Court of Industrial Relations

The functions of a court are curtailed in the work of investigating labor problems by having to adhere to the laws of evidence—Compulsory arbitration not a success in Australia

By J. W. MACMILLAN.

The establishment in Kansas of a Court of Industrial Relations has attracted great attention in the United States. Governor Allen has been forced to refuse invitations to explain it to chambers of commerce and other groups interested in industry because he must have some time for governing the State. His debate with Samuel Gompers was headlined in every newspaper in the republic. The labor organs are steadily criticizing it. Because it represents, for the first time, an attempt by one of the States to force industrial peace upon the quarrels of labor and capital its first applications to labor disputes are being watched with uncommon interest.

The establishment of this court represents the assertion of the right of the community to participate in the negotiations between employees and employers. A court of three judges has been set up, which may intervene in any industrial controversy, either on its own initiative, at the request of either party to the dispute, or upon complant of any ten citizens. It has power to penalize an employer who discharges his men, or the men who lay down their tools in pursuit of the controversy between them. Heavy penalties are provided for this purpose. It has also power to declare settlement of the controversy, fixing wages at a point which shall be "fair, just and reasonable," yet permitting the business concerned to make a modest profit. It is made to apply only to industries which are "affected by a public interest," which phrase is explained to mean public utilities and businesses dealing in food, clothing and fuel.

There are, besides, a number of lesser provisions which are designed to assist the main purpose of the law. For instance, a labor union may incorporate and thus gain an improved standing before the courts. Free service of law, right up to appeal to the supreme court of the state, is provided for an aggrieved employee. The right of collective bargaining is assured to unions, whether incorporated or not.

The essential meaning of the law is to afford a means through public action for securing justice to workers. Thus the need of private action on their part is removed, and the discomforts which the public generally are forced to endure while capital and labor fight their battles is to be prevented. Every consumer will sympathize with the intention of the law. In the debate between Governor Allen and Mr. Gompers the Governor succeeded in posing the veteran labor leader by his questions on this point. For, in point of fact, it is impossible to deny the injustice of robbing babies of their milk because some hundreds of grown men who drive waggons or tend switches are underpaid, or think themselves so.

The only case which, so far as I have seen, has been decided by the court was one which scarcely can be counted a test of the efficacy of the law. It concerned a dispute between a public utilities company in Topeka and its linemen. The issue was of wages. Both sides laid their case before the court with an expression of their desire to accept the court's decision. Hence the court, in this instance, functioned rather as a board of arbitration than as a judicial body. Other cases which are now pending will try more thoroughly the efficiency of the new tribunal.

One may regard such a law as this with hope, but scarcely with confident expectation. As revealed by the experience of a century of strikes and attempts to limit or prevent strikes by law it appears to possess two fundamental defects.

The first defect is that it is a court rather than a commission. Being so it uses the rules of evidence. Thus hearsay evidence is forbidden, a wise provision when the question is that of protecting a man accused of crime, but not one which will promote an enquiry into industrial conditions. The ordinary law court stands in line of succession to numerous other courts which have dealt with similar problems and have worked out a set of precedents which determine the legality of the act which is being examined by the court. The ordinary court also is governed by common law and common and well-accepted principals of jurisprudence. But the questions which will come before the Kansas Court of Industrial Relations are not concerned with legal ity. They are concerned with wages, hours and conditions of labor. Thus the court is thrown upon its own common sense, prejudice, goodwill, knowledge or ignorance, and will assuredly find itself hampered rather than helped by the constraint of the laws of evidence.

It is well known in parliamentary circles that a committee of members, working under the parliamentary rules of order, can deal with public questions with a freedom, directness and immediacy which is impossible to a judicial tribunal. The same thing is true of industrial administration.

The second defect is much more vital. Any compulsory arbitration is bound to fail, because the controlling public opinion of any period is not in sympathy with the aims of a lower class fighting its way up to equality and freedom. When one considers the true nature of the labor movement, aside from the petty errors of its chiefs and the excesses of its rank and file, one sees it to be part of the fundamental struggle which has gone on during many centuries for the release of the masses of the people. We are now witnessing a later campaign in the ancient war which was fought about slavery, and more recently about serfdom. In the nature of the case the spearhead of these movements towards liberty is always challenging accepted standards. Any court must embody the current opinion of its age, for only thus does it derive its authority. Thus it is impossible, at any time, for a court to assist the unprivileged in attaining their desires. It may and can modify the bitterness of their lot, but it will not radically alter their lot.

When the Apostle Paul converted the runaway slave Onesimus he acted as humanely as it was possible for a progressive, public-spirited and upright man of that age to act. He sent him back to his master. True, he did what he could to save Onesimus from the wrath of Philemon, and adjured the master to treat his slave 'as a brother beloved.' That was in the first century of the Christian era. In the nineteenth century the men of a Pauline spirit were running slaves away from their masters. The public opinion of Christian people had advanced.

The real question at issue between capital and labor is the status of labor. The main question is cluttered up with all sorts of lesser matters, such as rates of wages, increased payment for overtime, the right to organize, length of working-periods, and the like. The struggle, as often as not, takes the form of skirmishes in the areas delimited by the lesser matters. But the real issue is one of status. Now, no court will or can change the status of labor in advance of the current public sentiment. Only labor itself and the chosen few who not being laborers yet turn their fellows in intelligent democratic sympathy can do that. And to forbid labor to use its strength is to fasten on it a species of servitude.

When the nineteenth century opened the law in England forbade any 'combination' of workingmen. Any agreement between workmen looking toward increasing their own or other's wages, or towards shortening the hours of work was illegal. This was the dominant conception of the rights of labor in that day.

Twenty-five years later the law permitted workmen to meet together and agree on the rate of wages and the hours of work, so long as this agreement referred only to those present at the meeting. This represented the dominant conception at that date.

In 1860 the law recognized the right of unions to demand changes in wages and hours even if others than their own members were concerned. Peaceful persuasion upon others to join strikers was also allowed. So the public thought at that date.

In 1875 a trades-union was granted by law the same rights as any banking or manufacturing concern. It might exist, hold property, and carry out the objects of its organization freely within the limits of the common law. So the British people had come to think by that time.

All along the path of this progress the labor interest had been in advance of public sentiment. It is so still. It must continue to occupy that advanced position until the day of economic freedom arrives, when some other form will be taken in the endless struggle for human equality. Many people who are unsympathetic with labor organizations would like them better if they understood more clearly the grandeur of their aims. But the foolishness of some strike, the wild language of some empty-pated demagogue, or the general fear of things going wrong in any attempted rearrangements of the social order is enough to make them distrust all labor movements. All the opponents of labor are not lovers of 'capitalism'.

It is probable that compulsory arbitration in Kansas will be more successful than it has been in Australasia. In our own Lemieux Act the compulsory clauses have hardly been used. The state may do a great deal, indeed it has done a great deal, for the public and for the contending parties in labor disputes. But it cannot force them to agree. The more promising alternative is to seek to raise the level of the dispute, to make voluntary arbitration easy, and to strengthen the power of the economic organizations which bargain with each other.

The value of fish in British Columbia waters during the first three months of the year amounts to $1,320,888, leading all the provinces of the Dominion. This revenue was derived from 17 varieties of fish out of a total of 38 edible species that are found in quantities on the Pacific coast.

Dividends hve been declared by National Breweries, Ltd., and Montreal Tramways Co. The National Breweries dividend is the regular 1 3-4 per cent. on the preferred stock payable August 2 to holders of record, July 15. Montreal Tramways dividend is the regular 2 per cent. payable August 2 to holders of record June 16.