

grievances they may have, and of obtaining a decision upon their demands promptly and without having to use a show of force to obtain a decision from their employers, and that this obviates serious disputes. Nevertheless, this system of creation of disputes is a ground for criticism. It brings the Court in between employers and their workers unnecessarily, it is apt to cause a feeling of unrest and hostility between managers and their workmen, and it has caused the Court to become a legislative body framing regulations for industry rather than a Court of appeal to settle only those industrial differences which the parties themselves cannot settle by negotiation.

*Summary.*—

- (1) The Arbitration Act has given us a greater measure of industrial peace than has been enjoyed by any other British community during the period of its operation.
- (2) It has broken down the old hostility of employers to trade-unions and produced a friendly atmosphere of collective bargaining.
- (3) It has acted as a governing factor over wages, regulating the rate of increase and of decrease, preventing too rapid fluctuation in either direction—a national evil, as causing corresponding excessive fluctuations in prices.

On the other hand,—

- (1) The arbitration system is not compulsory, but operates in any industry at the option of the workers.
- (2) Although the great majority of unions accept awards made by the Court, experience has shown that awards are not enforceable against strong unions against their will.
- (3) Awards of the Court are unavoidably inelastic and restrictive as to details. Lack of elasticity in times of severe trade depression is apt to impede recovery.
- (4) The system does not prevent, though it may be an influence against, the making of agreements between employers and their employees contrary to public interest.

On the whole, during the last thirty years, the advantages of the arbitration system have outweighed its disadvantages. It must be admitted, however, that, except for brief periods, trade conditions have been favourable to its operation. Even so, the weaknesses already discussed have become apparent, and under unfavourable trade conditions the effect of these would be greater than hitherto. In the case of all systems much depends upon the users. Whatever success has been achieved in the past, a correct appreciation by both sides of these weaknesses and a joint determination to remedy them would yield better results. During the last two years there has been expressed a general demand for the removal of these weaknesses. Many suggestions have been put forward, but none have been acceptable to all concerned. The problem still remains to be solved.

*Proposals.*—The following proposals are submitted for consideration:—

- (1) Since the application of arbitration to any industry is not compulsory, but depends on the decision of the workers, and because it is not wholly enforceable, even when it does apply, remove the compulsion and make it wholly optional.

To bring this about, amend the Act so as to provide that if no agreement is reached by a Conciliation Council in any dispute, reference of the dispute to the Court of Arbitration shall require a unanimous agreement of the assessors on both sides. In any case in which no agreement is reached by a Council, and the assessors do not agree to refer the dispute to the Court, the existing award or agreement shall cease to operate as from the date of its expiry or the date of the Council sitting whichever is the later. The existing provisions for conciliation are the best machinery that has yet been devised for bringing employers and workers together for the settlement of disputes. This machinery should not be disturbed in any way. The present proposal will not disturb it. On the other hand, the responsibility of the assessors on both sides will be increased, since they will know that failure to make an agreement may result in a deadlock.

- (2) The Court of Arbitration to be retained, and in its present form. It must be retained because the only alternative would be a special tribunal for each dispute, an impracticable suggestion because of the difficulty of obtaining arbitrators. The qualities that go to make a successful arbitrator are many and are rarely found in business men. In England, where arbitration in industrial disputes is purely optional, the procedure in any grave dispute has been strike or lockout, followed in most cases as a final result by arbitration. There the Board of Trade has been able to supply as chairman of the arbitration tribunal men of the necessary natural ability, high character, and economic and business knowledge. In New Zealand there has been no opportunity to train such officials and none such are available.

The present constitution of the Court—an arbitrator from each side and a Judge as umpire—ensures the confidence and good will of both sides, and should be retained. The Act already provides that a special expert assessor from each side may be added to the Court in an advisory capacity in any case calling for expert technical knowledge.

- (3) Provide that for the purposes of the Industrial Conciliation and Arbitration Act all unions, whether registered under that Act or any other Act or not registered at all, shall be deemed to be registered under that Act. Under the Act as it stands now, some unions have declined to register because they have objected to being compelled to refer their disputes to the Court and have preferred to settle them by direct negotiation with their employers. If proposal No. 1, giving either side the right to a conference with the other side and making reference of a dispute to the Court entirely optional, be adopted, this objection will be removed, and there will be no reason why all unions should not automatically come under the same Act. The penalty for a union convicted of a serious breach of an award or agreement should be deregistration, depriving the union of all rights under the Act and of the right to collect fees or to enter into any collective agreement with a union of employers.

- (4) To meet the case of no agreement being reached by a Conciliation Council and a refusal of the assessors to refer the dispute to the Court of Arbitration, incorporate in the Industrial Conciliation