

U. C. M. CONVENTION—Continued.

The question of jurisdiction was raised definitely in connection with a dispute affecting the employees of an electric street railway operated and owned by a municipality. Electric railways as such are specifically included within the terms of the statute, but such inclusion would obviously not apply where the statute had no jurisdiction. In the case in point a Board of Conciliation and Investigation had been established before it had been realised that the municipality concerned would not be a consenting party. The fully constituted board, being duly convened to open its inquiry, was served with an injunction restraining it from proceeding. The injunction was not opposed by the Dominion authorities and no inquiry into the dispute took place before the board.

The ruling was then made that the Minister of Labour would not, under the Industrial Disputes Investigation Act, 1907, claim jurisdiction in a dispute where the employer is a province or a municipality or an undertaking controlled by either of these authorities, but would encourage the use of the machinery of the statute under clause 63, that is, by joint consent. Since this ruling was made there have been numerous such disputes, many of which have been the subject of application to the minister for a Board of Conciliation; the department has strictly adhered to the practice above indicated.

Police and Fire Service Disputes.

The most acute aspect of industrial disputes involving municipalities is found in the case of firemen and policemen. It is not clear that these occupations could be in any event classed as public utility industries. Apart from the question of Dominion-Provincial jurisdiction, a board could be presumably, when demanded, established only by mutual consent of both parties to the dispute. There are thus, in this class of cases, two distinct grounds for disclaiming positive jurisdiction under the statute.

The heads of municipalities have been by no means consistent in the attitude taken to the question of the applicability of the statute of municipal industrial disputes. For several years requests for conciliation boards came only from the employees and in no case from a municipality. The jurisdiction of the department, if questioned at all, was questioned by the municipality, but procedure under the statute was arranged by formal or informal consent of both parties. After the departmental ruling had been made that where the employer is a municipality, etc., no board will be established save by joint consent, pressing requests were received, in several cases from municipalities, that conciliation boards might be established. In two important cases such requests were received from the municipal officers of cities which had previously denied the jurisdiction of the statute. This inconsistency would have been immaterial if the employees, having in mind the treatment their application had previously received from the municipal officers, and being now aware that concurrence was optional, could not resist the temptation of imitating the previous action of the municipality and refusing concurrence, thus preventing an inquiry before a Board of Conciliation.

Several disastrous municipal strikes have occurred as the result of the unwillingness of one or other of the parties concerned to submit the dispute to the provisions of the Industrial Disputes Investigation Act (though the refusal is most frequently from the municipality); on the other hand no alternative and competent tribunal has been suggested. Policemen were during the year on strike in Toronto and St. John, and firemen struck in several cities of the Dominion. The members of the police and fire forces had as a rule organized as separate trades union bodies entirely distinct from and independent of each other. In case of the police no central organization had been yet evolved, either for the Dominion or on an international basis; each unit is independent, though should the movement persist a central organization will in all probability arise. In the case of the firemen a central body known as the International Fire Fighters' Association had already come into existence, with headquarters at Washington, D.C. The local units both of police and firemen affiliated in a number of cases with the Trades and Labour Congress of Canada, and that body seems to have had no hesitation in granting charters to the two services. It was frequently on this point that disputes between municipality authorities and police or fire workers took on their most serious aspects, the municipality almost invariably taking strong ground against the affiliation of the members of either of these forces with the Trades and Labour Congress of Canada, such affiliation involving, it was generally understood, the right to exercise the power

of strike common to other unions so affiliated. In the case of the police it was urged, with much apparent reason, that, since the enforcement of the law is the special duty of the police force, members of police trades unions might not infrequently find themselves in a position where the principles of trades unionism clashed with the duty of enforcing the law; as, for instance, where, in a tumult growing out of a strike or lockout, a police officer might be requested to take action antagonistic to strikers and contrary perhaps to his natural promptings as a trades unionist. That the guardians of the law might themselves be on strike seems hardly to have been deemed possible.

In the case of the firemen the arguments against trades unions ran necessarily on somewhat different lines. It was held inconceivable that men appointed for the special purpose of protecting the community from fire should desert their posts and leave a city to be a prey to the devouring flames.

Members of the police and fire brigades were not, however, convinced by those arguments, and local unions of both bodies continued to affiliate with the Trades and Labour Congress of Canada and to claim the right of exercising the usual powers of a trades union. It is a striking illustration of the general community of sentiment in different countries as to these matters that, at about the time the question of the trades-unionizing of police and firemen was being most actively discussed in Canada, the same subject was a matter of acute dissension also in both Great Britain and the United States. Questions of wages and conditions of work were of course causes of contention between the controlling municipalities and the bodies in question, but in all cases what appears to have been the practically insurmountable obstacle to an agreement was the determination of the members of the police and fire forces to identify themselves with the trades union movement and the refusal of the authorities to permit such a course. In Great Britain the dispute resulted in a strike of the firemen of the vast metropolitan district, and London was for a period without protection from fire, save for such as might have been accorded by volunteer agencies. The police dispute in Great Britain was on a wider scale, being practically on national lines, a strike here also ensuing. In this case the police of the metropolis and those of practically all the large cities were ordered out; the strike order was not, however, as widely obeyed as the leaders had expected, and, after a week or two of excitement with half the police forces on strike in many cities, a compromise was affected, leaving however, no satisfactory solution with respect to the question of trades unionism of either policemen or firemen.

In the United States firemen were, from time to time, on strike in different cities; the police were a little later in organizing in the United States, and it was some time after the close of the Dominion fiscal year 1918-19 that there occurred in Boston a spectacular police strike. The strike was resolutely opposed by municipal and state authorities, and the strikers were entirely defeated, even to the refusal of reinstatement to former positions. In Cincinnati, Ohio, the settlement of a police strike was more in the nature of a compromise.

This subject has been discussed somewhat fully because the question involved remains in all English-speaking countries unsettled, and the trouble is one which will undoubtedly re-occur from time to time, in Canada as in other countries. So far as Canada is concerned, if the official view of the question of jurisdiction as above indicated is correct, then the Industrial Disputes Investigation Act is ineffective as an instrument to meet the emergency, not because of any remediable defect in its provisions, but because of the constitutional limitations of federal power; neither the Industrial Disputes Investigation Act nor any other Dominion statute could give the Dominion a jurisdiction which belongs to the provinces. The point involved is a highly legal one and no positive opinion is here ventured.

Apart from the question of jurisdiction, the right of the members of a fire or police brigade to join a trades union is a matter which also requires consideration. Neither police nor firemen appear to have been, by any law, federal or provincial, forbidden the right to join a trades union; the point involved would therefore seem to be rather one of policy than of legal rights, and undoubtedly the arguments above indicated are strong reasons why these pro-

(Mr. Acland's paper is continued on page 280.)