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THE ESTABLISHMENT OF VOLUNTARY PERMANENT BOARDS OF ARBITRATION AND CONCILIATION IN ENGLAND.

BY JOSEPH D. WEEKS.

The year 1860 marked an epoch in the history of arbitration and conciliation in Great Britain, and gave it a new character, one more in accordance with the tone of modern thought and the changed relations of capital and labor. Late in that year, mainly through the efforts of Mr. A. J. Mundella, the first permanent or continuous board of arbitration and conciliation in England was established, in the hosiery and glove trade, at Nottingham. Mr. Henry Crompton in his admirable little work on "Industrial Conciliation," in speaking of the establishment of this board says, "Mr. Mundella must be regarded as the inventor of systematic industrial conciliation." In view of the fact, that the large majority of cases brought before the *Conseils des Prud' hommes* were settled by conciliation in the private bureau, this claim can hardly be made for Mr. Mundella. The distinguishing features of the board organized by his efforts, and at the same time the marked characteristic of arbitration since 1860, is that it is systematic conciliation or arbitration organized on a purely voluntary basis, without an appeal to legal processes, even to enforce its decisions. That is, its novelty is not that it is systematic—the French *Conseils* were that—but that it is both systematic and voluntary, and these the French prototype were not.

The voluntary features of these boards is one to which I desire to call particular attention. Both Mr. Mundella and Mr. Kettle, to whom the cause of arbitration and conciliation in England owes much that it is, and who represent somewhat diverse views on the subject, agree that these boards should be voluntary, and not compulsory. Though there are acts of Parliament which provide compulsory legal powers, by which either side can compel the other to arbitrate on any dispute, these powers have never, in a

single instance, so far as I could learn, been used; but the large number of differences that have been settled by arbitration in Great Britain in the last eighteen years, have all been voluntary in their submission, and in the enforcement of the award. Mr. Kettle would provide, that in certain cases, the awards should become part of the contract between the employer and the employed, to be enforced at law as any other contract; but as these contracts can be terminated by a short time notice, it does not take away from the voluntary nature of the arbitrations under what is known as the Wolverhampton system. How this voluntary feature has worked in practice, will be evident in the course of this report.

In discussing this subject, it is very important at the outset to distinguish between arbitration and conciliation. Though the former is a generic word, and the one more commonly used in referring to the system, there is an essential and important difference between arbitration and conciliation. Unless this is clearly impressed on the mind, and the scope and working of each clearly understood, it will be impossible to learn the secret of the success that has attended these boards, and the reason of their continued existence. Arbitration deals with the larger questions of trade, conciliation with the smaller. Arbitration with the whole trade, conciliation oftener with the individuals. Conciliation is not formal; it does not attempt to sit in judgment and decide in a given case what is right and what is wrong, but its efforts are, in a friendly spirit, to adjust differences by inducing the parties to agree themselves. It removes causes of dissensions and prevents differences from becoming disputes, by establishing a cordial feeling between those who may be parties to the same. Conciliation, in a word, may be defined as informal arbitration. Arbitration, on the other hand, is formal. It sits in judgment. It implies that matters in dispute by mutual consent or by previous contract have been submitted to arbiters, and an umpire, whose decision is final and binding on both parties. Mr. Crompton, in his work on "Industrial Conciliation," says, when contrasting arbitration and conciliation, "conciliation aims at something higher—at doing before the fact that which arbitration accomplishes after. It seeks to prevent and remove the causes of dispute before they arise, to adjust differences and claims before they become disputes. A board of conciliation deals with matters that could not be arbitrated upon, promoting the growth of beneficial customs, interfering in the smaller

details of industrial life, modifying or removing some of the worst evils incidental to modern industry, such, for example, as the truck system, or the wrongs which workmen suffer at the hands of middle-men and overseers."

It is this preventive feature that gives conciliation a value beyond estimation. It is a most admirable and praiseworthy object to provide means for settling disputes when they have arisen. It is much more desirable to prevent them from arising, and the tendency of conciliation is to do this, by removing the old feelings of bitterness, by inspiring respect for each other, and fostering, at the same time, a spirit of independence, and compelling a recognition of the dignity and worth of labor and the necessity and beneficence of capital.

And yet, after all that may be said in praise of conciliation, it is conceded, even by its warmest advocates, that back of all conciliation there must be arbitration. The time may come, and in the settlement of certain questions, generally will come, when no friendly offices are sufficient to enable capital and labor to see alike. Self-interest renders it impossible for either to decide fairly, and something more than a master of ceremonies or conciliator is needed. There must be power to determine as well as hear. That is, arbitration must intervene, and its decisions accomplish what conciliation is powerless to bring about.

To show the workings of arbitration and conciliation, I have given in the following pages a detailed account of the organization and operation of several of the most prominent boards. The records are mainly those of arbitration, not of conciliation, as in war it is the battles that are recorded, not the skirmishes and movements for position.

There are two or possibly three objects sought in the formation of boards of arbitration and conciliation. The first is to prevent differences between employed and employers from becoming disputes, and leading to strikes and lock-outs; and the second is to settle disputes that have unfortunately arisen, and to put an end to strikes and lock-outs, should they occur. The third object, which is possibly included under the first mentioned, is to promote mutual confidence and respect between these two classes. The only sufficient reason for the adoption of the principle is that it accomplishes these purposes.

Whether it has accomplished these objects in the trades in which it has been fairly tried in England, can be judged from the facts set forth in the preceding pages of this report. For myself, I do not hesitate to say that it is not only the best method yet devised, but the only rational one for adjusting the relative rights of employers and employed under the present constitution of industrial society. In making this statement, I do not forget the method by strikes and lock-outs, nor do I consider it. These methods are neither rational nor civilized. A victory or a defeat for either side, under the pressure of strikes or lock-outs, neither proves nor disproves the justice of a position assumed; but it is fair to infer that an award given by a board of arbitration, after due consideration, would be as near just and right as it possible for human judgment to reach. It is to be observed, also, that a decision of a board should not be and in most cases is not regarded as a victory by one side, or a defeat by the other. There is no exultation over victory, no smart over defeat, nor a determination to wait for a convenient season and revenge. The burning questions that arise are settled in a friendly manner.

Another advantage of a permanent board of arbitration, with stated meetings, is that it furnishes an opportunity, seldom possessed without these, for the workmen to obtain a knowledge of the needs of trade and the demands of the future, both upon them and the manufacturers. Labor troubles are as often the result of a lack of information as to the true state of a trade as of any other one thing. It is true, that workmen may be told the facts rendering a reduction necessary, but they are not inclined to credit them, and believe that affairs are not as represented. In the working of the English boards, especially in fixing prices, notice is taken of the state of trade and competition with other countries and other districts, and the information thus gathered, not by the employer members, but by the board, is brought to bear in the settlement of wages. In his testimony before the trades unions' commission of Parliament, Mr. Mundella says: "We sent two of the workmen to France last year, and a third to Germany to see for themselves the prices paid there for that work. They came home and said, 'It will not do, we must be content as we are for the present,' and we produce on the table the articles made in France and Germany, and the men are convinced by their own senses of the justice of what we say, and by their knowledge of

the laws that govern trade, because this system has been a complete educational process for our men; they know as well as we do whether we can afford an advance or not; they know whether the demand is good or bad, and at what prices the article can be made in France or Germany, and they are accustomed to consider the effect of a fall or rise in cotton just as we do; and when they think that things are going well, they ask to share in the benefit, and when they think that things are going wrong, they are willing to take low rates."

Facts gathered in this way and supplemented by statements of those in whom the workmen have learned to have a degree of confidence, have a greater influence than unnumbered assertions of men who are brought together only to struggle for a victory.

This suggests another and a most important advantage of these boards. Accepting the fact that unions of workmen exist, and will doubtless continue to exist, it is only through boards of arbitration or conciliation of some kind that the trades unions and those of employers can meet except as antagonists. The manufacturer and his workman can never be brought face to face to discuss trade questions, except when their interests are hostile. With these boards there is a possibility of meeting as fellow-members of the same trade whose interests are indissolubly joined.

Another, and perhaps the most important advantage of these boards is the bringing of employer and employed together, and thereby increasing their respect and esteem for each other and the consequent growth of confidence. One of the greatest barriers to an understanding between capital and labor is a feeling on the part of workingmen that they are regarded as holding a servient position, and a feeling on the part of manufacturers that theirs is a dominant one. Out of these feelings, which are altogether too common, come a brood of evils that have cost our industries dear. Even when nothing is further from the mind than the thought of cherishing such sentiments as these, suspicion, ever quick to grasp an appearance for a reality, catches at some chance word, and all the horrors of a labor war are the result. Judge Kettle, in speaking of strikes from matters of sentiment, says:

"If in the common intercourse of life this is felt, how much more in the excitement of a trade dispute must men be sensitive to influences which clash with their just estimate of their own position; and still more keenly must they be felt, when those influ-

ences are directed to controvert the means taken to maintain what they believe to be their right."

For this want of confidence and suspicion, these permanent boards of arbitration furnish a remedy. Confidence is cherished. The intercourse of representative workmen with representative employers, as equals with equals, breaks down all class distinctions, removes suspicion, and makes the task of harmonizing differences a much simpler proceeding.

But the chief advantage of these boards is that they form an open market, where labor and capital can come together, and in a friendly spirit fix what is "a fair price for a fair day's work." In these boards, the statements made by each side can be challenged, each other's arguments answered, and estimates impeached. "I verily believe that, without limiting the influence of fair competition, boards of arbitration, properly worked, afford the best means of fixing the market price for a fair day's work. I believe, moreover, that their action has a tendency to secure the maximum prices, which are consistent with steady employment, and that the presence of an umpire prevents the ruinous consequences to both parties which follow separation upon a disagreement."

A most interesting and important study in connection with this subject is its relations to trade unions; that is, how do these societies regard arbitration and conciliation as a means for settling industrial questions? What part should they have in the formation of boards, the conduct of cases, and the enforcement of awards? Whatever may be one's views of trade unionism, it is a fact, and will doubtless continue to be one. It is more than probable that, not only in England, but in all countries, labor will tend more and more to combination, at least until there is some radical change in the relations of capital and labor, and the decisions, as to rates of wages and other economic questions, will be largely controlled by these combinations. I am aware that there are certain economic laws, the action of which no union can prevent, however much it may hinder, and these laws will, in spite of unions, prevail; but even the outcome of many of these may be very much modified, and of others entirely moulded, by combinations. It is not germane to my purpose to enter into a discussion of how far unions can affect the rewards of labor. It is a fact that they do, and so great an authority as the Duke of Argyle, in his

Reign of Law, states that combinations of workmen, for the protection of their labor, are recommended alike by reason and experience.

Such combinations cannot fairly be objected to. They are but unions of the workmen's capital—labor, and it is a question if, after all that has been said about the evils of unionism, it is not better to have organized labor, which is always somewhat conservative, than disorganized labor which is radical, and which, when it unites, becomes a mob, with no past to conserve and no future for which to provide.

These unions have been a large factor in freeing labor in Europe from the industrial slavery from the feudal system, and in bringing about industrial independence under the restraint of an enlightened intelligence, and equitable customs and laws. Notwithstanding some of the black pages of the history of English unionism, it has been a benefit to English labor, and an important means of its advancement. It is destined largely to rule it and direct its future, and, in proportion as its surrenders its indefensible practices, will be its value.

It is these facts that make important the views of trades unions as to arbitration.

As to their views in general, it can be said that they have for years been its warmest advocates. The report of the trades union committee of the Social Science Association, made in 1860, is full of evidences of the truth of this statement. The two largest industrial interests in England to-day are the coal and iron. They have the largest and most ably managed of the unions of that country. In an interview which I had with Mr. Thomas Burt, once a miner, and now a member of Parliament, elected by the coal miners, he expressed his warm approval of the principle of arbitration.

Mr. Edward Trow, the successor of Mr. John Kane, as Secretary of the National Amalgamated Association of Iron Workers, writes me, as follows: "With regard to my views on arbitration, I believe it is the only fair and honorable mode that can be adopted for settlement of questions between capital and labor; that, where both parties meet with an earnest desire for a fair and honorable arrangement, and discuss the various questions in dispute in a kind and conciliatory spirit, there is no fear of failure; but, on the contrary, the old feeling of mistrust and jealousy is banished, and confidence in each other is established.

“The fault in connection with arbitration is when workmen come to meetings, jealous and suspicious, believing that their employers are their natural enemies, and employers, by not conversing with delegates in a free and friendly spirit, foster their suspicion, and only through this action is there any fear of failure. Arbitration in England is regarded with great favor by the workingmen, and only in a few solitary exceptions has it been refused, or its awards been rejected by workmen.

“If you wish arbitration to be successful, employers must meet delegates in a kind and conciliatory spirit, so as to gain the confidence of the workmen by proving that they only desire full and free discussion, and that no advantage will be taken of men for speaking their opinions. Let this be done and arbitration will prove successful, and will be a blessing to employers and workmen.”

I have not forgotten that the present constitution of industrial society is not for all time. There are great and vital changes that must take place. There are even at the present time important re-adjustments in progress in the relations of capital and labor. These must continue, and with these changes new modes and new expedients must be adopted.

While this is true, the practical question for us is, what, in the present condition of the relations of capital and labor, is best calculated to harmonize those relations, and give to each its just proportion of the result of their united energies?

I believe that the practice of arbitration and conciliation will tend to those ends. As a result of the fair and open discussions of the boards, knowledge will be acquired, the views of each modify those of the other, and out of it, and as a result of it, will come such relations between capital and labor as will effectually put an end to industrial conflict.

Of the great value of arbitration and conciliation as means of settling trades' disputes, there can be no question. That it is infinitely to be preferred to the barbarous method of strikes and lock-outs, is scarcely a subject of argument. In the terse language of Mr. George Howell, formerly Secretary of the Trades' Union Congress, “the whole question lies in a nut shell. Is brute force better than reason? If it be, then a costermonger may be a greater personage than a philosopher, and Tom Sayers might have been considered superior to John Stuart Mill.”

I do not claim for arbitration that it is a wonder-worker. It is not perfect. It is used by men that are very human, and who, under the present condition of things, are extremely selfish. For these reasons it will fail to accomplish all that is expected. Though it may fail at times, when it is fairly and honestly tried, it will in most cases succeed; and under its action, wherever established, an intelligent co-operation between employers and employed will be effected, and steady employment secured at those rates of wages which the industrial conditions of a competitive market enables capital to pay.

As before stated, differences between capital and labor must constantly arise. They are here now. It is for our workmen and manufacturers to say how these differences shall be settled, whether by reason or by brute force. Decide they must, and in some cases soon. The solicitude to discover some more rational way of settling these differences than by the barbarous methods of strikes and lock-outs is shared equally by workmen and employers, and probably most of all by the on-looking public. While this end may be the immediate object of the solicitude of these classes, underneath it lies an earnest desire to find a permanent, honorable, reasonable solution of this and other phases of that most important of all human problems, the labor question. We are greatly in the dark on this subject. I believe we are moving toward the light. Looking back a hundred years, we can see the gradual brightening of what was then the darkest of all social problems, and need have no fears of the result. It may be delayed; but reason will rule and determine the nature of the relations of capital and labor. There are certain facts that we may refuse to acknowledge, and, refusing to own, may go on in the old way; but the new way of reason and a respect for the rights of each other will win. I believe that arbitration and conciliation will aid in bringing about the recognition of these rights. It is not an end nor a solution of the problem. It is on the way to the end, and is much nearer it than a strike or a lock-out. It will be a day of the greatest promise when in our State we shall put aside our pre-conceived prejudices and the notions of the past, when we shall realize that something higher than brute force has come into the affairs of men to adjust and harmonize them, and when acting on this belief, we shall urge forward an industrial reorganization on the basis of reason and right. There can be no nobler or more sacred work for men to do.