THE INDUSTRIAL RELATIONS ACT, 1946.

An Outline of the Act, with some comparisons with other countries.

By R. J. P. Mortished.

(Read on Thursday, 20th March, 1947).

The Industrial Relations Act, which was introduced and enacted last year with the general approval of both employers' and workers' organisations and of all parties in the Oireachtas, is not a very lengthy measure, but it is very comprehensive and it makes some important changes in the role of the State in industrial relations in this country. I shall try in this paper to give a brief exposition of the provisions of the Act and then to make some comparisons between our new legislation and practice and those of certain other countries. I shall not try to discuss every detail of the Act; in particular, I shall not deal at all with Part VII of the Act, which is transitional and temporary and could not be treated at all adequately here without risking a distortion of the general picture. It will, of course, be understood that I am not speaking as Chairman of the Labour Court and do not profess to give an official or authoritative interpretation of the intentions or effect of the Act.

THE IRISH ACT

The scope of the Act.

The Act provides machinery for the regulation of the conditions of employment of workers over the age of fourteen years, and a worker is defined as a person working under a contract, whether of service or apprenticeship, with an employer, but there are very large groups of excepted workers. Agricultural workers, persons employed by or under the State or by local authorities, and teachers in national and secondary schools, are all excepted. The Census of 1936 showed a gross total of just under 613,000 persons working as employees, about 105,000 working as employees in agriculture and about 86,000 working as employees in central and local government and education. About a third of all employees are therefore outside the scope of the Act. In the case of agricultural workers machinery for the regulation of wages (but not of hours of work or other conditions of employment), has been set up under the Agricultural Wages Act, 1936, and their exclusion from the Industrial Relations Act is not quite complete, for they are specially included in the scope of Part VI of the Act, which deals with trade disputes.

It should be noted that for the purposes of the Act no distinction is made between manual and clerical or other workers, and that no worker is excluded by reason of his rate of remuneration.

Joint Labour Committees (Part IV)

The Act repeals and replaces a number of statutes that we inherited from the British régime: the Conciliation Act of 1896, the Industrial Courts Act of 1919 and the Trade Boards Acts of 1909 to 1918. The Trade Boards Acts are doubtless not unfamiliar to you and it will be convenient to deal first with Part IV of our new Act, which replaces them.
Trade Boards were established originally to enforce the payment of something approaching a decent wage in four trades where the conditions in which the work was done, the intensity of competition and the lack of trade union organisation among the workers had resulted in "sweated" wages. The Act of 1909 was somewhat cumbrous in operation and limited in scope, and an amending Act of 1918 accelerated the procedure and empowered the competent Minister to set up a Board in any trade "if he is of opinion that no adequate machinery exists for the effective regulation of wages throughout the trade and that accordingly, having regard to the rate of wages prevailing in the trade, it is expedient that the Act should apply to that trade." As a result the number of trade boards in the Three Kingdoms rose by the end of 1920 from 8 to 57, of which 15 were in Ireland. Just before the passage of our new Act there were 15 Trade Boards operating in the Sáorstáit area of Ireland.\(^1\) The new Act rechristens these as Joint Labour Committees and makes some further changes in procedure, but it does much more than that. It transfers from the Minister for Industry and Commerce to the Labour Court (1) the power to set up a Joint Labour Committee (though the Minister may still apply to the Court for an establishment order); (2) the power to appoint the members of a Committee representing employers and workers (though the Minister still appoints the chairman and other independent members); and (3) the power to confirm a Committee's proposals for an employment regulation order which, when confirmed, becomes legally binding on all employers of workers covered by the order. The enforcement of the orders of Committees by inspection and prosecution still remains the responsibility of the Minister. The Act has also enlarged the scope of the system. The Court may establish a Committee in respect of any "class, type or group of workers" on any one of three grounds: (1) expediency, having regard to existing rates of wages or conditions of employment; (2) the inadequacy or breakdown of existing machinery for the regulation of wages and other conditions of employment; and (3) agreement between employers and workers. Further, the new Committees are no longer restricted to the fixing of minimum wages but may also regulate other conditions of employment.\(^2\)

The new Act thus opens up very wide possibilities for the regulation of conditions of employment through joint committees of employers and workers assisted by appointed independent persons, the decisions of which (decisions that may in effect be those of the independent members acting as arbiters between the two sides) if confirmed by the Court become legally enforceable by inspection and prosecution by the State. The extent to which these possibilities will be availed of remains to be seen. It will depend in some measure on the policy of the Court and in some measure on that of the employers and workers. Both the Court and the employers' and workers' organisations will have to consider the relative merits of this form of regulation and of other forms of regulation relying less or not at all on enforcement by the State.

\(^1\)The trades affected, with the years in which the Boards were set up, were as follows: 1909, tailoring; paper box; sugar confectionery and food preserving; 1913, hand embroidery; shirt-making; 1919, tobacco; aerated waters; boot and shoe repairing; brush and broom making; rope, twine and net; women's clothing and millinery; button making; 1920, general waste materials; reclamation; 1934, packing; 1935, handkerchief and household piece goods.

\(^2\)In Great Britain the Wages Councils Act, 1945, renamed Trades Boards as Wages Councils and made a number of other changes which have a parallel in Part IV of our Act, but the powers of the Councils are limited to fixing wages and holidays.
In this connection it will probably prove advisable—not immediately perhaps, but later—to give some consideration to the developments that have taken place since the old Trade Boards were set up. In some cases the conditions that justified the establishment of the Board still exist, or would quickly reappear if the Board were to be abolished; but in others the operation of the Board has helped to change those conditions materially. Wages have been fixed which, if not high, are at any rate well above the sweated level; the workers have organised themselves in trade unions; the employers have become habituated to collective action; the trade as a whole has put its house in order. Where this is the case, is the trade justified in relying so largely on the assistance of the State to maintain order as it did in the past? I raise the question without presuming to offer an answer.

The characteristic features of a Joint Labour Committee are: (1) its establishment by the Court; (2) the inclusion in its membership of independent members appointed from outside the trade; (3) the deciding voice given to these appointed members; (4) the power of the Court to control the decisions of the Committee, which are subject to its confirmation, and (5) the enforcement of the decisions, when confirmed, by State inspection and prosecution. A Joint Labour Committee is a piece of machinery for the regulation of wages and working conditions in which the State exercises considerable influence, though the political organs of the State play only a limited part.

Joint Industrial Councils (Part V)

Joint Industrial Councils, which are dealt with in Part V of the Act, are bodies of a very different kind. They owe their development, though not their origin, to the report of the Whitley Committee on the Relations between Employers and Employed set up by the British Government in 1916. That Committee recommended "the establishment for each industry of an organisation, representative of employers and workpeople, to have as its object the regular consideration of matters affecting the progress and well-being of the trade from the point of view of all those engaged in it, so far as this is consistent with the general interest of the community." The intention of this recommendation was stated by the Committee thus:

A permanent improvement in the relations between employers and employed must be founded on something other than a cash basis. What is wanted is that the workpeople should have a greater opportunity of participating in the discussion about and adjustment of those parts of industry by which they are most affected. . . . We venture to hope that representative men in each industry, with pride in their calling and care for its place as a contributor to the national well-being, will come together in the manner here suggested, and apply themselves to promoting industrial harmony and efficiency and removing the obstacles that have hitherto stood in the way.

The Councils were intended to provide for regular meetings to discuss such matters as—

the better utilization of the practical knowledge and experience of the workpeople, the settlement of the general principles governing the conditions of employment, means of ensuring to the workpeople the greatest possible security of employment, methods of fixing and adjusting earnings, piecework prices, etc., technical education and training, industrial research, improvement of processes, etc., and proposed legislation affecting the industry.
Between January, 1918, and December, 1921, no less than 73 Joint Industrial Councils were established. Quite a number proved not to be viable and in some important industries, where collective bargaining machinery was well established, no Council was set up; but in mid-1944 there were about 100 Councils in Great Britain, covering employments ranging from the Civil Service and Government industrial undertakings to silica moulding sands and British ball clay. In this country industrial conditions were, of course, not comparable, and from 1916 on we had other things to think about. We have a number of bodies that are called Joint Industrial Councils, but in fact these are not much more than negotiating committees for the discussion of wages and working conditions in the narrower sense, whereas the Whitley Committee's proposals were much wider in scope and several of the Councils in Britain do not discuss wages at all.

One characteristic feature of a Joint Industrial Council which distinguishes it from a Joint Labour Committee is that the Council is a creation of industry itself. The Act does not provide for the setting up of Councils either by the Labour Court or by the Minister or by any other State authority. All it does is to provide for formal recognition of Councils which have already been set up by voluntary action. The Labour Court can register a Council, but there is no obligation on a Council to apply for registration. It can also assist a Council by appointing the chairman and the secretary, but only if the Council so requests. It does not control the Council at all.

The Act imposes three conditions for registration of a Joint Industrial Council. The Council must be substantially representative of the workers affected and of their employers, and its object must be the promotion of harmonious relations between those it represents. These conditions hardly call for comment. The third condition is that the rules of the Council must provide that if a trade dispute arises a strike or lock-out will not be undertaken in support of the dispute until the dispute has been referred to the Council and considered by it. This, of course, does not mean that there must be no resort to a strike or lock-out; it means only that there must be discussion and negotiation before the strike or lock-out takes place. It will be noticed that the dispute may not come of necessity before the Labour Court at any stage; the Councils are entirely free to conduct their business, including the consideration of disputes, in any way they please.

Another essential distinction between a Joint Industrial Council and a Joint Labour Committee is that the decisions of the Council, even if it is registered, have only so much binding effect as can be secured for them by the discipline that the industry is able to impose on itself; there is no statutory authority behind them and no system of State inspection and enforcement. It is true that an agreement reached by a registered Council concerning wages and conditions of employment can be made legally binding but the position of a Council agreement in this respect is exactly the same as that of an agreement concluded between employers' and workers' organisations where there is no Council.

1 The Councils in existence when the Act came into operation and the dates of their establishment were: 1933, flour milling; 1934, Dublin printing and allied trades, Dublin newspaper industry; 1936, bacon curing; 1937, woollen and worsted, linen and cotton; 1938, sugar manufacturing, hosiery; 1941, rosary beads; 1944, tanning. In all but two cases, the chairman was an official of the Department of Industry and Commerce, appointed by the Minister; in one case the Council selected its own chairman from outside the industry; in the second case, the chairman was appointed by the Minister from outside the industry. In all cases the secretariat was provided by the Department.
Registration of Employment Agreements (Part III)

This brings us to Part III of the Act, dealing with the registration of employment agreements. This applies a principle which first appeared in our legislation—though not very effectively—as recently as 1936 and which has had only a very limited and hesitant application in British legislation, but which is well known in the legislation of a number of other countries.

Under Part III of the Act a collective agreement concluded between employers and workers can be made legally binding, and binding not only on the parties to it but also on others who are not parties to it. This conversion of a voluntary collective agreement into a binding legal contract is effected by registration by the Labour Court and is, of course, subject to conditions. The agreement must relate to wages or conditions of employment, and be made either between a trade union of workers and an employer or trade union of employers or else between the workers' and employers' members of a registered Joint Industrial Council. The application to the Court for registration may be made by any party to the agreement, but registration will not be granted unless the Court is satisfied that both parties consent or, if there are more than two parties (for example, several workers' unions or several employers or employers' unions), that there is substantial agreement on registration among the parties representing workers and employers respectively. The Court must also satisfy itself on a number of other matters. The agreement must have a defined scope, which must be general and not individual or unduly sectional; in the words of the Act, it must be “expressed to apply to all workers of a particular class, type or group and their employers where the Court is satisfied that it is a normal and desirable practice, or that it is expedient, to have a separate agreement for that class, type or group.” The agreement must also be concluded between parties who are substantially representative of the workers and the employers whom it affects. The agreement must further be “in a form suitable for registration”; this requirement is not further defined by the Act, but obviously an agreement that was vague or ambiguous would not be in suitable form.

It is important to note that the Court does not exercise any control over the content of an agreement submitted to it for registration, except in two matters with which I shall deal in a moment. The parties can please themselves about rates of wages, hours of work, annual holidays and all such matters, and the Court has neither to approve nor to disapprove.

The Court is, however, required to satisfy itself on two important elements of the substance of the agreement. Firstly, the agreement must not be intended to restrict unduly either employment generally or the employment of workers of a particular class, type or group, nor to ensure or protect the retention in use of inefficient or unduly costly machinery or methods of working. Some such condition is clearly desirable in the public interest, but its effect will be seen only when the Court has applied it in particular cases. An agreement restricting employment in a trade to workers with red hair would doubtless not be registered; but what view would the Court take of one that limited the proportion of apprentices to journeymen to one in twenty?

1 See the Conditions of Employment Act, 1936, s. 50 of which is repealed and replaced by the present Act.

2 Throughout the Act, “trade union,” whether of employers or workers, means a trade union which holds a negotiation licence granted under the Trade Union Act, 1941.
Secondly, the agreement must provide that in the event of a trade dispute between workers and employers covered by the agreement there will be no strike or lock-out until the dispute has been submitted for settlement by negotiation. The method of negotiation may be whatever the parties please; it does not have to be approved by the Court and it need not include any reference of a dispute to the Court; all that is necessary is that it should be specified in the agreement.

Before an agreement can be registered, the parties must publish notice of the application to register as directed by the Court and the Court must hear and consider any serious objection by any interested person. But an objection would be ineffective unless it showed that the conditions for registration were not complied with; an objection merely on the ground, for example, that the wages fixed by the agreement were too high or too low would be irrelevant.

These are the conditions of registration of an employment agreement. What are the consequences of registration?

On the one hand, all employers are required to comply with the provisions of the agreement concerning wages and conditions of employment, whether or not they were parties to its conclusion. Since the agreement would not have been registered at all unless the parties concluding it were substantially representative of both the employers and the workers to be affected by it, this consequence might be regarded as simply an application of the principle that the minority may be required to abide by the decision of the majority; but the words of the Act are "substantially representative," which does not necessarily mean the same thing as "representative of a majority." If two or three employers in a trade employ a thousand workers in all, while there are six other employers who have together five hundred workers, are the two or three to be regarded as substantially representative?

Enforcement of the provisions of a registered agreement may be effected in either of two ways. Contracts of employment are deemed to have been amended to comply with the agreement, so that if an employer pays lower wages or gives less favourable conditions of employment than the agreement requires his workers would have the ordinary civil remedies for a breach of contract. But the Act also provides for enforcement through workers' trade unions and the Labour Court. A union may complain to the Court that an employer has failed to comply with the agreement. If the Court is satisfied, after hearing all persons interested, that the complaint is well founded, the Court may direct the employer to comply. If the employer fails to obey the Court's direction he is guilty of an offence and renders himself liable on summary conviction to a fine of up to £100 with a further fine of up to £10 for every day during which the offence is continued. The offence is prosecuted by the Minister for Industry and Commerce in the ordinary courts of law.

On the other hand, the registration of an employment agreement puts certain limitations on the freedom of action of the trade unions of workers affected by the agreement, even if a particular union was not itself a party to the making of the agreement. As in the case of the employers it must be remembered that the agreement would not have been registered at all unless the parties to it had asked for registration and had been found to be "substantially representative." Employers and their unions have a right of complaint to the Labour Court corresponding to the workers' right. If the Court is satisfied that a workers' union is promoting or assisting out of its funds a strike which "is in contravention
of the agreement and which has for its object the enforcement of a demand on an employer to grant to a worker remuneration or conditions other than those fixed by the agreement," the Labour Court may make an order directing the union to refrain from continuing to use its funds in maintaining the strike. If a person to whom this direction is given fails to obey he is guilty of an offence and is liable, on summary prosecution by the Minister and conviction, to the same fines as an offending employer. The Court may also go further than this in the case of an offence by a workers' union; it may cancel the registration of the agreement, which thereupon ceases to have any legally binding effect.

Although there is a limitation to the extent indicated on the exercise of the right to strike, registration of an agreement does not entail abandonment of the right. There is nothing to prevent either the workers or the employers who are parties to an agreement from terminating it in accordance with its terms. The Court then cancels the registration and all parties regain complete liberty of action. Even if the agreement is not terminated, it is still possible for the members of a workers' union to go on strike—possible, but difficult, because they will not be able to count on strike pay.

The registration system offers certain advantages to both workers and employers: protection against unfair competition by non-union workers and employers, the help of the law in securing the observance of conditions fixed by agreement, a discouragement of "lightning" strikes, and a considerable degree of assurance, though not of course an absolute guarantee, that it will be possible to settle their disputes by negotiation. As the price of these advantages both sides must accept some limitation of their freedom of action, but—except in so far as they may be "minorities" required to abide by the decisions of the "majority"—their acceptance is entirely voluntary and the limitation cannot be continued indefinitely against their will.

Trade Disputes (Part VI)

I turn now from agreements to disagreements, to the trade disputes which are the subject of Part VI of the Act. (This, it will be remembered, is the only part of the Act which applies to agricultural workers.) Under Part VI the Labour Court is empowered to take the initiative in seeking the settlement of trade disputes which it thinks are likely to lead to a stoppage of work, and it can do so without awaiting an invitation from either party to the dispute or from any other authority. But unless there is a likelihood of a stoppage of work the Court's initiative is restricted in such a way as to prevent it from intervening in cases where there is other machinery available. If the dispute is between persons represented on a Joint Industrial Council the Court can intervene only at the request of the Council. Similarly, if the dispute is between persons and concerns matters covered by a registered employment agreement, the Court cannot intervene unless at least one of the parties to the agreement requests it to do so. Finally, if a trade union, whether of workers or employers, concerned in a dispute shows that there is an agreement which is in force between itself and the other parties to the dispute and which provides for another method of settlement, the Court cannot intervene, and this applies whether the agreement is registered.

1There is one exception. If a dispute affects manual workers employed by the Electricity Supply Board and comes under Section 11 of the Electricity Supply Board (Superannuation) Act, 1942, the Court can investigate the dispute only at the request of the Tribunal set up under that Act.
or not. But it should be emphasised that these limitations on the Court's power to intervene do not apply if the Court is of opinion that a stoppage of work is likely.

The definition of a trade dispute is "any dispute or difference between employers and workers or between workers and workers connected with the employment or non-employment, or the terms of the employment, or with the conditions of employment, of any person." This covers not only the usual case of a dispute over wage, or hours of work, but also disputes over many other questions arising between employers and workers and disputes such as "demarcation disputes" arising between workers' unions. The Court has power to investigate whether the dispute actually exists or is only apprehended, and it should be realised that parties can be in dispute even though neither of them has any intention at the time to call a strike or lock-out. There is no necessity to serve strike or lock-out notice to enable the Court to intervene, and even if notice is served the Court may intervene or refrain from doing so at its own discretion.

Before the Court itself takes action in a dispute the Chairman of the Court can appoint a member of the Court's staff as "conciliation officer to act as mediator in the dispute for the purpose of effecting the permanent settlement thereof or such temporary settlement as will ensure that no stoppage of work shall occur pending the investigation of the dispute" by the Court. This procedure enables the parties to come together and, with the assistance of an experienced neutral, to try to reach agreement directly between themselves without any further intervention by the Court. The conciliation officer has no power to do more than act as a friendly chairman and go-between, but to say that is not by any means to minimise the value of his services.

If the Court decides itself to investigate a dispute, it may do so in any way it thinks fit, for—except in one special class of case—the Act does not prescribe any particular procedure. The Court may make any inquiries it considers appropriate and in any way, either as preliminary or supplementary to a formal sitting, and any formal sitting it holds may be either public or private. It is thus free to proceed with as much or as little formality and publicity as it considers desirable in the circumstances of each case, but it is also empowered to summon witnesses, to examine them on oath and to compel them to produce documents.

When the Court has investigated a dispute the Act requires it to make a recommendation "setting forth its opinion on the merits of the dispute and the terms on which, in the public interest and with a view to promoting industrial peace, it should be settled, due regard being had to the fairness of the said terms to the parties concerned and the prospects of the said terms being acceptable to them." Unfortunately for the Court it may not be easy to reconcile all four of the considerations which it has to bear in mind; a settlement acceptable to the parties might be against the public interest, and one which was not acceptable to the parties would hardly promote industrial peace. The Court must solve this problem as best it can in the circumstances of each dispute; it cannot take the easy course of applying a hard and fast rule to all sorts of cases.

The Court's recommendation does not bind the parties to the dispute. If there is to be a settlement, it must be made by the parties themselves. All that the Court can do is to help them to reach agreement, by clarifying the issues, creating an atmosphere of reasonableness and goodwill,
reminding them if need be of their obligations to each other and to the community, endeavouring to establish certain standards of common sense and good conduct, and on occasion providing for one or other or both parties a means of dignified retreat from an awkward or untenable situation. But if the Court’s efforts should prove unsuccessful, the parties are quite free to decide their future course of action; the Court cannot compel them to do what it thinks right or impose any penalty on them if they decline to take its advice.

Although the Court’s powers in relation to trade disputes are in general only conciliatory, Part VI of the Act does include provision for arbitration and for binding awards in certain cases. If, but only if, all the parties to a dispute agree on arbitration, the Court may appoint one or more arbitrators or may itself arbitrate.

A binding award is also possible in the case of a dispute which has already resulted in a stoppage of work and which is not being promoted or assisted by a trade union of workers—for example, a strike by unorganised workers or an “unofficial” strike by organised workers. The Court is not bound to investigate such a dispute, but if it does it must follow a prescribed procedure of public announcement of a sitting and hearing of evidence. The Court has then three courses open to it. It may decide to take no further action, or it may make a recommendation as in any other dispute, or it may make an award for the settlement of the dispute. If an award is made it remains in force for three months only, and while it is in force no employer may, without the consent of the Court, employ a worker on conditions inconsistent with the award; an employer who does so renders himself liable on summary conviction to a fine of up to £100. There is no compulsion on the workers to resume employment, except the facts that the employer cannot give them any other terms than those of the award and that they have no strike pay since no trade union is assisting them. The obvious alternative for them is to take advantage of the three months during which the Court’s award is in force to organise themselves in a trade union, or if they were organised, to put themselves right with their union, and so enable themselves to negotiate with their employers and settle their conditions of employment in the ordinary way.

**The Labour Court (Part II)**

The Labour Court itself is the subject of Part II of the Act. It will be clear from the account I have given of its functions that the Labour Court is very different from the ordinary courts of law. It has one feature in common with them, in that it has power to summon witnesses, take evidence on oath and require the production of documents. In certain cases the Court can consider a complaint and give a direction thereon; but it can do so only if jurisdiction has been given to it by the voluntary action of employers’ and workers’ organisations and it cannot itself impose penalties for failure to comply with its directions. The Court does not function as a court of law does, finding facts and, when it has found them, applying to them a set code of rules, exercising its discretion, if at all, only in accordance with precedent. It has to deal, not with legal rights but with human interests, emotions, and prejudices, at work in circumstances that vary from case to case and from time to time. The Court does not enforce existing law; rather, by a process of inquiry and conciliation, it helps to create a kind of voluntary law or common rule.

It is clear that since the Court has only the necessary minimum of
legal power there needs to be widespread understanding not merely of the functions of the Court but also of the nature of the problems with which it has to deal. The public must be able to follow the work of the Court intelligently so that it can, if it thinks the circumstances so warrant, give to the Court's decisions the authority of its support. Such an informed and intelligent public opinion cannot be created by legislation; it must be the work of the Press, the pulpit, the radio, our educational institutions, our political parties, and all the agencies—including especially the organisations of workers and employers—that help to mould opinion.

So far as the Court is concerned, the legislation has done what legislation can do to give the Court the required moral authority. The Court consists of five members. All of them are appointed by the Minister for Industry and Commerce, and they are all paid out of public funds; but they are not Civil Servants and they do not act under instructions from the Minister. The Chairman, who must devote all his time to the Court, is appointed by the Minister, and the only restriction on his choice is that his nominee must be ordinarily resident in the State. The other four members are also appointed by the Minister—two employers' members and two workers' members—but on the nomination of the trade union organisations of employers and workers. They hold office for a term of five years, and can be removed only for stated reasons, and then only with the consent of the nominating organisation. But while they are nominated by trade union organisations they may not, after appointment, hold office in a trade union. The members of the Court are thus representative, reasonably secure in their tenure of office, and independent in the exercise of their functions. Their immunity from the possibility of pressure from outside is further guaranteed by the fact that their decisions are collective and not individual, and no differences of opinion among them may be revealed. Apart from a failure in the human element, against which no legislation can provide, both workers and employers may reasonably be confident that a Court so constituted will be a body possessed of first-hand knowledge and experience of the kind of issues that will come before it, and will be able to decide those issues without fear or favour.

THE SYSTEMS OF OTHER COUNTRIES

A detailed comparison of our new Act with the analogous legislation of other countries in the same field would be quite impossible within the limits of this paper. There are so many countries which have set up minimum-wage-fixing machinery, systems of conciliation and arbitration, and Labour Courts, and there are so many differences both in principle and in details of structure and working that it is extremely difficult to bring out any general pattern against which our legislation might be fitted. I propose, therefore, to confine my attention to certain issues which seem to me to be of outstanding importance, and to cite in respect of each of them just a few illustrations of what other countries have done.¹ In general, I have not taken war-time measures into account

¹The International Labour Office has published the following comparative international studies: *Minimum Wage-Fixing Machinery, 1927; Conciliation and Arbitration in Industrial Disputes, 1933; Labour Courts, 1940; Methods of Collaboration between the Public Authorities, Workers' Organisations and Employers' Organisations, 1940 and 1941;* and many notes and articles on the subject will be found in the I.L.O. periodicals, *Industrial and Labour Information* and the *International Labour Review*. The texts of national laws and regulations will be found in the I.L.O. Legislative Series.
since it is impossible to know how far their character has been determined by war conditions and how far they may represent permanent policies.

Compulsory Conciliation and Arbitration

The fundamental principle of our legislation is reliance on voluntary conciliation and industrial self-government. The same principle has been adopted in many European countries, such as Great Britain, Belgium, France, the Netherlands, the Scandinavian countries and Switzerland, and in the United States and Canada; but two English-speaking countries, Australia and New Zealand, have preferred methods of compulsion. It will be of interest to glance at the experience of New Zealand. The system there dates as far back as 1894, though the legislation has been frequently amended. It is usually described as compulsory conciliation and arbitration; but this is not absolutely accurate, since under the principal Act employers could not compel their workers to appear before a Conciliation Council unless the workers had registered as an industrial union, and such registration was voluntary. The procedure is in two stages. The first is conciliation by a council composed of an official commissioner and assessors chosen from both sides within the industry concerned. If a settlement is reached it is embodied in an industrial agreement, which is registered and becomes binding on the parties to it and can also be made binding on all employers, whether parties to it or not. If a settlement is not reached, the dispute comes before a Court of Arbitration, composed of a judge and two representatives of employers' and workers' organisations, which makes a binding award, usually valid for a period of three years. Since it was convenient to have a settlement formulated by a Court award, it became a common practice to take disputes to the Court, even when agreement had been reached on all essentials by the conciliation procedure. This was the system operated very successfully for nearly fifty years, and resulting in a quite detailed regulation of working conditions which affected the great majority of industrial workers. It remained substantially unchanged and unchallenged until the severe depression of the early 1930's. Then, on the ground that the system was too strict and inelastic for a period when the national income was contracting sharply, an Act was passed in 1932 which abolished all compulsion to refer unsettled disputes to the arbitration of the Court. Conciliation remained compulsory, in the same sense as before, and a settlement reached by conciliation remained binding on all parties. But if the disputes were not settled by conciliation, and the parties did not agree on arbitration, they were left to fight out the issue as they thought fit. Yet in spite of this radical change in the law, and in spite of the weakness of the workers' unions in a period of severe unemployment, there was no general departure from the regulation of working conditions by means of agreements and awards. The majority of employers preferred order to chaos, and the Court, though it was rarely called upon to settle any important issues, was still largely availed of for the purpose of making agreements binding. The suspension of compulsion in New Zealand lasted for only four years; in 1936 a new Act restored the Court's compulsory jurisdiction and extended its powers.

The experience of New Zealand shows that the absence of compulsion does not inevitably mean unrestricted conflict and chaos. But it also

---

1 In the case of women workers, however, a workers' union could apply to the Court for a binding minimum wage award, though this was valid only for a period of from three to six months.
shows that compulsion is not an absolute preventative of conflict. Even under compulsory conciliation and arbitration some strikes did take place, and sometimes they were very bitter disputes. In 1908, for example, a miners' strike over the apparently simple issue of half an hour instead of a quarter of an hour for lunch lasted for eleven weeks; the Court imposed a fine of £75, distraint was levied on the strikers' furniture and effects—beds, chests of drawers, bicycles, sewing machines—and the sale of the goods realised the sum of—12s. 6d! The truth is, of course, that if men are firmly resolved not to work, there is no way of making them work, at any rate no way that public opinion in any decent State will tolerate. The prospect of a fine may make men hesitate to go on strike, but if their sense of grievance and injustice is sufficiently strong, then strike they will.

**Voluntary Collective Regulation.**

By way of contrast, we may look at Sweden as typical of the reliance of the Northern Countries on the voluntary principle. The Swedish legislation dates back to 1906, though the principal Acts were passed in 1920. The system provides for conciliation by district conciliators, who are appointed and paid by the Government for a period of a year at a time. There is a slight element of compulsion, for the conciliator can at the request of one party to a dispute summon the other to appear before him and can himself summon both parties if the dispute has resulted, or is likely to result, in a stoppage of work. But there is no penalty for failure to comply with a summons, and the parties are under no obligation to accept any proposals for a settlement that the conciliator may make. Provision is also made for arbitration but—with a very important exception to be considered later—resort to arbitration is dependent on the consent of both parties to the dispute. Arbitrators are appointed by the Government for periods of two years, and they may act either singly or as chairmen of arbitration boards constituted by the parties, whether as permanent boards or *ad hoc.*

Both workers and employers in Sweden are very efficiently organised and disciplined, and the organisations on both sides have a sound understanding of the problems of their national economy and a keen sense of their responsibilities. This does not mean that there are never any strikes or lock-outs; it has tended rather to mean that when a strike or lock-out does occur it is likely to be on a large scale, and if the industry affected is an important one the consequences to the public and national well-being are likely to be serious. In 1934 and 1935, therefore, proposals were under consideration for an extension of the State's powers of intervention in industrial matters, with a view to reducing the risk of disputes likely to cause serious disturbance to the national economy. The Federation of Employers and the Confederation of Trade Unions agreed that some action was desirable, and decided that they had better take it themselves. The result was a series of voluntary agreements concluded between them over the years from 1938 to 1946. The main agreement requires joint consideration by the two national organisations, at the request of either or of a public authority, of any dispute seriously affecting the public interest. The other agreements so far concluded deal with a variety of matters, such as security of tenure for workers, safety and health conditions, occupational training, and factory joint production committees. This process of deliberate acceptance of responsibility for

---

1 W. B. Sutch: *The Quest for Social Security in New Zealand.*
regulating industrial conditions by the employers' and workers' organisations with a minimum of State intervention is still continuing, and is very characteristic of the Swedish approach to industrial problems.

Labour Courts

Nevertheless, as I have indicated, there is one important kind of dispute in which Sweden has accepted State intervention and compulsion. An Act of 1928 set up a special Labour Court to deal with "disputes over rights," as they are called, that is to say, disputes concerning the validity, existence or interpretation of a collective agreement. So long as an agreement is in force no strike or lock-out may take place in connection with a dispute over rights under the agreement. The dispute must be referred to the Court and the decision of the Court is legally enforceable.

The Swedish Labour Court, like the corresponding bodies in Denmark and Norway, is thus strictly a court. There are in other countries also labour courts which constitute a special branch of the judicial system, designed to ensure the settlement of disputes by a tribunal specially conversant with the conditions and the interests involved, and by a procedure which is less formal and costly and more expeditious than that of the ordinary courts. The earliest formally constituted tribunal of this kind was the conseil de prud'hommes set up at Lyons under a Napoleonic law of 1806, though similar bodies can be traced in France some centuries earlier. From France the institution spread first to Belgium and Germany, and then to Austria, Norway, Portugal, Italy, Switzerland, and other countries in Europe, while in the years before the war similar courts were being set up in many Latin countries in America, so that altogether there are at least thirty countries with courts of this kind. The jurisdiction and powers of these courts vary widely. In its simplest form, the labour court deals only with individual disputes between an employer and a worker based on the contract of employment, and in this form the court is—or was before the war—to be found in Belgium, Czechoslovakia, France, Germany, Italy, Poland, Spain, several Swiss cantons, and Yugoslavia, among European countries, and in Peru. But in several cases, as in the Northern Countries and in Venezuela, jurisdiction has been extended from individual to collective disputes. In some cases also, as in Italy, Portugal, Rumania and Mexico, the functions of the court include conciliation and arbitration as well as the judicial determination of rights. In a few countries there are special labour courts of appeal; in others, either the decision of the labour court is final or, if there is an appeal, it is taken to the ordinary courts of law sometimes with the addition of special assessors. The composition of these courts varies greatly. In most cases, the court is composed of equal numbers of representatives of employers and workers, sometimes directly elected and sometimes nominated by organisations, with a neutral chairman who in certain countries is a judge. In a few cases, however, the court does not include any representatives of employers and workers.

Legal Enforcement of Voluntary Agreements

I have stressed the difference between the voluntary and compulsory systems, between State intervention and industrial self-government. I think it is important to make this distinction, but it should be realised that the two systems can be combined. It is quite possible for the State to stand aside and let employers' and workers' organisations take
responsibility for the regulation of working conditions, acting on their own initiative and without control by the State, and then, when they have done so, for the State to step in and use its powers for the purpose of making such voluntary regulations really effective. This is what happens when the scope of a voluntary agreement is extended to cover entire trades and industries, including employers and workers who are not parties to it, and when the agreement is made enforceable at law. Apart from the New Zealand extension of conciliation council agreements, to which I have already referred, and which of course entails State intervention in the reaching of the agreement, the giving of legal force to purely voluntary collective agreements began in Germany in 1918, and shortly afterwards in Austria, and then spread rapidly till before the war it had been introduced in various forms in Czechoslovakia, France, the Netherlands, South Africa, Brazil, Mexico, and the Province of Quebec in Canada. In Great Britain it was for very many years held almost as an article of faith that the State should intervene in the regulation of hours of work only in the case of women and young persons, and should not intervene at all in the regulation of wages save in the "sweated" Trade Board trades. Yet, even there, the Cotton Manufacturing (Wages Agreement) Act of 1934 so far departed from the principle of non-intervention as to make wage rates fixed by collective agreement legally binding on all employers in the cotton-weaving industry. This was a very limited and experimental application of the method; the original Act was temporary, and though it has been continued in force it remains restricted in its scope. Switzerland discussed the system as long ago as 1911, but did not then put it into operation by federal action, though some of the cantons have used it. A federal experiment on a wide scale was made in war conditions by a Federal Order of 1943; that Order was due to expire at the end of 1946, but has been renewed for another two years, and from the tenour of a recent report by the Federal Council and the views expressed by both employers' and workers' organisations it seems safe to assume that the system will be made permanent.

Organs of Conciliation

A final word may be said about the composition of the permanent organs of industrial conciliation in other countries. Conciliation by a single conciliator is common, but the conciliation officer may be a permanent official of the Government department that deals with labour questions in general, or he may be appointed ad hoc and be entirely independent of any governmental control or supervision, or he may be appointed for a longer or shorter term of years and enjoy a greater or less degree of independence. Conciliation committees or boards or councils in most cases include persons who are, or have been, in some way associated with employers' and workers' organisations, but the nature of the association varies. In New Zealand, the assessors who sit with the official conciliation commissioner must be, or have been, employers and workers in the industry in which the dispute to be dealt with has occurred, and may even be parties to the dispute. In some of the Swiss cantons all the members of the conciliation board must be neutral persons, while in others the boards include representatives of employers' and workers' organisations. In Rumania, under an Act of 1920, and in Mexico under an Act of 1931, the workers' members of conciliation boards are directly elected by the workers; in Belgium the representatives of employers and workers are selected by the Minister.
of Labour from lists submitted by their organisations. The method of appointment of the neutral chairman or other members likewise varies. Sometimes they are conciliation officers who may be subject to some degree of governmental control, but often they are appointed by the State in some way which ensures their independence; in Canada the chairman of an ad hoc conciliation board under the Act of 1907 is chosen by the two other members. In many cases, but by no means all, the chairman (or one of the other neutral members where there is more than one) is required to be a judge or to have legal qualifications. But whether legal qualifications are required of the chairman or not, conciliation and arbitration committees and labour courts usually follow a procedure quite different from that of the ordinary courts; in New Zealand, for example, it is expressly provided that a conciliation council may hear any evidence that it thinks fit, whether such evidence would be legally admissible or not, and that no barrister or solicitor may appear or be heard before the council.

This review of our own legislation and of that of other countries will have shown, I hope, that the Industrial Relations Act of 1946, while it marks a new departure in our country, is by no means a unique experiment with untried ideas. Advantage has been taken of the experience of other countries to frame a system which is flexible and adaptable and which can be readily modified and extended as our own experience may show to be desirable. Its most valuable feature, in my view, is that it places the responsibility for the orderly conduct of industrial relations almost wholly on industry itself. That means responsibility not merely for negotiations in particular cases but also, which is much more important, for the policy of which the negotiations are an expression. If employers and workers are prepared to shoulder the burden of that responsibility, the Labour Court is there to assist them. But the Court is not there to do their work for them, and for my own part I hope that no failure on the part of the employers' and workers' organisations will oblige the Court to try to do for them what they ought to do for themselves.

**APPENDIX**

The following is a brief summary of Part VII of the Act.

Part VII of the Act is transitory and will remain in force only for one year from 23 September 1946, unless the Minister for Industry and Commerce, after consultation with the representative employers' and workers' trade union organisations, should decide to continue it for a further period. For the purposes of this Part "workers" has the same meaning as for Parts III, IV and V (but not Part VI), but there is also a special exclusion of "workers whose remuneration is fixed by a Minister of State under any enactment for the time being in force."

From 1942 onwards the State exercised a restrictive control over wages under Emergency Powers Orders, the last of which was made on 2 March 1943. With a number of exceptions and qualifications, the first effect of these Orders was to prohibit increases in wages above the "standard rates" in operation on 8th April, 1942, these being ascertained, where necessary, by special inquiry and set out in "wages (standard rate) orders" made by the Minister for Industry and Commerce. The second effect was to authorise payment of bonuses in addition to the standard rates. The maximum amount of the bonus was limited but increased with the official cost of living index number and at its highest was 16s. a week for adult workers; the actual amount for particular classes of workers was prescribed by the Minister.
in "bonus orders" made after investigation of applications by tribunals consisting of employers' and workers' representatives under an independent chairman, or, if there was agreement, made on the joint application of the employers' and workers' concerned.

Standard rate and bonus orders were of varying scope; some of them applied to all workers of a particular class or classes in a stated area, while others applied to small numbers of workers employed by named firms. Altogether nearly 1,500 standard rate orders were made.

With the enactment of the Industrial Relations Act this system of control of wages was substantially modified. Standard rate and bonus orders ceased to be made, but the Act enabled workers who so desired to convert the maximum wages permitted by existing orders into legally enforceable minimum wages. This was effected by the recording of standard rate and bonus orders by the Labour Court on the application of a trade union or other body representative of workers to whom the orders applied. The Court was bound to record these orders on any proper application made within a period of four months which expired on 22nd January, 1947. In the case of workers to whom no standard rate order applied on 23rd September, 1946, the Act enables a trade union or other body representative of the workers to apply to the Labour Court, at any time so long as Part VII of the Act is in force, for a Court Wages Order fixing minimum rates of pay. Notice of the application must be published and any interested party—more particularly, of course, the employer or employers concerned—is entitled to be heard when the Court considers the application. The Court is not bound to make an order and the applicant body is not bound to accept it if made; but if an order is made and accepted it has the same effect as recorded standard rate and bonus orders.

The obligations and rights of an employer in relation to recorded orders are exactly the same as those in relation to a registered employment agreement described above under Part III. Similarly, a trade union can on the complaint of an employer be debarred from using its funds to maintain a strike to secure higher wages than are specified in the recorded orders, and as an alternative, or addition to, a direction to a trade union forbidding such a use of its funds the Court can cancel the recording of the orders, with the result that they cease to have any binding effect on either employers or workers.

Resort to those provisions of Part VII concerning the recording of orders is entirely voluntary on the part of the workers concerned and in fact has not been general. The total number of recordings is under 300. In only one case—the boot and shoe manufacturing industry—has an order relating to the whole country been recorded, and many of the recordings affect only small groups of workers. The number of workers' trade unions that have availed themselves of the recording procedure is relatively small.

As Part VII of the Act operates for at least a year provision had to be made for modifying the rates of pay fixed, often many months ago, by the recorded standard rate and bonus orders. The rates can, of course, be modified in the ordinary way by agreement between a trade union of workers and an employer or trade union of employers. If the agreement is registered under Part III of the Act, the recorded orders are cancelled; but if the agreement is not registered, the recording continues to have its full legal binding effect while the agreement depends for its effect only on the good faith of the parties to it. But the Act also provides a special procedure for modifying recorded orders.

A trade union or other body representative of the workers affected by recorded orders may apply to the Court for a variation order fixing increased rates of pay. (It should be noted that an employer or employer's trade union cannot apply for an order reducing the rates of pay). An inquiry is then held at which the employers and other interested persons are entitled to be heard. The Court is not bound to make a variation order, and if it refuses to do so there are two courses open to the applicant body; it can acquiesce in the Court's refusal, in which case the original recorded orders continue to have their binding effect, or can reject the Court's refusal, in
which case the recording of the original orders is cancelled and both employers and workers are divested of the rights and the obligations which resulted from the recording. If the Court does make a variation order, the applicant body again has a choice of courses open to it. It can accept the order, in which case the variation order takes the place of the original recorded orders and has exactly the same binding effect. Alternatively, the applicant body can require the variation order to be revoked in which case the original recorded orders remain operative, or it can go further and require not only the revocation of the variation order but also the cancellation of the recording of the original orders, in which case both employers and workers cease to be bound at all and any differences between them about rates of pay must be settled by the ordinary methods of trade union action. Employers, it will be noted, have no such choice of action as is open to workers. They can, if they wish, object to the making of a variation order, but whether the Court makes the order or refuses to make the order the sequence of events thereafter is determined by the workers, the employers having no further say.

**DISCUSSION ON MR. MORTISHED'S PAPER.**

Mr. John J. Horgan proposing a vote of thanks to the lecturer said they had heard a lucid and illuminating explanation of the Act from an expert. It was probably the first time that the presiding judge of an Irish court had lectured on his own jurisdiction which showed that the Labour Court was not an ordinary tribunal. It might, he thought, be argued that so far as economic policy was concerned the Act put the cart before the horse. It surely would have been wiser and better to have dealt with prices before wages by reducing or abolishing tariffs, reducing Government expenditure and cutting down the supply of money. This, however, had not been done and so the work of the Labour Court had been rendered much more difficult. It was also difficult to understand why state employees had been excluded from the operation of the Act. Surely the same rule should apply to them. If it had the recent lamentable teachers’ strike could have been avoided. Even Acts of the Parliament, the supreme authority, were subject to judicial review and had even been annulled when contrary to the Constitution. The Government could not act as judge in its own case. Joint industrial councils as provided by the Act were of great importance and should be set up wherever possible. His experience of industrial disputes had taught him that they were in large part due to ignorance, fear and distrust, arising from lack of contact and discussion between the parties concerned and the absence of a common meeting ground for the consideration of difficulties and misunderstandings. He was glad to note that the Court had power to arbitrate if asked to do so. But in cases where the Court had given a decision or arbitrated that decision should not be re-opened. If well-intentioned busy-bodies were to make a practice of stepping in after the Court had made its decision there would be neither finality nor respect for the Court. It was essential that public opinion should support the Court and respect its findings. Nothing could stop unauthorised strikes if the strikers knew they could flout both their unions and public opinion with impunity knowing that some quite unauthorised person or body would intervene to save them from the results of their folly. When he (Mr. Horgan) lectured to the Society some time ago on Irish Local Government he emphasised the necessity for adult education on the lines of the Scandinavian countries. This education ensured the sense of responsibility to which the lecturer referred. Some such system
of adult education was a necessary adjunct to the Labour Court. It was virtually non-existent at present in Ireland. An innovation contained in the Act of which he did not approve was the provision which forbade lawyers to appear before the Court except as provided by the rules! He wondered what bright civil servant was responsible for this ingenious proviso. It was certainly stupid and possibly sinister—the shadow of the commissar. In his view it was a direct violation of Article 40 of the Constitution under which the State guaranteed in its laws to respect, and even to defend, the personal rights of the citizen. The Act, however, violated both the right of a citizen to obtain legal assistance and the right of the lawyer to practise his profession. The Act gave a distinct advantage to the trade union officials, most of whom were trained advocates, over the small trader or manufacturer. It was clear from the newspaper reports that the proceedings of the Court had lost both in clarity and precision from the lack of legal assistance. A competent lawyer had a faculty for clear and precise statement which saved both time and temper and could harm no one save the ignorant and incompetent. He did not believe that the trade union representatives were really afraid to stand up to a competent examination of their claims. On the whole, however, the Act was a real milestone in their social progress and the Labour Court was entitled to ask for public support and fair play. They wished it God-speed.

Mr. F. C. King said the Labour Court is more a court of conscience than a court of law. There is no body of legislation or of precedents to guide the Court in its decisions. In this it is rather in the same position as the International Court of Justice. Mr. Mortished has expressed the hope that with the aid of the Labour Court a code of voluntary labour law may be evolved. International jurists also hope that it may be possible to build up a code of enforceable international law, but it is now recognised that no system of international law can be maintained on a purely voluntary basis. There must be sanctions and adequate power to enforce them. Similarly, it may well be that no purely voluntary system of labour law will work. A system under which registered agreements can be unilaterally repudiated and arbitration in trade disputes rejected without very serious loss or inconvenience to the recalcitrant party can hardly be dignified by the name of law. New Zealand, which is a leader amongst nations in social and labour matters, has recognised this truth and has introduced an element of compulsion into its labour code. The New Zealand system appears to have worked satisfactorily except for a brief abnormal period during the slump of 1932-1933. It is generally recognised that no civilised state would tolerate the application of physical compulsion to a man who refuses work. Economic compulsion is, however, another matter. None of us can legitimately expect to escape economic compulsion of some sort or other.

Our Industrial Relations Act, though it does mention the public interest as a consideration to be taken into account by the Labour Court does not stress the importance of this consideration. Other minor matters are given equal weight. In the short existence of the Court we have seen many disputes in which the public interest has been seriously involved. It is important that, in cases where the welfare of the whole community is threatened, sectional interests should not be allowed to prevail.

Mr. King also drew attention to Section 71 of the Act which bars the intervention of the Labour Court if it is aware that a trade union of workers is promoting or assisting the dispute. Mr. Mortished intervened
to point out that this section applies only to a particular class of dispute and that Section 67 is the general section which authorises the Court to intervene.

Professor Shields joined in the vote of appreciation to the lecturer for his instructive paper, and stated that he would wish to compliment him and the other members of the Labour Court on the success which has attended their efforts in dealing with the many labour disputes which have taken place since their appointment. It was a wise act on the part of the Legislature to pass an enactment providing that in the last resort recommendations for the adjustment of differences, and approval of agreements, on wages, working hours and other conditions of employment should be made by a body independent of the Minister for Industry and Commerce, and on which employers and employees are given equal representation. Such a body should command universal respect in its procedure and in its determination of the matters under consideration. Any suggestion or feeling of bias in its operations would militate against the smooth working of its machinery and would do incalculable harm to the proper and rapid adjustment of industrial relations within this State.

This Act is a break with the past: by its repeal of the Conciliation and Industrial Courts Acts and the Trade Boards Acts. It results in a transfer of the authority of the Minister in respect to these Acts to the Labour Court which is given new and wider powers. Why the Minister did not divest himself of the right to appoint the independent members of the Joint Labour Committees, in view of the fact that the preliminary arrangements for their establishment, the appointment of the representative members, and their proposals for wage determination come under the jurisdiction of the Labour Court, it is difficult to explain.

The Act is based on the assumption that wages, hours and other conditions of labour will be settled by collective bargaining, by recognised groups or unions of employees and their employers or employers' associations. These bodies will agree upon the matters at issue, and have them registered by the Court as compulsory collective agreements, subject to the conditions specified in the Act, or submit them in the case of differences or disputes to the Court for its recommendations. It would be interesting to ascertain from the figures given by the lecturer in the first page of the lecture how many unorganised employees there are in the country, excluding those engaged in agriculture, public administration and education. Deducting from the gross total of 613,000 employees, 105,000 in agriculture, 86,000 in public administration, and about 22,000 in religious services, the net total number is 400,000, of whom about 160,000 are members of trade unions affiliated to either of the Irish trade union congresses. This would leave about 240,000 employees, who are unorganised, and whose claims for improved conditions, if not granted by their employers, will not come before the Labour Court. This number includes many employees engaged in offices, commercial establishments and other businesses in small and large towns in the country.

The trade board system has justified itself. It has been largely confined to fixing time rates, with authority to fix general piece-rates, guaranteed time-rates for piece-workers, a piece-work basis time-rate, and overtime rates. It has proved useful in abolishing sweating, raising the wages of the most poorly paid workers, eliminating the unfair competition of unscrupulous competitors, has led to more efficient organisation of some of the business firms affected, and has been an incentive to
better organisation by employers and workers for negotiation purposes. The new joint labour committees possess larger powers than the trade boards. They include the right of proposing a minimum weekly wage and determining the conditions of employment, such as holidays with pay. With this extension of their powers and the successful operations of trade boards in the past, there is no reason why the trades concerned should not rely on State action, in the form of inspection, to see that their proposals are carried out.

There is one peculiar provision in the Act relating to unofficial strikes by organised workers, that is, a cessation of work, not countenanced by a trade union or unions, by which the Labour Court may issue a mandatory award, in the event of an unofficial strike, forcing the employers concerned for a period of three months to carry out the terms of the award. An unofficial strike is the negation of collective bargaining. It has been rejected by trade unions, employers and the community. Why this provision has been included in the Act permitting the Labour Court, at its discretion, to give the strikers a certain degree of recognition is difficult to understand.

The system of enquiry and recommendation adopted under the Canadian Disputes Investigation Act, 1907, amended in 1925, applicable to public utility undertakings, by which no strike or lock-out can take place, until a board consisting of a representative of each party with an agreed or appointed chairman had considered the matters in dispute and had made its recommendations could well be applied in the case of differences in essential services in this country, and use made of the personnel of the Labour Court as the board of enquiry. When analysing foreign legislation relating to industrial disputes, it is useful to point out by the aid of statistical data the extent to which particular enactments have achieved their purpose.

Although we are now considering the framework of this important Act, yet the important changes in wage rates and the success of the Court in adjusting differences and disputes are more important from the economic and social viewpoints. On this account, we will look forward to the annual reports of the Court which should throw an important light on the subject of industrial relations in this country.