Part II, Chapter VII, can now be brought up to the end of September, 1949. Of 8,272 cases decided by Committees, orders for reinstatement were made in 1,572 instances, for compensation in 709 instances, for both reinstatement and compensation in 1,850 instances, whilst the residue of cases, 4,141, were decided in favour of employers by the issue of no order. In Northern Ireland, 38 decisions have been given, of which 22 were decided in favour of the applicant. Over the same time the Umpire in Great Britain has given his decision in 1,049 appeals confirming the determination of the Committee in 628 cases and reversing it in 421 cases. In Northern Ireland, seven determinations were upheld on appeal to the Umpire and one reversed. The figures already given for the Isle of Man have not changed. This activity is now almost entirely related to persons affected by the National Service Act.

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