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INDUSTRIAL DEMOCRACY

**INDUSTRIAL DEMOCRACY
BY SIDNEY AND BEATRICE
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VOLUMES BOUND IN ONE.**

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PREFACE

WE have attempted in these volumes to give a scientific analysis of Trade Unionism in the United Kingdom. To this task we have devoted six years' investigation, in the course of which we have examined, inside and out, the constitution of practically every Trade Union organisation, together with the methods and regulations which it uses to attain its ends. In the *History of Trade Unionism*, published in 1894, we traced the origin and growth of the Trade Union movement as a whole, industrially and, politically, concluding with a statistical account of the distribution of Trade Unionism according to trades and localities; and a sketch from nature of Trade Union life and character. The student has, therefore, already had before him a picture of those external characteristics of Trade Unionism, past and present, which—borrowing a term from the study of animal life—we may call its natural history. These external characteristics—the outward form and habit of the creature—are obviously insufficient for any scientific generalisation as to its purpose and its effects. Nor can any useful conclusions, theoretic or practical, be arrived at by arguing from “common notions” about Trade Unionism; nor even by refining these into a definition of some imaginary form of combination in the abstract. Sociology, like all other sciences, can advance only upon the basis of a precise observation of actual facts.

The first part of our work deals with Trade Union Structure. In the Anglo-Saxon world of to-day we find that Trade Unions are democracies: that is to say, their internal constitu-

tions are all based on the principle of "government of the people by the people for the people." How far they are marked off from political governments by their membership being voluntary will be dealt with in the course of the analysis. They are, however, scientifically distinguished from other democracies in that they are composed exclusively of manual-working wage-earners, associated according to occupations. We shall show how the different Trade Unions reveal this species of democracy at many different stages of development. This part of the book will be of little interest to those who want simply to know whether Trade Unionism is a good or a bad influence in the State. To employers and Trade Union officials on active service in the campaign between Capital and Labor, or to politicians hesitating which side to take in a labor struggle, our detailed discussions of the relations between elector, representative, and civil servant; between central and local government; and between taxation and representation—not to speak of the difficulties connected with federation, the grant of "Home Rule" to minorities, or the use of the Referendum and the Initiative—will seem tedious and irrelevant. On the other hand, the student of democracy, not specially interested in the commercial aspect of Trade Unionism, will probably find this the most interesting part of the book. *Those who regard the participation of the manual-working wage-earners in the machinery of government as the distinctive, if not the dangerous, element in modern politics, will here find the phenomenon isolated. These thousands of working-class democracies, spontaneously growing up at different times and places, untrammelled by the traditions or interests of other classes, perpetually recasting their constitutions to meet new and varying conditions, present an unrivalled field of observation as to the manner in which the working man copes with the problem of combining administrative efficiency with popular control.

The second part of the book, forming more than half its total bulk, consists of a descriptive analysis of Trade Union Function: that is to say, of the methods used, the regulations

imposed, and the policy followed by Trade Unions. We have done our best to make this analysis both scientifically accurate and, as regards the United Kingdom at the present day, completely exhaustive. We have, of course, not enumerated every individual regulation of every individual union; but we have pushed our investigations into every trade in every part of the kingdom; and our analysis includes, we believe, every existing type and variety of Trade Union action. And we have sought to make our description quantitative. We have given statistics wherever these could be obtained; and we have, in all cases, tried to form and convey to the reader an impression of the relative proportion, statical and dynamic, which each type of regulation bears to the whole body of Trade Union activity. In digesting the almost innumerable technical regulations of every trade, our first need was a scientific classification. After many experiments we discovered the principle of this to lie in the psychological origin of the several regulations: that is to say, the direct intention with which they were adopted, or the immediate grievance they were designed to remedy. Our consequent observations threw light on many apparent contradictions and inconsistencies. Thus, to mention only two among many instances, the student will find, in our chapter on "The Standard Rate," an explanation of the reason why some Trade Unions strike against Piecework and others against Timework; and, in our chapter on "The Normal Day," why some Trade Unions make the regulation of the hours of labor one of their foremost objects, whilst others, equally strong and aggressive, are indifferent, if not hostile to it. The same principle of classification enables the student to comprehend and place in appropriate categories the seemingly arbitrary and meaningless regulations, such as those against "Smoothing" or "Partnering," which bewilder the superficial observer of working-class life. It assists us to unravel the intricate changes of Trade Union policy with regard to such matters as machinery, apprenticeship, and the admission of women. It serves also for the deeper analysis

of the division of the whole action of Trade Unionism into three separate and sometimes mutually exclusive policies, based on different views of what can economically be effected, and what state of society is ultimately desirable. It is through the psychology of its assumptions that we discover how significantly the cleavages of opinion and action in the Trade Union world correspond with those in the larger world outside.

It is only in the third part of our work—the last four chapters of the second volume—that we have ventured into the domain of theory. We first trace the remarkable change of opinion among English economists as to the effect of Trade Unionism on the production and distribution of wealth. Some readers may stop at this point, contented with the authoritative, though vague, deliverances favorable to combination among wage-earners now given by the Professors of Political Economy in the universities of the United Kingdom. But this verdict, based in the main upon an ideal conception of competition and combination, seems to us unsubstantial. We have, therefore, laid before the student a new analysis of the working of competition in the industrial field—our vision of the organisation and working of the business world as it actually exists. It is in this analysis of the long series of bargainings, extending from the private customer in the retail shop, back to the manual laborer in the factory or the mine, that we discover the need for Trade Unionism. We then analyse the economic characteristics, not of combination in the abstract in a world of ideal competition, but of the actual Trade Unionism of the present day in the business world as we know it. Here, therefore, we give our own theory of Trade Unionism—our own interpretation of the way in which the methods and regulations that we have described actually affect the production and distribution of wealth and the development of personal character. This theory, in conjunction with our particular view of social expediency, leads us to sum up emphatically in favor of Trade Unionism of one type, and equally emphatically

against Trade Unionism of another type. In our final chapter we even venture upon precept and prophecy ; and we consider the exact scope of Trade Unionism in the fully developed democratic state—the industrial democracy of the future.

A book made up of descriptions of fact, generalisations into theory, and moral judgments must, in the best case, necessarily include parts of different degrees of use. The description of structure and function in Parts I. and II. will, we hope, have its own permanent value in sociology as an analytic record of Trade Unionism in a particular country at a particular date. The economic generalisations contained in Part III., if they prove sound on verification by other investigators, can be no more than stepping-stones for the generalisations of reasoners who will begin where we leave off. Like all scientific theories, they will be quickly broken up, part to be rejected as fallacious or distorted, and part to be absorbed in later and larger views. Finally, even those who regard our facts as accurate, and accept our economic theory as scientific, will only agree in our judgment of Trade Unionism, and in our conception of its permanent but limited function in the Industrial Democracy of the future, in so far as they happen to be at one with us in the view of what state of society is desirable.

Those who contemplate scientific work in any department of Sociology may find some practical help in a brief account of the methods of investigation which we have found useful in this and other studies.

To begin with, the student must resolutely set himself to find out, not the ultimate answer to the practical problem that may have tempted him to the work, but what is the actual structure and function of the organisation about which he is interested. Thus, his primary task is to observe and dissect facts, comparing as many specimens

as possible, and precisely recording all their resemblances and differences whether or not they seem significant. This does not mean that the scientific observer ought to start with a mind free from preconceived ideas as to classification and sequences. If such a person existed, he would be able to make no observations at all. The student ought, on the contrary, to cherish all the hypotheses he can lay his hands on, however far-fetched they may seem. Indeed, he must be on his guard against being biassed by authority. As an instrument for the discovery of new truth, the wildest suggestion of a crank or a fanatic, or the most casual conclusion of the practical man may well prove more fertile than verified generalisations which have already yielded their full fruit. Almost any preconceived idea as to the connection between phenomena will help the observer, if it is only sufficiently limited in its scope and definite in its expression to be capable of comparison with facts. What is dangerous is to have only a single hypothesis, for this inevitably biasses the selection of facts; or nothing but far-reaching theories as to ultimate causes and general results, for these cannot be tested by any facts that a single student can unravel.

From the outset, the student must adopt a definite principle in his note-taking. We have found it convenient to use separate sheets of paper, uniform in shape and size, each of which is devoted to a single observation, with exact particulars of authority, locality, and date. To these, as the inquiry proceeds, we add other headings under which the recorded fact might possibly be grouped, such, for instance, as the industry, the particular section of the craft, the organisation, the sex, age, or status of the persons concerned, the psychological intention, or the grievance to be remedied. These sheets can be shuffled and reshuffled into various orders, according as it is desired to consider the recorded facts in their distribution in time or space, or their coincidence with other circumstances. The student would be well-advised to put a great deal of work into the completeness and mechanical perfection of his note-taking, even if this

involves, for the first few weeks of the inquiry, copying and recopying his material.

Before actually beginning the investigation it is well to read what has been previously written about the subject. This will lead to some tentative ideas as to how to break up the material into definite parts for separate dissection. It will serve also to collect hypotheses as to the connections between the facts. It is here that the voluminous proceedings of Royal Commissions and Select Committees find their real use. Their innumerable questions and answers seldom end in any theoretic judgment or practical conclusion of scientific value. To the investigator, however, they often prove a mine of unintentional suggestion and hypothesis, just because they are collections of samples without order and often without selection.

In proceeding to actual investigation into facts, there are three good instruments of discovery: the Document, Personal Observation, and the Interview. All three are useful in obtaining preliminary suggestions and hypotheses; but as methods of qualitative and quantitative analysis, or of verification, they are altogether different in character and unequal in value.

The most indispensable of these instruments is the Document. It is a peculiarity of human, and especially of social action, that it secretes records of facts, not with any view to affording material for the investigator, but as data for the future guidance of the organisms themselves. The essence of the Document as distinguished from the mere literature of the subject is the unintentional and automatic character of its testimony. It is, in short, a kind of mechanical memory, registering facts with the minimum of personal bias. Hence the cash accounts, minutes of private meetings, internal statistics, rules, and reports of societies of all kinds furnish invaluable material from which the investigator discovers not only the constitution and policy of the organisation, but also many of its motives and intentions. Even documents intended solely to influence other people,

such as public manifestoes or fictitious reports, have their documentary value if only as showing by comparison with the confidential records, what it was that their authors desired to conceal. The investigator must, therefore, collect every document, however unimportant, that he can acquire. When acquisition is impossible, he should copy the actual words, making his extracts as copious as time permits; for he can never know what will afterwards prove significant to him. In this use of the Document, sociology possesses a method of investigation which to some extent compensates it for inability to use the method of deliberate experiment. We venture to think that collections of documents will be to the sociologist of the future, what collections of fossils or skeletons are to the zoologist; and libraries will be his museums.

Next in importance comes the method of Personal Observation. By this we mean neither the Interview nor yet any examination of the outward effects of an organisation, but a continued watching, from inside the machine, of the actual decisions of the human agents concerned, and the play of motives from which these spring. The difficulty for the investigator is to get into such a post of observation without his presence altering the normal course of events. It is here, and here only, that personal participation in the work of any social organisation is of advantage to scientific inquiry. The railway manager, the member of a municipality, or the officer of a Trade Union would, if he were a trained investigator, enjoy unrivalled opportunities for precisely describing the real constitution and actual working of his own organisation. Unfortunately, it is extremely rare to find in an active practical administrator, either the desire, the capacity, or the training for successful investigation. The outsider wishing to use this method is practically confined to one of two alternatives. He may adopt the social class, join the organisation, or practise the occupation that he wishes to study. Thus, one of the authors has found it useful, at different stages of investigation, to become a rent collector, a tailoress, and a working-class lodger in working-class

families; whilst the other has gained much from active membership of democratic organisations and personal participation in administration in more than one department. Participation of this active kind may be supplemented by gaining the intimacy and confidence of persons and organisations, so as to obtain the privilege of admission to their establishments, offices, and private meetings. In this passive observation the woman, we think, is specially well-adapted for sociological inquiry; not merely because she is accustomed silently to watch motives, but also because she gains access and confidence which are instinctively refused to possible commercial competitors or political opponents. The worst of this method of Personal Observation is that the observer can seldom resist giving undue importance to the particular facts and connections between facts that he happens to have seen. He must, therefore, record what he has observed as a set of separate, and not necessarily connected facts, to be used merely as hypotheses of classification and sequence, for verification by an exhaustive scrutiny of documents or by the wider-reaching method of the Interview.

By the Interview as an instrument of sociological inquiry we mean something more than the preliminary talks and social friendliness which form, so to speak, the antechamber to obtaining documents and opportunities for personal observation of processes. The Interview in the scientific sense is the skilled interrogation of a competent witness as to facts within his personal experience. As the witness is under no compulsion, the interviewer will have to listen sympathetically to much that is not evidence, namely to personal opinions, current tradition, and hearsay reports of facts, all of which may be useful in suggesting new sources of inquiry and revealing bias. But the real business of the Interview is to ascertain facts actually seen by the person interviewed. Thus, the expert interviewer, like the bedside physician, agrees straightway with all the assumptions and generalisations of his patient, and uses his detective skill to sift, by tactful cross-examination, the grain of fact from the

bushel of sentiment, self-interest, and theory. Hence, though it is of the utmost importance to make friends with the head of any organisation, we have generally got much more actual information from his subordinates who are personally occupied with the facts in detail. But in no case can any Interview be taken as conclusive evidence, even in matters of fact. It must never be forgotten that every man is biased by his creed or his self-interest, his class or his views of what is socially expedient. If the investigator fails to detect this bias, it may be assumed that it coincides with his own! Consequently, the fullest advantage of the Interview can be obtained only at the later stages of an inquiry, when the student has so far progressed in his analysis that he knows exactly what to ask for. It then enables him to verify his provisional conclusions as to the existence of certain specified facts, and their relations to others. And there is a wider use of the Interview by which a quantitative value may be given to a qualitative analysis. Once the investigator has himself dissected a few type specimens, and discovered which among their obviously recognisable attributes possess significance for him, he may often be able to gain an exhaustive knowledge of the distribution of these attributes by what we may call the method of wholesale interviewing. One of the most brilliant and successful applications of this method was Mr. Charles Booth's use of all the School Board visitors of the East End of London. Having, by personal observation, discovered certain obvious marks which coincided with a scientific classification of the East End population, he was able, by interviewing a few hundred people, to obtain definite particulars with regard to the status of a million. And when results so obtained are checked by other investigations—say, for instance, by the Census, itself only a gigantic and somewhat unscientific system of wholesale interviewing—a high degree of verified quantitative value may sometimes be given to sociological inquiry.

Finally, we would suggest that it is a peculiar advantage, in all sociological work, if a single inquiry can be conducted

by more than one person. A closely-knit group, dealing contemporaneously with one subject, will achieve far more than the same persons working individually. In our inquiry into Trade Unionism we have found exceptionally useful, not only our own collaboration in all departments of the work, but also the co-operation, throughout the whole six years, of our colleague and friend, Mr. F. W. Galton. When the members of a group "pool" their stocks of preconceived ideas or provisional hypotheses; their personal experience of the facts in question, or of analogous facts; their knowledge of possible sources of information; their opportunities for interviewing, and access to documents, they are better able than any individual to cope with the vastness and complexity of even a limited subject of sociological investigation. They can do much by constant criticism to save each other from bias, crudities of observation, mistaken inferences, and confusion of thought. But group-work of this kind has difficulties and dangers of its own. Unless all the members are in intimate personal communication with each other, moving with a common will and purpose, and at least so far equal in training and capacity that they can understand each other's distinctions and qualifications, the result of their common labors will present blurred outlines, and be of little real value. Without unity, equality, and discipline, different members of the group will always be recording identical facts under different names, and using the same term to denote different facts.

By the pursuit of these methods of observation and verification, any intelligent, hard-working, and conscientious students, or group of students, applying themselves to definitely limited pieces of social organisation, will certainly produce monographs of scientific value. Whether they will be able to extract from their facts a new generalisation, applicable to other facts—whether, that is to say, they will discover any new scientific law—will depend on the possession of a somewhat rare combination of insight and inventiveness, with the capacity for prolonged and intense reasoning. When

such a generalisation is arrived at, it provides a new field of work for the ensuing generation, whose task it is, by an incessant testing of this "order of thought" by comparison with the "order of things," to extend, limit, and qualify the first imperfect statement of the law. By these means alone, whether in sociology or any other sphere of human inquiry, does mankind enter into possession of that body of organised knowledge which is termed science.

We venture to add a few words as to the practical value of sociological investigation. Quite apart from the interest of the man of science, eager to satisfy his curiosity about every part of the universe, a knowledge of social facts and laws is indispensable for any intelligent and deliberate human action. The whole of social life, the entire structure and functioning of society, consists of human intervention. The essential characteristic of civilised, as distinguished from savage society, is that these interventions are not impulsive but deliberate; for, though some sort of human society may get along upon instinct, civilisation depends upon organised knowledge of sociological facts and of the connections between them. And this knowledge must be sufficiently generalised to be capable of being diffused. We can all avoid being practical engineers or chemists; but no consumer, producer, or citizen can avoid being a practical sociologist. Whether he pursues only his own pecuniary self-interest, or follows some idea of class or social expediency, his action or inaction will promote his ends only in so far as it corresponds with the real order of the universe. A workman may join his Trade Union, or abstain from joining; but if his decision is to be rational it must be based on knowledge of what the Trade Union is how far it is a sound benefit society, whether its method will increase or decrease his liberty, and to what extent its regulations are likely to improve or deteriorate the condition of employment for himself and his class. The employer who desires to enjoy the maximum freedom of enterprise, or to gain the utmost profit, had better, before either fighting his workmen or yielding to their demands, find out the cause an

meaning of Trade Unionism, what exactly it is likely to give up or insist on, its financial strength and weakness, and its hold on public opinion. Common hearsay, or the gossip of a club, whether this be the public-house or a palace in Pall Mall, will no more enable a man intelligently to "manage his own business," than it will enable the engineer to build a bridge. And when we pass from private actions to the participation of men and women as electors, representatives, or officials, in public companies, local governing bodies, or the State itself, the inarticulate apprehension of facts which often contents the individual business man, will no longer suffice. Deliberate corporate action involves some definite policy, communicable to others. The town councillor or the cabinet minister has perpetually to be making up his mind what is to be done in particular cases. Whether his action or abstention from action is likely to be practicable, popular, and permanently successful in attaining his ends, depends on whether it is or is not adapted to the facts. This does not mean that every workman and every employer, or even every philanthropist and every statesman, is called upon to make his own investigation into social questions any more than to make for himself the physiological investigations upon which his health depends. But whether they like it or not, their success or failure to attain their ends depends on their scientific knowledge, original or borrowed, of the facts of the problem, and of their causal connections. Perfect wisdom we can never attain, in sociology or in any other science; but this does not absolve us from using, in our action, the most authoritative exposition, for the time being, of what is known. That nation will achieve the greatest success in the world-struggle, whose investigators discover the greatest body of scientific truth, and whose practical men are the most prompt in their application of it.

What is not generally recognised is that scientific investigation, in the field of sociology as in other departments of knowledge, requires, not only competent investigators, but a considerable expenditure. Practically no provision exists in

this country for the endowment or support from public funds of any kind of sociological investigation. It is, accordingly, impossible at present to make any considerable progress even with inquiries of pressing urgency. Social reformers are always feeling themselves at a standstill, for sheer lack of knowledge, and of that invention which can only proceed from knowledge. There is, we believe, no purpose to which the rich man could devote his surplus with greater utility to the community than the setting on foot, in the hands of competent investigators, of definite inquiries into such questions as the administrative control of the liquor traffic, the relation between local and central government, the population question, the conditions of women's industrial employment, the real incidence of taxation, the working of municipal administration, or many other unsolved problems that could be named. It may be assumed that to deal adequately with any of these subjects would involve an out-of-pocket expenditure for travelling, materials, and incidental outlays of all kinds, of something like £1000, irrespective of the maintenance of the investigators themselves, or the possible expense of publication. To make any permanent provision for discovery in any one department—to endow a chair—requires the investment of, say, £10,000. At present, in London, the wealthiest city in the world, and the best of all fields for sociological investigation, the sum total of the endowments for this purpose does not reach £100 a year.

It remains only to express our grateful acknowledgments to the many friends, employers as well as workmen, who have helped us with information as to their respective trades. Some portions of our work have been read in manuscript or proof by Professor Edgeworth, Professor Hewins, Mr. Leonard Hobhouse, and other friends, to whom we are indebted for many useful suggestions and criticisms. Early drafts of some chapters have appeared in the *Economic Journal*, *Economic Review*, *Nineteenth Century*, and *Progressive Review* in this country; the *Political Science Quarterly* in New York;

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and Dr. Braun's *Archiv für Sociale Gesetzgebung und Statistik* in Berlin. They are reproduced here by permission of the editors. A large portion of the book was given in the form of lectures at the London School of Economics and Political Science during 1896 and 1897.

SIDNEY AND BEATRICE WEBB,

41 GROSVENOR ROAD, WESTMINSTER,
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INTRODUCTION TO THE 1902 EDITION

(FOURTH IMPRESSION. FIFTH THOUSAND.)

THE issue of *Industrial Democracy* in a cheaper edition, uniform with the *History of Trade Unionism*, gives us an opportunity of writing a new introductory chapter.

We have practically nothing to add to the descriptive and analytic part of the book. During the four years which have elapsed since its publication, the Trade Union world has not appreciably changed in structure or function.¹ The Trade Union "methods" of Mutual Insurance, Collective Bargaining, and Legal Enactment—the multifarious Trade Union "regulations" described in our chapters on the Standard Rate and the Normal Day, New Processes and Machinery, and the Entrance to a Trade—retain their several places in the workmen's constant struggle to uphold and improve the Standard of Life of their class. But whilst the Trade Union world itself has remained unaltered, the closing years of the nineteenth century have witnessed a gradual change in Trade Union environment, alike in law and in public opinion, which has lately risen, suddenly and dramatically, into public consciousness. By a series of remarkable legal decisions of the House of Lords, the Trade Unions of the United Kingdom have seen their use of the

¹ Trade Union membership and Trade Union funds have, indeed, greatly increased, until, at the present time, there are not far short of two million members, with accumulated funds of nearly four millions sterling. But these statistical details, including some analysis of the direction of growth, we reserve for the forthcoming edition of the *History of Trade Unionism*, in which we deal also with the principal strikes of the last decade.

Method of Collective Bargaining seriously curtailed. At the same time, an equally remarkable series of legislative experiments in the Britains beyond the sea have made possible applications of the Method of Legal Enactment hitherto undreamt of.

We must first refer, in order to bring our analysis up to date, to a few statutory changes in the United Kingdom between 1897 and 1902. The minimum age at which children may be employed in factories or workshops (pp. 768-69) is now twelve, and in mines, thirteen ; but practically nothing has been done to prevent other industrial work by children of school age,¹ and we are still very far from any effective enforcement of the National Minimum of Education which our Legislature professes to have adopted. The serious evil of "boy labor" (pp. 482-89, 768-71) has not been grappled with. The long array of Acts and Amending Acts dealing with the conditions of employment in factories and workshops (pp. 771-73) have now been consolidated in the Factory and Workshops Act of 1901, which includes a few amendments of detail. But the law still fails to secure, even to women and children, that National Minimum of Sanitation and Rest which it purports to give. Whole classes of women workers (p. 772) remain excluded by pedantries of definition. The numerous exceptions as to overtime and other relaxations still hamper administration (pp. 349-51). The sections dealing with laundries (p. 365), outworkers (p. 772), and unhealthy trades (pp. 363-64) continue, in the main, illusory and inoperative. We may refer, on this whole subject, to *The Case for the Factory Acts* (London, 1901), edited by Mrs. Sidney Webb. The objectionable Truck Act of 1896 (pp. 211, 373, 799) has not been amended, but it is right to say that it has been found, in practice, much less irksome to employers or workmen than they severally expected. This is due to the fact that it has been only slightly operative.

¹ See the *Report of the Departmental Committee on the Employment of Children of School Age*, 1901.

The grievances with which the workmen hoped that it would deal (pp. 315-18, 840) have still to be remedied.¹ The Workmen's Compensation Act of 1897 (pp. 387-91) has now been extended to persons employed in agriculture, but not yet to workshop operatives, seamen, carmen, or building workmen engaged on buildings less than thirty feet in height. The employers (or, rather, the insurance companies in their names) have displayed a most fertile ingenuity in raising quibbles intended to limit the application of the law, but the highest judicial tribunal has, on the whole, given full effect to the intention of Parliament, and has made a badly-drafted statute really operative. It should be added that the actual cost of compensating for accidents has proved less than was anticipated—unfortunately, as we suggested (pp. 375-76), much less than it would cost the employers to prevent them. It remains, therefore, more important than ever, not only to extend the Act to the workers at present outside its scope, but also, in the interest of the community as a whole, to enforce in all occupations an effective National Minimum of Sanitation and Safety (pp. 375-78, 385-87, 771-73).

But the changes in the law effected by Parliament during the past four years are of less importance to Trade Unionism than those made by the judges, notably by the House of Lords in its judicial capacity. By a series of unexpected decisions, beginning with *Allen v. Flood*, on the 14th of December 1897, and ending, for the moment, with *Quinn v. Leatham*, on the 5th of August 1901, the highest court of appeal has entirely changed the legal position of Trade Unions. We have, therefore, to consider in what way these decisions affect the conclusions expressed in our Appendix on "The Legal Position of Collective Bargaining" (pp. 853-62).²

¹ We may correct an error in the note to p. 211. The Act proved not to apply to the deductions referred to, and no exemption order was necessary.

² The principal judgments in these cases have been reprinted in *The Law and Trade Unions: a Brief Review of Recent Litigation specially prepared at the instance of Richard Bell, M.P.* (London, 1901). But the law on the whole subject

The most far-reaching of these decisions, and the one which gives importance to all the others, is that in the case of *The Taff Vale Railway Company v. The Amalgamated Society of Railway Servants*. There had been a dispute between the railway company and many of its employees. A strike took place, which was sanctioned by the governing body of the Trade Union, and was conducted by its authorised officers. It was alleged that, in furtherance of this strike, some of the agents of the Trade Union had committed unlawful acts, and incited others to commit them, to the injury and damage of the railway company. Instead of prosecuting in a criminal court the persons alleged to have been guilty of these offences, the company applied to the Chancery Division of the High Court of Justice for an injunction to restrain from committing such acts, not only certain of the persons implicated, but also the Amalgamated Society of Railway Servants itself. The company also commenced a civil suit against the society in its corporate capacity, claiming a large sum as damages for what were alleged to be its wrongful acts. The society pleaded that, whatever might be the personal liability of individual officers or members, the Trade Union itself could not, in its corporate capacity, be made the object of an injunction, or be sued for damages. It was contended that, under the circumstances described in our *History of Trade Unionism*, the Legislature had deliberately abstained from giving Trade Unions the privileges of incorporation, and had expressly provided against their being sued as corporate bodies. This view had been universally accepted by friends and foes alike. The immunity of Trade Unions from corporate liability for damages had been repeatedly made the subject of official comment, and even of recommendations by Royal Commissions. For twenty years after the Act

is now most conveniently to be found in the little volume of annotated statutes and cases, of which we have made use, entitled *Trade Union Law*, by Herman Cohen and George Howell (London, 1901). This gives exact references to the official reports.

of 1871 no action against a Trade Union in its corporate capacity was ever maintained in the English Courts.¹ But on the 22nd of July 1901, the House of Lords decided that the Amalgamated Society of Railway Servants, though admittedly not a corporate body, could be sued in a corporate capacity for damages alleged to have been caused by the action of its officers, and that an injunction could be issued against it, restraining it not merely from criminal, but also from other unlawful acts. Moreover, in their elaborate reasons for their judgment, the law lords expressed the view that not only an injunction, but also a mandamus could be issued against a Trade Union; that a registered Trade Union could be sued in its registered name; that even an unregistered Trade Union might be made collectively liable for damages, and might be sued in the names of its proper officers, the members of its executive committee, and its trustees; that the corporate funds of a Trade Union could be made answerable for costs and damages, even if they were in the hands of trustees; and that the trustees of Trade Union funds might be joined as parties to a suit against the Trade Union, or might be separately proceeded against for recovery of damages and costs awarded against their Trade Union, whether registered or not. The effect of the judgment, in short, is to impose upon a Trade Union, whether registered or not—although not incorporated for other purposes—complete corporate liability for any injury or damage caused by any person who can be deemed to be acting as the agent of the Trade Union, not merely in respect of any criminal offence which he may have committed, but also in respect of any act, not contravening the criminal law, which the judges may, from time to time, deem wrongful.

¹ In 1892, and again in 1895, civil proceedings were successfully taken by employers against combinations of workmen; see *Trollope and Others v. The London Building Trades' Federation and Others*, 1892 (mentioned at p. 861), and *Pink v. The Federation of Trade Unions, etc.*, 1895. These cases were, however, not seriously defended, not fully argued, and not carried to the highest tribunal.

We do not propose to waste time in discussing whether this judgment of the House of Lords was or was not in accordance with the law of the land on the morning of the decision. There has seldom been an instance in which a judicial decision has so completely and extensively reversed the previous legal opinions, and—we do not hesitate to say—the conscious intention, thirty years before, of Parliament itself. But the case was fully and ably argued, and the decision of the five law lords was unanimous. According to the British Constitution, the view which they have taken of the law is now as definitely the law as if it had been embodied in an Act of Parliament. How does it affect Trade Unionism?

At first sight there would seem little or nothing to complain about. The judgment professes to make no change in the lawfulness of Trade Unionism. No act is ostensibly made wrongful which was not wrongful before. And if a Trade Union, directly or by its agents, causes injury or damage to other persons, by acts not warranted in law, it seems not inequitable that the Trade Union itself should be made liable for what it has done. The real grievance of the Trade Unions, and the serious danger to their continued usefulness and improvement, lies in the uncertainty of the English law, and its liability to be used as a means of oppression. This danger is increased, and the grievance aggravated, by the dislike of Trade Unionism and strikes which nearly all judges and juries share with the rest of the upper and middle classes.

The public opinion of the propertied and professional classes is, in fact, even more hostile to Trade Unionism and strikes than it was a generation ago. In 1867-75, when Trade Unionism was struggling for legal recognition, it seemed to many people only fair that, as the employers were left free to use their superiority in economic strength, the workmen should be put in a position to make a good fight of it against the employers. Accordingly, combinations and strikes were legalised, and some sort of peaceful picketing

was expressly authorised by statute. So long as no physical violence was used or openly threatened, the mild tumult and disorder of a strike, a certain amount of harmless obstruction of the thoroughfares, and the animated persuasion of blacklegs by the pickets, were usually tolerated by the police, and not seriously resented by the employers. It all belonged to the conception of a labor dispute as a stand-up fight between the parties, in which the State could do no more than keep the ring. Gradually this conception has given way in favour of the view that, quite apart from the merits of the case, the stoppage of work by an industrial dispute is a public nuisance, an injury to the commonweal, which ought to be prevented by the Government. Moreover, the conditions of the wage contract are no longer regarded only as a matter of private concern. The gradual extension of legislative regulation to all industries, and its successive application to different classes of workers and conditions of employment, decisively negatives the old assumption of the employer that he is entitled to hire his labor on such terms as he thinks fit. On the other hand, public opinion has become uneasy about the capacity of English manufacturers to hold their own against foreign competition, and therefore resents, as a crime against the community, any attempt to restrict output or obstruct machinery, of which the Trade Unions may be accused. And thus we have a growing public opinion in favour of some authoritative tribunal of conciliation or arbitration, and an intense dislike of any organised interruption of industry by a lock-out or strike, especially when this is promoted by a Trade Union which is believed—often on the strength of the wildest accusations in the newspapers—to be unfriendly to the utmost possible improvement of processes in its trade.

Under the influence of this adverse bias the courts of law have, for the last ten years, been gradually limiting what were supposed to be the legal rights of Trade Unions. There has been, it is true, no attempt to bring back the terrors of the criminal law, the use of which, as an instru-

ment of warfare, is still blunted by the necessity of convincing the common-sense of a jury, not only that the alleged acts were committed, but also that they amounted to a crime, for which (whatever the judge may direct) the jury consider that the defendants ought to be found "guilty." But the employers, as we pointed out four years ago, have discovered a more advantageous weapon than the criminal law. Acts done by officers of Trade Unions have, by aggrieved persons, been made the subject of civil actions for damages, and the judges have declared to be unlawful, though not criminal, many things which had hitherto been regarded as permissible incidents of a strike. Thus, it has been held to be an actionable wrong for a Trade Union to publish a "black list" of non-union firms and "free laborers."¹ Even the most peaceful picketing, without the slightest riot, violence, or coercion, has been held to be actionable, on the ground that it amounted to "watching and besetting," and that this was an annoyance to the employer.² But the law, as now interpreted, goes much further than to make a Trade Union answerable in damages for deeds which would be equally actionable if committed by an individual. Any one man may, whatever motive he may have, lawfully, without molestation or coercion, or "watching and besetting," try to persuade another to do or not to do anything which that other has a right to do or not to do, even though other persons are injured thereby.³ But it has been held to be an actionable wrong for a couple of men to wait in concert in the street for the purpose of attempting, however quietly and peaceably, to persuade persons not to engage to work for a particular employer.⁴ It is probable that it is now an actionable wrong if a Trade Union executive directs or allows any official to try to persuade an employer not to engage, or to discharge, particular blacklegs; though it is lawful for any one individual to take this step, if he is *bona fide* not acting in

¹ Trollope and Others v. The London Building Trades' Federation and Others.

² Lyons v. Wilkins.

³ Allen v. Flood.

⁴ Lyons v. Wilkins.

concert, express or implied, with any one else.¹ It has been held to be an actionable wrong for Trade Union officials to try to persuade one firm not to supply another with goods, or not to work up the products supplied by a particular trader, and this, however peaceful and courteous may be the persuasion ;² although it is quite lawful for one man to do the same thing. It would even be lawful for a combination of men, if they happen to be employers desirous of promoting their own trade. It has been held lawful for a combination of capitalist traders to put the severest pressure of this sort on a trader who stands outside their combination, even to the extent of conspiring, for their own advantage, to drive him out of the business.³ If a body of workmen aim at the corresponding result their "conspiracy" is actionable.⁴ And though it seems to be still lawful (if there is no breach of contract) for workmen to combine in a refusal to work for a particular firm, without cause assigned—that is, to strike—it is doubtful whether their "conspiracy" is not actionable if their motive for striking is anything else than to improve their own personal conditions of employment. If the judge came to the conclusion that, notwithstanding the workmen's silence, or even their statement to the contrary, they were really striking, not on account of any difference with their employer as to their own wages, but merely in order to put pressure on some other employer, or on some other workmen, with a view to causing the exclusion of these from work, he would very likely hold that such a strike was an actionable wrong against the other employer or workmen, for which these could recover damages.⁵ Even when a strike is lawful, Trade Union officials will now have to be careful how they call the men out. It is probably actionable if, through the influence of

¹ *Allen v. Flood.*

² *Temperton v. Russell.*

³ *Mogul S.S. Co. v. M'Gregor, Gow, and Co.*

⁴ *Quinn v. Leatham.*

⁵ The "sympathetic strike" or boycott has already been held to be illegal by American courts. See the remarks of various judges in *Temperton v. Russell*, *Lyons v. Wilkins*, and our note at p. 861.

the official's incitement, some of the workmen strike without notice, or otherwise break their contracts of service, even though the Trade Union official did not intend that they should do so. And if the judges should eventually hold that any particular strike was not warranted, or, though warranted in itself, that wrongful (though not criminal) acts were committed in pursuance of it, which he might have been expected to foresee, the Trade Union official who ordered the strike might very likely be made answerable in damages for the loss suffered by any person through the wrongful acts which he had indirectly but unwillingly caused. In all these cases, wherever a Trade Union official would be liable, the Trade Union itself is now made collectively liable. And it follows from the general law of principal and agent, that whenever any officer of a Trade Union, in the ordinary course of his business, and within the apparent scope of his employment, does anything for which he is liable to be sued for damages, the Trade Union for which he is acting becomes also liable, though he may have acted without orders, or contrary to the general policy of his Trade Union, or even in direct contradiction to the private instructions which he had received from its executive committee. Finally, whenever the Trade Union is liable to be sued, it will be open to the aggrieved person to apply to the Chancery Division of the High Court of Justice for an injunction against the Trade Union and its officials, peremptorily restraining them from committing any of the acts complained of. The issue of such an injunction will be within the discretion of a single Chancery judge, and if it is disobeyed, it can be enforced by summary imprisonment, without trial, for an indefinite period, for what is called "contempt of court."

Such we believe to be now the law, according to the best opinion that a well-informed counsel could give to his client. But so vague and ill-defined, so complicated and uncertain, is the English law on such subjects as conspiracy and libel—indeed, the whole law of torts—to say nothing

of that relating to principal and agent, that we cannot pretend that our statement is to be depended on. The very uncertainty is in itself a serious grievance. If a Trade Union executive could know precisely what was the law, it could take care not to infringe it, and might have some chance of compelling its officers to keep within their legal rights. This is now impossible. All that a Trade Union can be sure of is that, whenever the action of any one of its officers causes any injury or loss to any employer, or to any workman outside its ranks, it will be open to any such person, at slight expense, to commence an action against the Trade Union for damages. This will mean, at least, a solicitor's bill. If the action comes into court the Trade Union will know that, though the jury may give a verdict as to the bare facts, the judgment will, in nine cases out of ten, depend practically on the judge's view of the law. And though we all thoroughly believe in the honesty and impartiality of our judges, it so happens that, in the present uncertainty, the very law of the case must necessarily turn on the view taken of the general policy of Trade Unionism. If the judges believed, as we believe, that the enforcement of Common Rules in industry, and the maintenance of a Standard Rate, a Normal Day, and stringent conditions of Sanitation and Safety, were positively beneficial to the community as a whole, and absolutely indispensable to the continued prosperity of our trade, they would no more hold liable, for any damage which, in the conduct of its legitimate purpose, it incidentally caused to particular individuals, a reasonably managed Trade Union than a militant Temperance Society or the Primrose League. But a clear majority of our judges evidently believe, quite honestly, that Trade Unionism—meaning the enforcement of Common Rules on a whole trade—is anomalous, objectionable, detrimental to English industry, and even a wicked infringement of individual liberty, which Parliament has been foolishly persuaded to take out of the category of crimes. Their lack of economic training and their ignorance

of economic science is responsible for this state of mind. Unfortunately, their preoccupation with the technical side of their own profession renders it unlikely that they will dispel this ignorance by any careful study of labor problems. When, therefore, they have to decide whether a particular injury, caused by the operations of such a combination, is or is not actionable, they would not be doing their duty, holding the view that they do of its harmfulness, if they did not treat it much more severely than they would if precisely similar acts were committed by associations which they thought to be beneficial to the community—say, for instance, by a combination of capitalist employers, in the course of the fierce and unrelenting competition of international trade. The result is that Trade Unions must expect to find practically every incident of a strike, and possibly every refusal to work with non-unionists, treated as actionable, and made the subject of suits for damages, which the Trade Union will have to pay from its corporate funds.

We do not mean to suggest that every little labor trouble is likely to be followed by a crop of actions against the Trade Union concerned. Employers generally find it too convenient to be on good terms with well-managed Trade Unions to wish to break off friendly negotiations with them. But it will always be open for employers or non-unionist workmen to issue a writ, and in cases of serious dispute it is scarcely likely that they will all forego so easy a means of harassing their opponents. Trade Unions will not all of them find their funds denuded by heavy law costs and damages. It may even be some time before a serious case occurs. But the liability will be always present. It is not too much to say that, except in the most compact and well-disciplined industries, a Union will, so far as its finances are concerned, when fighting is necessary, henceforth have to fight with a halter round its neck.¹ *

¹ No mere pious declarations in the rules will protect a Trade Union from actions for damages, if wrongful acts are done by the Trade Union itself or by its agents acting within the apparent scope of their authority. The judges will

Ought the law to be amended? We say, at once, that Trade Unions would, in our opinion, not be warranted in claiming to have restored that complete immunity from legal proceedings which Parliament intended to confer upon them in 1871-76. We see no valid reason why, *if the law were put into a proper state*, Trade Unions should not be liable to be sued for damages in their corporate capacity, in respect of any injury wrongfully done by them or their agents to other persons. If, for instance, a Trade Union in its corporate capacity publishes a newspaper, it can hardly claim, as regards actions for libel, to be treated differently from any individual publisher of a newspaper. Nor can we see any justification for such an amendment of the Conspiracy and Law of Property Act, 1875, as would make lawful the only sort of picketing likely to be effective in keeping off blacklegs during a strike. Moreover, if a Trade Union violates its own rules, or does anything plainly outside their scope, there seems no ground for preventing any dissatisfied member from restraining its action by an injunction.¹ Finally, if a Trade Union or its official deliberately persuades or induces men to break legally binding existing contracts of service into which they have entered, the Trade Union deserves to pay damages. So far the recent interpretation of the law must, we think, be accepted. But Trade Unions have certainly a good claim to have their legal rights and liabilities clearly defined, and precisely and authoritatively set forth. At present the law is merely a trap in which any one of them may at any moment be caught. We may go further. So long as the community decides to let the conditions of the wage-contract be settled by bargaining, both parties must, in common fairness, be left equally free to protect their own interest by combined action, even if such combined action causes damage to the opponent or to others. It is a mockery of

go behind the rules, if necessary, and form their own conclusion as to the real intentions, purposes, and instructions of the executive committee or general secretary.

¹ *Amalgamated Society of Railway Servants for Scotland v. The Motherwell Branch of the Society.*

justice to tell the workmen that they are allowed to combine, and to strike, in order to exact better terms from their employers, and then to cast them in damages whenever they, in the exercise of this right, and without infringing the criminal law, cause damage to other persons. Every strike, like every other kind of war, necessarily causes damage to other persons—damage which the strikers can clearly foresee, and which the Legislature must as clearly have foreseen when it sanctioned the terms of labor being left to this kind of private war.¹ Moreover, every strike—as public opinion now keenly feels—causes injury to the community as a whole.² This may well be a reason for superseding strikes as a method of settling the terms of the contract of service. But it is not fair to the workmen to try indirectly to put down strikes by making the Trade Unions liable for damages for what is incidental to a strike. It is handing them over to the employers with their hands tied. Trade Unions have, therefore, a good claim for an alteration of the law.³

¹ "The third section of [the Conspiracy and Protection of Property] Act distinctly legalises strikes in the broadest terms, subject to the exceptions enumerated in the fourth and fifth sections."—Lord Chief-Justice Coleridge in *Gibson v. Lawson* (1891).

² Here lurks a danger to the Trade Unions of a revival of the old use of the criminal law against them. It is by no means clear that a conspiracy, neither contemplating nor committing any criminal act, but violating an actionable private right, may not in itself be a criminal offence, if the actionable private right is one in which the public has a sufficient interest. See p. 857.

³ It may be of service if we submit in precise form the draft of such a bill as Trade Unionists might properly press upon the Cabinet, members of Parliament, and candidates for that position.

A BILL ENTITLED AN ACT TO AMEND THE LAW RELATING TO TRADE DISPUTES

1. No agreement, combination, or conspiracy entered into by or on behalf of an association of employers or a Trade Union in contemplation or furtherance of a trade dispute, and no act committed in pursuance of any such agreement, combination, or conspiracy, shall be actionable, if such act would not be actionable if committed by one person without agreement, combination, or conspiracy of any kind, and if such agreement, combination, or conspiracy would not be indictable as a crime.

2. No act committed, and no agreement, combination, or conspiracy entered into, by or on behalf of an association of employers or a Trade Union in con-

However unlikely it may seem that our present Parliament would consent to effect such an alteration of the law as the Trade Unionists desire, we venture to point out that the existing position is not one that can endure. The two millions of Trade Unionists, comprising probably one-fifth of the national electorate, will certainly not consent to give up the enforcement of Common Rules determining standard minimum wages and other conditions throughout each trade. In this policy they will be supported by all working-class opinion, and will be acting in accordance with the teachings of economic science.¹ The alternative of free and unfettered Individual Bargaining—in which each workshop has its own peculiar working hours, its own standard of sanitation, and its own arrangements for preventing accidents, exactly as its owner chooses to prescribe, whilst each workman makes his own separate contract for each job with his own employer—has been proved, by a whole century of experience, to lead

temptation or furtherance of a trade dispute, shall be actionable by reason only of the motive for which it was committed or entered into, or of there being no lawful excuse or motive for such act, agreement, combination, or conspiracy.

3. No agreement, combination, or conspiracy by or on behalf of an association of employers or a Trade Union in contemplation or furtherance of a trade dispute shall be indictable as a crime if no act itself punishable as a crime is contemplated or committed, whether as means or end, by or in pursuance of such agreement, combination, or conspiracy.

4. The words "trade dispute between employers and workmen" in the third section of the Conspiracy and Law of Property Act of 1875 shall therein have the same meaning as "trade dispute" in this Act.

5. The words "association of employers" and "Trade Union" shall, for the purposes of this Act, both include any association of persons, whether registered or not, which attempts to regulate or influence any or all of the conditions of employment in one or more occupations, and shall also include any alliance, federation, or combination of two or more such associations.

6. The words "trade dispute" shall include any dispute, difference of opinion, or failure of agreement, existing or contemplated, between one or more employers or an association of employers, and one or more workmen or a Trade Union, or any alliance, federation, or combination of any of them, whether registered or incorporated or not, and whether or not such dispute, difference of opinion, or failure of agreement relates to the employment of any of the persons concerned, or to any pecuniary or other interest of any of them, and whether they or any of them belong to the same or different trades or places or societies.

¹ See Part III. Chap. i. "The Verdict of the Economists"; Chap. ii. "The Higgling of the Market"; and Chap. iii. "The Economic Characteristics of Trade Unionism"

to "sweating." The necessary Common Rules can be enforced only by two methods, Collective Bargaining and Legal Enactment. If Collective Bargaining, with its inevitable accompaniment of collective abstention from work and occasional stoppages of industry, is, by the judges' interpretation of the law, made impossible, or even costly and difficult, the whole weight of working-class opinion will certainly be thrown in favor of Legal Enactment. We do not ourselves deprecate this course, but whether Lord Penrhyn and the railway companies, the Shipping Federation and the engineering employers, would see any advantage in it seems to us doubtful.

We pass now to the second great change in Trade Union environment. Whilst in the United Kingdom the House of Lords has been making the Method of Collective Bargaining virtually inoperative, the Legislatures of the young and vigorous democracies of Australia and New Zealand have been proving how much more elastic, and how much more applicable to modern conditions than has hitherto been supposed, is the alternative Method of Legal Enactment. When we were writing in 1897, the legislation of Victoria and New Zealand was still in its first experimental stage, and but little was known of its actual working (see pp. 246, 488, 770, 776, 814). It has since been greatly extended in scope as experience has been gained, and it has been carefully described by both official and critical observers. We had ourselves, in 1898, the opportunity of seeing both the Victorian and the New Zealand systems at work, and we spent some time in watching and inquiring, among friends and foes alike, as to the actual results of the experiment. We are more than ever convinced that both Victorian and New Zealand statutes deserve favorable consideration by the employers and the statesmen, no less than by the workmen and the philanthropists of the Mother Country.

The Victorian legislation¹ is less well known in England

¹ The best account of the Victorian system and its actual working is the New South Wales Government *Report of Royal Commission of Inquiry into the Work-*

than that of New Zealand. By the Factories and Shops Act, 1896, after a series of vain attempts to put down "sweating" by other means, special "wage boards" were constituted in certain oppressed trades. These were empowered to fix a minimum standard wage for the trade, for both factory and outworkers, by time and by the piece; and also the maximum proportionate number of apprentices or improvers under eighteen years of age, and the minimum to be paid to them. The "Common Rules" thus prescribed for the trade became, in effect, part of the Factory Acts, and were enforced by the factory inspectors, like any other requirements of the Acts, by summary proceedings in the police courts. ✓

✓ This Act only related to six specially sweated trades, and applied only to Melbourne and its suburbs. In 1900, after four years' experience, the law was widened in all directions. The powers of the boards were extended so as to cover practically the whole colony. It was also provided that a board should be formed in any trade or business for which either House of Parliament had passed an approving resolution. It is significant of the appreciation of the law that no fewer than twenty-one more boards were at once constituted, in protected and unprotected industries alike, and many of them at the request of the employers in the trades concerned. This was the case, for instance, with the

ing of Compulsory Conciliation and Arbitration Laws (Sydney, 1901), by Judge Backhouse. The laws themselves can be best consulted in the convenient edition of the *Factories and Shops Acts*, by Harrison Ord (Melbourne, 1900). A succinct account of the system, with particulars of recent decisions by the boards, is given by Mrs. W. P. Reeves, in her chapter in *The Case for the Factory Acts* (London, 1901). See also an article by the Hon. W. P. Reeves in the *Economic Journal*, Sept. 1901, entitled "The Minimum Wage Law in Victoria and South Australia"; the annual reports of the Chief Inspector of Factories (Melbourne) for 1896-1900 inclusive; and the evidence given to the Royal Commission at present (December 1901) sitting to inquire into the results of the law. The report of this Commission, to be published shortly, will give us the most authoritative account of the working of the system. It should be added that the Victorian wage board clauses were, in December 1900, enacted almost word for word by the Legislature of South Australia.

✓ boards for the printers (compositors), carriage-builders, cigar-makers, coopers, engravers, saddlers, stonecutters, tanners, and others. ✓

✓ These wage-boards are composed of between four and ten representatives, half elected by the employers and half by the operatives in the particular trade. The board may choose its own chairman, who has a casting vote; and in many of the trades employers and employed have easily agreed upon a trusted outsider—a judge, a minister of religion, or a responsible government official. In case of disagreement the Government appoints a chairman, choosing usually an outsider of judicial character. The board then sets to work to determine what shall be the standard minimum rate of wages in the trade, and it is interesting to find that, after a more or less protracted but quite friendly “higgling,” the representatives have frequently been able to agree on their decision without invoking the chairman’s casting vote. The minimum rate thus fixed may be made applicable to any person or class of persons, factory hands or outworkers, by time or by piece; and it is expressly provided that the board is to take into consideration “the nature, kind, and class of the work, and the mode and manner in which the work is to be done, and the age and sex of the workers, and any matter which may from time to time be prescribed.” The board prescribes the maximum number of hours, usually eight, to be worked for the daily wage, and what minimum rate shall be paid for overtime, but does not actually limit the working time (which is limited by law only for women, miners, etc.). Power is reserved to the Chief Inspector of Factories to grant to aged or infirm workers a licence, for twelve months at a time, to work for less than the prescribed rates, and he may also do the same for young improvers without full experience. This provision was added in the 1900 Act, experience having shown both its necessity and its practicability. It should be added that the members of the boards receive from public funds a payment of ten shillings for a full day’s

session, and five shillings for a half-day's session, the chairman receiving double pay. ✓

✓ Under this Act a legal minimum wage has, in certain trades, been fixed and enforced for five years, and in many other trades for a shorter period. Thus, the minimum weekly wage for tailoresses was fixed, to begin with, at twenty shillings a week, that for shirtmakers at sixteen shillings, and that for adult male boot and shoe operatives at forty-two shillings, these time rates being in each trade also translated into equivalent piecework lists. These wages were considerably above what many of the operatives had previously been receiving, but notwithstanding this fact neither the volume of trade nor the employers' profits appear to have been affected. We could not ascertain that there had been, up to 1898, any diminution of employment in the trades concerned; on the contrary, the numbers at work had certainly increased. We could find no evidence that prices had risen, and we were informed by employers that they had not done so. Nor were the employers themselves dissatisfied with the result. The explanation of the paradox lies, as we satisfied ourselves, in the very significant fact that, when the employers found themselves compelled to pay a standard wage to all whom they employed; they took care to make the labor as productive as possible—they chose their workers more carefully, kept them fully employed, introduced new processes and machinery, and in every way made the industry more efficient. The effect of stopping competition of wages is, as Mundella from practical experience pointed out over thirty years ago (see p. 723), to concentrate it upon efficiency. The whole experience of the Victorian wage-boards, alike in their successes and in their failures, confirms our analysis of the economic results of the Common Rule (pp. 715-39).¹

¹ It should be stated that this Act, like all factory and sanitary laws, has absolutely failed to become effective among the Chinese. Experience in Victoria, as elsewhere, seems to show that it is impossible to enforce any form of the "National Minimum" on a Chinese population in a white city—a fact of extreme significance in the question of the desirability of their admission or exclusion.

What the Victorian law does is, in effect, to compel employers and workmen to formulate, by common consent, minimum conditions for their own trade, which can be altered when and as required, but which are for the time being enforced by law. No employer is compelled to continue his business, or to engage any workman; but if he chooses to do so, he must, as a minimum, comply with these conditions, in exactly the same way as he does with regard to the sanitary provisions of the Factory Acts. No workman is compelled to enter into employment or forbidden to strike for better terms, but he is prevented from engaging himself for less than the minimum wage, exactly as he is prevented from accepting less than the minimum sanitation. The law, in fact, puts every trade in which a wage-board is established in the position of the best organised industries in this country, where every firm and every workman finds the conditions of employment effectively regulated (as regards a minimum) by a collective agreement—with the added advantages that in Victoria the enforcement of the Common Rules becomes the business of the professional factory inspector; that no individual can break away from the agreement; and that no strikes, picketing, or other disorderly proceedings are ever needed to maintain its operation. This seems to us a distinct advance on the anarchic private war to which the settlement of the conditions of employment is otherwise abandoned.

It is obvious that the Victorian system brings greater advantages to the weaker trades than to those strongly organised. This, to our mind, is one of its merits. The pressing need in the England of to-day is not any increase in the money wages of the better-paid and stronger sections of the wage-earners, but a levelling up of the oppressed classes who fall below the "Poverty Line." The boilermakers in the shipbuilding towns, the Lancashire cotton-spinners, and the Northumberland coalminers may do by their own strength (though not without the cost of constant friction and occasional disastrous wars), as much as or more than any such

law could do for them. But the unskilled laborers, the operatives whose organisation is crippled by home work, and the women workers everywhere, can never, in our opinion, by mere bargaining, obtain either satisfactory Common Rules or any real enforcement of such illusory standards as they may get set up. We think that experience in this and other countries confirms the economic conclusion that there is no way of raising the present scandalously low Standard of Life of these classes, except by some such legal stiffening as that given by the Victorian law.

We do not suggest that the Victorian law is by any means perfect. It is reported, no doubt correctly, that it is evaded and disobeyed in particular cases, as is also the law against theft and murder, but this we do not count as a serious objection to it or any other law. The Chief Inspector's licences to work under price are liable to abuse, but honestly worked as the system now is, we do not regard this exceptional treatment of workers actually incapable of "a fair day's work" as any drawback. It is anomalous that the wage-boards should not be able to frame Common Rules as to the maximum working hours and the many conditions of employment other than wages. More serious is the attempt to limit the number of apprentices, which—in spite of the action of Lord James in the English boot and shoe manufacture (pp. 482-89)—we think wholly inexpedient and prejudicial. We doubt, moreover, whether it will be found possible, in the long-run, to work a system of separate boards for the innumerable separate and often badly defined trades. Finally, we object to the retention, as the basis of the whole law, of the old conception that the amount of the wage in each trade is a matter for each trade to settle exclusively for itself, without regard to the interests of the community. In our view, the real justification for the interference of the law is the injury to the community as a whole that results from any form of industrial parasitism—from the payment, for instance, of wages insufficient for the full maintenance, under healthy conditions, of the workers and

their families. We should, therefore, have preferred an explicit statement of this principle by the Legislature, exactly as is done in the Factory Acts with regard to certain other conditions of employment, together with a definite statutory minimum wage and maximum normal day, determined by physiological considerations, and not to be infringed by any trade whatsoever.¹ It would then have been possible to have limited the formation of wage-boards to those occupations in which the operatives were alleged to be working under conditions in any respect worse than those of the "National Minimum"—a much more limited task than that of fixing standard rates in all industries whatsoever—and to have confined their scope to the comparatively easy duty of applying the statutory minimum to the particular circumstances of those trades.

It is interesting to notice that, although New Zealand² attacked the problem from the other end, aiming primarily at preventing strikes, this has worked out, in practice, to the Victorian solution of enforcing by law certain definite minimum conditions of employment throughout each trade. By the Industrial Conciliation and Arbitration Act of 1894, now superseded by the consolidating Act of 1900, a complete system of industrial tribunals was established, and empowered to deal with labor disputes of all kinds. Taking the law as it now stands, we find, in each of the seven districts into which the Colony is geographically divided, a

¹ The obvious difficulties in the way of such a minimum are dealt with at pp. 774-95.

² The latest and most impartial account of the New Zealand system is the New South Wales *Report of Royal Commission of Inquiry into the Working of Compulsory Conciliation and Arbitration Laws* (Sydney, 1901), by Judge Backhouse. The Hon. W. P. Reeves (Agent-General in London for New Zealand), who devised and carried through the Act of 1894, has graphically described its working in *The Long White Cloud* (London, 1899) and other works; and in elaborate detail in his *Experiments of Seven Colonies*, shortly to be published. See also *A Country without Strikes* and *Newest England*, both by H. D. Lloyd; and *Le Socialisme sans Doctrines*, by Albert Métin. For the ablest hostile criticism of the law, apart from mere theoretical denunciations, the student must be referred to the series of articles in the *Otago Daily Times* for September 1901, by Dr. John Macgregor.

local Board of Conciliation, composed of two members elected by the registered Employers' Associations and two by the registered Trade Unions, with a chairman chosen by themselves. In default of election of members or chairman, the Government appoints. This Board does not initiate any proceedings, but deals with any local industrial dispute, whatever the trade, which may be referred to it by a Trade Union, an Employers' Association, or a single employer. Immediately any dispute has been, by either party, so referred to the Board, anything in the nature of a strike or lock-out is expressly prohibited, under penalty of £50. The Board has authority to make full inquiry into the circumstances, except that it cannot compel the production of books. It then makes suggestions for a settlement. If these suggestions are accepted by both parties, they are embodied in an "industrial agreement," which may be made unalterable for any specified term not exceeding three years, and which in any event binds the parties until it is superseded by any new agreement or award. Every such agreement is now enforceable by legal process, with the same effective authority as if it had been enacted as a law. If the parties will not agree the Board is to make a definite "recommendation" as to what, in its opinion, ought to be the settlement. Any dissatisfied party may thereupon, within a month, carry the case to the Court of Arbitration. Failing such an appeal, the Board's "recommendation" becomes binding on the parties as if it were an industrial agreement.

The Court of Arbitration consists of three members appointed by the Government: the president, a judge of the Supreme Court; and two persons recommended by the Employers' Associations and Trade Unions respectively. This Court has the full powers of an ordinary court of justice to investigate any case brought before it by way of appeal from the "recommendation" of a Board of Conciliation; and is free to act according to "equity and good conscience" without being bound by legal pedantries. It makes an award in such terms as it thinks fit, extending, it may be,

to a whole trade, either in a specified district or throughout the Colony, and including at its discretion any related or competing industry. The penalty for breach of the award may be any sum not exceeding £500 on an association, for payment of which the members of the association are made liable individually up to £10 each. Thus, once any dispute is referred to a Board of Conciliation, either by a Trade Union or an employer, it is certain to lead, either by agreement of the parties, or by their acceptance of the "recommendation" of the Board, or else by the authoritative award of the Court of Arbitration, to the enactment of legally binding "Common Rules" for the trade, which continue in force until they are varied by subsequent proceedings of a similar character.¹

The evolution of the New Zealand system, from 1894 to 1900, appears to us to be full of instruction. In its first

¹ How extensive is the scope of the authority of these tribunals may be seen from the definition of their sphere. They are to settle all disputes about "industrial matters," and

"'Industrial matters' mean all matters affecting or relating to work done, or to be done by workers, or the privileges, rights, and duties of employers or workers in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and without limiting the general nature of the above definition, includes all matters relating to—

- "(a) The wages, allowances, or remuneration of workers employed in any industry, or the prices paid or to be paid therein in respect of such employment.
- "(b) The hours of employment, sex, age, qualification, or status of workers, and the mode, terms, and conditions of employment.
- "(c) The employment of children or young persons, or of any person or persons, or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein.
- "(d) The claim of members of an industrial union of employers to preference of service from unemployed members of an industrial union of workers.
- "(e) The claim of members of industrial unions of workers to be employed in preference to non-members.
- "(f) Any established custom or usage of any industry, either generally or in the particular district affected.

"'Industry' means any business, trade, manufacture, undertaking, calling, or employment in which workers are employed.

"'Worker' means any person of any age or either sex employed by any employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry."—*Act of 1900.*

form, the law aimed ostensibly and primarily at affording means by which labor disputes could be amicably composed, and, in case of need, compulsorily settled by an award, which might, if certain steps were taken by the parties, be made enforceable by legal process. The local Boards of Conciliation failed, in two-thirds of the cases brought before them, to bring about any settlement, one party or the other promptly carrying the issue to the Court of Arbitration. This seems to have been due partly to the employers' dissatisfaction with the composition of the Boards, to which they had at first refused to elect members. But it soon became evident that the workmen valued the Court of Arbitration more than the Boards, for the very important reason that the award of the Court could be made legally binding on the trade, which was, until 1900, not the case with any decision of a Board. The Trade Unions, at first somewhat cold, became enthusiastic supporters of the Act when they found that, instead of merely preventing strikes, it enabled Common Rules for the industry to be made as legally binding as the Factory Acts. They became, in fact, as Mr. Reeves, the author of the law, admits, "rather too enthusiastic indeed, for they have shown a tendency to make too frequent a use of it."¹ Every trade sought to get its Common Rules embodied in law. This, however, is a rush which will probably exhaust itself as trade after trade finds its conditions settled by an authoritative award, which will, in any case, need amendment only on specific points, and may be made unalterable for a three years' term. The result is, to use the words of a bitter opponent, "it is necessary to put aside altogether the idea that our Act is simply a device for preventing strikes. It is nothing of the kind. It is a device for putting the regulation of trades, occupations, and industries under the control of a statutory court."²

Nor do the employers object. At first they usually

¹ *The Long White Cloud.*

² Dr. John Macgregor, of Wellington, New Zealand.

stood aloof, allowed the Government to appoint their members to the Conciliation Boards in default of election, and practically ignored the Act. But this attitude was given up on better acquaintance with the law and its working. After a time the great majority of employers openly professed their approval of the principle of the Act, and their satisfaction with the Court of Arbitration. One great captain of industry, who had been badly beaten in the Court of Arbitration, and compelled to accept an award which he bitterly resented, candidly confessed to us in 1898 that he had since found that the peace and assurance of peace given by the award, together with the certainty that he was not being undercut by rival employers, quite made up to him the increase of wages he had been compelled to pay. He could now, he said, "sleep at night," confident that there would be no interruption of his business. The enactment of Common Rules for each trade has, in fact, been discovered, in practice, not only to increase productivity, but also to leave unaffected the opportunities of particular employers to reap the full advantage of their position, connection, or capacity. And thus we find, to give only one instance, when the Act of 1900 was before the Legislature, with its express authorisation of the enactment of a Legal Minimum Wage, "the Canterbury Employers' Association," one of the most influential bodies in the Colony, desiring "to impress upon the Government that they are thoroughly in accord with the principles laid down in the Conciliation and Arbitration Act. Any hostility they may have shown in the past was mainly due to the fact that the Act was made to apply to a certain section of the industrial community only. The Government now propose to remove this, and if the Bill now before the House is amended in the direction suggested by the Association, they are strongly of opinion that it would be impossible to conceive of a more useful measure, properly administered, that would prove of such immense benefit to all sections of the industrial community."

It is, however, not strictly accurate to say that the Act

has prevented all strikes. There have been about half a dozen small strikes in New Zealand since 1894, but they have all been among workmen to whom the Act had not, at the time, been applied. If there is no industrial agreement or award in force in any trade, a strike may still occur, but it can be stopped at once if the employer chooses to apply to the local Conciliation Board. The operatives cannot approach the Board except in the capacity of a Trade Union or registered "industrial association," so that, in absolutely unorganised trades, in which the employers prefer not to apply to the Board, disputes may still take place. As, however, any seven workers in any occupation may form a registered association, the case is now of rare occurrence. There has at no time been a strike in contravention of an award under the Act. "It is hardly necessary to point out," writes Judge Backhouse, "that the Act makes no attempt to insist on an employer's carrying on his business, or on a man's working under a condition that he objects to. All it says is that, where a Board or the Court has interfered, the business, if carried on at all, shall be carried on in the manner prescribed; if the workman works, he shall work under the conditions laid down. There is nothing to prevent a strike in detail; nothing which will preclude a man from asking for his time [*i.e.* wages earned] and leaving." That is to say, the conditions of employment imposed by the New Zealand Court, like those of the Victorian wage-boards, become binding on the employers only as standard minimum conditions, analogous to those of the Factory Acts. By the end of 1901, after seven years' experience of the system, with the one exception of agriculture, all important industries, whether protected by the tariff or not, including coal and gold mining, the mercantile marine, the building, textile, and engineering trades, printing, the railway service, sheep-shearing, meat-freezing, and many minor occupations, have brought themselves voluntarily within the scope of the law. We can only add our personal testimony to that given by every careful investigator into the circumstances of New Zealand, that there

is, so far, no evidence of injury to its industrial prosperity; that after seven years' trial, there is no party—scarcely even any section of a party—advocating or desiring the repeal of the law; that it is, on the contrary, almost universally approved of by employers as well as workmen; and that there is every indication that its operation has been of great and enduring benefit to the community as a whole. The world is certainly indebted to New Zealand—and, in particular, to Mr. W. P. Reeves—for an original and highly significant object lesson in labor legislation. It may be added that New South Wales and Western Australia, after elaborate investigation and prolonged discussion, enacted, in 1900-1901, laws following closely the text of that of New Zealand.

✓ The differences between the Victorian and New Zealand systems are full of interest. In Victoria the wage-board, once established, itself takes the initiative, and immediately sets to work, without waiting for a dispute, to frame Common Rules for the whole trade. The New Zealand tribunals cannot themselves initiate proceedings, and must wait until a dispute—which means, in practice, a mere refusal by employer or Trade Union of the other's request—is expressly referred to them. But once any occupation in New Zealand has come under an industrial agreement or an award, though the terms may be indefinitely varied from time to time, some "Common Rules" for the trade will practically always exist. In Victoria, again, the award of the wage-board can never be anything but a *minimum*. It can contain nothing to prevent an employer from offering better terms, or a Trade Union from striking to get better terms. In New Zealand the law originally contained no mention of a minimum wage, and though this is now expressly authorised by the statute, there is theoretically nothing to prevent the tribunals (like the justices under the Elizabethan statutes) from enacting precise rates or conditions, which would be *maxima* as well as *minima*, forbidding employers to offer more, and binding the Trade Union not merely to abstain from a strike, but also to refrain from collectively asking for better terms, or conspiring to obtain ✓

them by a concerted refusal to renew contracts of service. In practice, however, the New Zealand awards are always worded as minima, not as maxima—a distinction which we regard as vitally important to the interest of the community, as well as to that of the wage-earners, as the enactment of any maximum discourages efficiency and stops all progress. There is, in fact, no real difference between the Colonies on this point, as it was, from the first, taken for granted in New Zealand that the agreements and awards must take the form only of minimum conditions, seeing that any individual workman above the lowest grade of efficiency could, even with a maximum, always have resorted to the "strike in detail" as a means of enforcing his "rent of ability." The point is, however, of such vital importance that we should prefer to see the tribunal expressly limited to the enactment of minimum, not maximum conditions. A more practical difference between the two Colonies is that, in Victoria, the enforcement of the prescribed minimum becomes the duty of the Government, through its factory inspectors, and breaches of the award are proceeded against, at the public expense, in the police courts. In New Zealand the enforcement of the award is left to the vigilance of the parties concerned, and the necessary legal proceedings are at their own expense, and take place only in the Court of Arbitration. In Victoria each trade must have its own board, which now acts for the whole of that trade throughout the Colony. In New Zealand, though there is provision for the appointment, by way of exception, of special boards for particular cases, this has not been taken advantage of, and each district has its own local board, dealing with all the trades in that district, whilst a single Court of Arbitration deals with all trades all over the Colony. Finally, we have the highly significant difference that, whereas in Victoria the settlement of the conditions of employment is regarded as entirely a matter for the trade concerned, without opportunity of appeal, in New Zealand they are dealt with by tribunals of first instance and a court of appeal, both

representing, not the trade concerned, but the community as a whole, and thus charged to have regard to the paramount interest which the public has in the maintenance and progressive advance, alike of the operatives' Standard of Life and of industrial productivity. It is the conscious adoption of this latter principle, by public opinion and the Legislatures of three such important states as New Zealand, New South Wales, and Western Australia, that we regard as the most important feature of these proceedings.

We venture to forecast some of the changes in Trade Union structure and function which will be brought about by these alterations in its environment. First and foremost we anticipate a change among Trade Unionists in their appreciation of the relative merits of Collective Bargaining and Legal Enactment (pp. 253-57). Collective Bargaining necessarily implies the alternative of a collective refusal to come to terms, that is to say, a strike or lock-out. But the decisions of the judges go very far in the direction of making a strike impossible. A Trade Union may, it is true, still lawfully conduct a strike, provided that it is carried out without a breach of the peace; without threatening any employer that his business will be temporarily brought to a standstill; without causing any damage to third parties; without publishing anything that, though true, is technically libellous; without obstructing the thoroughfare, or "watching and besetting" any place; and without even any two men trying, in concert, peacefully to persuade a blackleg to remain loyal to his order. There may be a few Trade Unions, such as the Lancashire Cotton-spinners, the Northumberland Coalminers, or the ship-building Boilermakers which (able as they are to enforce compulsory membership on all persons working at the trade, and so highly skilled as to be incapable of being replaced) could successfully conduct a strike under these conditions, without finding their funds denuded by law expenses and damages. But the vast majority of Trade Unions comprise only a part of the workers in their trades,

and in many cases it would be possible, in an emergency, for the employers to get workers of other trades to replace them. With Trade Unions of this kind every strike inevitably leads to proceedings which, though not criminal, may now be held actionable. Moreover, Trade Unions are becoming every day more conscious of the fact that, for the great mass of manual workers who exist below the "Poverty Line," even this amount of collective action is impracticable. To the underfed, badly housed, and overworked man or woman, deprived of the leisure as well as of the strength necessary for organisation—to the isolated outworker or assistant in the small workshop—Collective Bargaining is wholly and for ever out of the question. All these considerations are cutting at the root of that buoyant faith of the older Trade Unionists in the abstract "right of combination," by which they meant the right to a free fight with the employers. On the other hand, the success of the Colonial experiments is rapidly opening the eyes of English employers and workmen to new ways of using the Method of Legal Enactment, and new advantages of its application. For instance, the word "arbitration" has, in the course of four years, completely changed its common meaning. When we wrote our chapter on Arbitration (pp. 222-45) we could still use the term exclusively for a voluntary recourse to a voluntarily chosen tribunal whose award was only voluntarily accepted. Now arbitration in labor disputes has come to mean, in most people's minds, merely a particular form of social machinery by which the conditions of employment can be authoritatively settled, and strikes prevented, whether individual employers or individual workmen like it or not. The interesting differences between the systems of New Zealand and Victoria, with their equally interesting imitations in New South Wales, Western Australia, and South Australia, show how elastic and how closely applicable to the details of each trade and town the once rigid law may be.

Passing now from the "methods" to the "regulations"

of Trade Unionism, we look for even greater changes. Our analysis of these regulations showed that they fell, for all their multifariousness, into two classes—the Device of the Common Rule and the Device of Restriction—classes which are sharply marked off from each other, which rest on absolutely different assumptions, and which are mutually contradictory in their social results. We showed that economic science found nothing to condemn in the Device of the Common Rule; that, in fact, in all regulations based on this principle—notably those relating to the Standard Rate, the Normal Day, and prescribed conditions of Sanitation and Safety—Trade Unionism positively promoted efficiency, stimulated both workmen and employers to greater productivity, and tended constantly to improve both human character and technical processes. On the other hand, we demonstrated that the regulations based on the Device of Restriction—whether of numbers or output, whether in the use of machinery or in transformation of processes—were wholly injurious not only to the trade concerned and to the community as a whole, but also to the manual worker himself. It is to be counted as one of the great merits of British Trade Unionism that it has, during the past hundred years, with practically no outside assistance, been steadily subordinating and discarding the Device of Restriction, which it had inherited partly from the regulations of the Craft Gilds and partly from the instincts of unorganised hired labor; substituting for it, as we proved with reference to trade after trade, its own characteristic invention of the Device of the Common Rule. Already, in 1897, we were able to show that the Device of the Common Rule was, in British Trade Unionism, both the predominant and the growing element, whilst the Device of Restriction lingered only in a minority of trades, in which it was becoming steadily more discredited.

This eminently desirable tendency will now, it is clear, receive a great stimulus. Public opinion so keenly appreciates the danger of German and American rivalry in

industry, and international competition is becoming so intense and all-pervading, that every kind of limitation or restriction of productive power is seen to be almost criminal. What with law and popular disapproval, and the better instruction of the workmen themselves, to which Trade Unionism has so much contributed, we expect to see the remnants of the Device of Restriction—especially all forms of Restriction of Numbers—rapidly disappear from the Trade Union world. Restriction of effort, and reluctance to make the most of machinery—already extinct in the trades governed by collectively-agreed-to Standard Lists of Piecework Prices—will linger longest in those occupations in which either timework or competitive piecework survives, and in which the employers refuse or neglect to set their brains to work, in conjunction with the Trade Union officials, to devise more intelligent methods of remuneration. In such trades employers and workmen alike will continue to suffer the consequences of their own stupidity.

On the other hand, the decisive approval which economic science gives to the Device of the Common Rule is reinforced by the growing public appreciation of the national importance of preventing every kind of "sweating." As a nation we are becoming keenly conscious of the fact that the existence of whole classes who are chronically underfed, ill-clothed, badly housed, and overworked, constitutes not only a grievance to these unfortunates themselves, but also a serious drain upon the vitality and productivity of the community as a whole. The only effective way to prevent the national loss involved in the existence of "parasitic trades" is seen to be the compulsory extension to them of those Common Rules which the stronger trades have got for themselves. The idea of a compulsorily enforced "National Minimum"—already embodied in our law as regards sanitation and education—is now seen to be applicable as regards rest and subsistence. And just at the time when the successful experiments of Victoria and New Zealand have been proving to us that a Legal Minimum

Wage is not at all an impossibility, and that it actually works, and works well, there comes the new Act of the New South Wales Legislature, with its express adoption of the principle, under the very name that we invented for it four years ago. By this statute, passed in December 1901, at the instance of Mr. Bernhard Wise, the Court of Arbitration is empowered to declare that any practice, usage, condition of employment, or industrial dealing shall, with such limitations and exceptions as the Court may declare, become a "Common Rule" for all persons employed in the industry under consideration, to be henceforth obeyed by every employer, and to be enforced by drastic penalties.

One probable application of the policy of the National Minimum seems to us so urgently required for national safety, that we give it special prominence. Perhaps the gravest social symptom at the opening of the twentieth century is the lack of physical vigor, moral self-control, and technical skill of the town-bred, manual-working boy. In the industrial organisation of to-day there are hundreds of thousands of youths, between fourteen and twenty-one, who are taken on by employers to do unskilled and undisciplined work, at comparatively high wages for mere boys, who are taught no trade, who are kept working long hours at mere routine, and who are habitually turned adrift, to recruit the ranks of unskilled labor, as soon as they require a man's subsistence (pp. 482-85, 704-15, 768-69, 811). We see four acute evils arising out of the existence of this class. Ministers of religion deplore the "hooliganism" of our great cities. No less serious is the physical degeneracy, which is leading our military advisers to declare that 60 per cent of the adult male population now fail to reach the already low standard of the recruiting sergeant. At the same time, there is a constant deficiency in the supply of highly skilled labor, whilst all educationists agree that it is impossible to give adequate technical training with such voluntary attendance as can be got from lads after ten or twelve hours' employment (p. 770). Finally, in this suppression of the adult male

operative by successive relays of boys between fourteen and twenty-one, we have, as we have shown (pp. 482-89, 768-71), one of the most insidious forms of industrial parasitism. From the point of view of the community, we cannot afford to regard the growing boy as an independent wealth-producer, to be satisfied by a daily subsistence: he is the future citizen and parent, for whom, up to twenty-one, proper conditions of growth and training are of paramount importance. Every industry employing boy-labor, and not providing adequate physical and mental training, is using up the stock of the nation, and comes under condemnation as a parasitic trade (p. 771).

Now, although philanthropists and statesmen have explored this complex evil, no systematic treatment of it has yet been undertaken. The Trade Unions, to whom it presents itself primarily as the increase of "boy-labor," have found no better device against it than the so-called "apprenticeship" regulations (pp. 482-89). But the old system of individual apprenticeship to the master craftsman, with its anomalous restrictions of age and number, and its haphazard amateur instruction, is, as regards nearly all trades, dead and past reviving. Any attempt to resuscitate it inevitably takes the form of a mere limitation of numbers, or other narrowing of the entrance to a trade—a policy which, as we have demonstrated, does not cure the evil, and is seriously prejudicial to masters and men alike, to the trade itself, and to the whole community (pp. 454-89, 768-71). Unfortunately, this limitation of the number of apprentices has now been embodied in both New Zealand and Victorian law, and we desire therefore to draw pointed attention, not only to the utter futility of this device, but also to the existence of a more excellent way.

We see no remedy for the grave social evils resulting from the illegitimate use of boy-labor, and the consequent industrial parasitism, except in an appropriate application of the Policy of the National Minimum (pp. 770-71). The nation must, at any inconvenience, prevent such conditions of employment of boys as are demonstrably inconsistent

with the maintenance of the race in a state of efficiency as producers and citizens. As regards youths under twenty-one the community is bound, in its own interest, to secure for them, not as at present, daily subsistence and pocket-money, but such conditions of nurture as will allow of the continuous provision, generation after generation, of healthy and efficient adults. What is required for the "hooligan" is adequate opportunity for physical culture and effective technical training, and the systematic enforcement of these by law. This means, we suggest, an extension of the existing "half-time" system. We see no reason why the present prohibition to employ a boy in a factory or workshop for more than thirty hours in a week should not be extended to all occupations, and at least up to the age of eighteen. The twenty or thirty hours per week thus saved from industrial employment should be compulsorily devoted to a properly organised course of physical training and technical education, which could, under such circumstances, be carried out with a thoroughness and efficiency hitherto undreamt of. Meanwhile employers would remain free to engage boys, but as they could get them only for half-time, they would not be tempted to hire them except for the legitimate purpose of training up a new generation of craftsmen. Finally, we may add that if at any time it should be deemed necessary for the purpose of home defence to have the nation trained to arms, a mere extension of such a *half-time* system to the age of twenty-one would enable every citizen to be drilled and taught the use of the rifle without the slightest interruption of wage-earning or any segregation in barracks. We suggest that the "citizen-army" of the future will, in the United Kingdom, more probably take this form than that of conscription by ballot or any universal military service for one or two years at a stretch.

SIDNEY AND BEATRICE WEBB.

41 GROSVENOR ROAD, WESTMINSTER,
LONDON, *December 1901.*

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