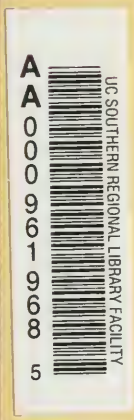

Eliot

A Remedy for Industrial Warfare

Department of Social and Public Service

Social Service Series Bulletin Number 4

A Remedy for Industrial Warfare

By

Charles W. Eliot

Published for free distribution

American Unitarian Association

25 Beacon Street, Boston

SOCIAL SERVICE BULLETIN

The purpose of the Bulletin is to offer suggestions for the conduct of work for the common good in our churches, and also to give circulation to articles of value on different phases of the social question,—some original contributions, and others reprints from the magazines and the reports of various societies.

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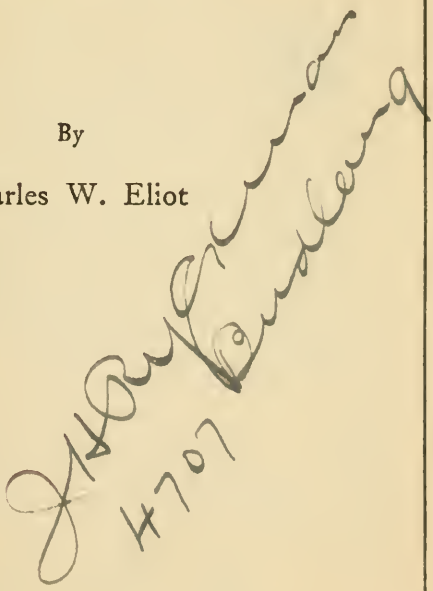

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Prefatory Note

From the very beginning of the factory system in the United States there have been serious differences between capital and labor. Strikes, lockouts and boycotts have been common, and these struggles between employer and employed are nothing less than industrial war, costing the combatants huge sums of money, and often causing the innocent and inoffensive public great distress and excessive inconvenience. Of late years the situation has become so intolerable that governments the world over have been seeking ways of escape. In 1907 Canada passed what is known as the Industrial Disputes Investigation Act, which has proved to be a most effective means of settling industrial conflict. In view of the chaotic labor conditions existing in the United States this Canadian Act should receive careful attention, to see if its policies are not as applicable here as on the other side of the border. President Eliot's article is a clear and convincing exposition of its value to all concerned, employer, employed, and the suffering public.

E. S. F.

A Remedy for Industrial Warfare*

The Canadian Act for the maintenance of industrial peace in all public utilities, including mines, went into effect on the 22d of March, 1907, and had therefore been in operation two years at the close of March, 1909. The results of proceedings under the Act ought to be very interesting to the American public; because it is obvious that in the United States industrial peace is not steadily maintained in all public utilities, and that, in consequence, the public suffers, both directly in actual loss of money and in deprivation of almost indispensable services, and indirectly in arrest or disturbance of business, and in the anxiety of mind which violations of public peace always cause to multitudes of persons who have no interest in the disputes. The recent strikes on the Philadelphia street railways and on the Georgia railroad illustrate the barbarous condition of American society in these respects, and the urgent need of adopting some means of diminishing the number of strikes and lockouts which arrest the

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operation of public utilities and cause violations of public order.

The chief feature of the beneficent Canadian Act called the Industrial Disputes Investigation Act was the requirement that, in the event of a dispute arising in any industry known as a public utility, it should be illegal to resort to a strike or lockout until the matters in dispute had been made the subject of an investigation before a Board of Conciliation and Investigation, to be established under specified rules by the Canadian Minister of Labor. Under this Act, either party to a dispute may apply for the appointment of a Board of Investigation. Each of the two parties to the dispute may nominate one member of the Board, and these two may select the third who serves as chairman of the Board of three. If either party fails to nominate a member, the Minister of Labor appoints that member; and if the two members fail to agree upon the third member, the Minister appoints the third member. The Board will therefore inevitably be constituted, and will go to work, if either party to the dispute applies for an investigation. The proceedings of every Board appointed and its final report are published throughout the Dominion in the most complete manner.

During the two years from March 22, 1907, to the end of March, 1909, fifty-five applications were re-

ceived for the appointment of Boards, under which forty-nine Boards were set up. In the remaining six cases the disputes were settled, either during the discussions arising out of the application, or during the formation of the Board; but these six cases of prompt settlement are obviously due to the influence of the Act — that is, to the prospect of complete publicity with regard to the causes of the dispute and the claims of the disputants. The fifty-five applications were distributed as follows:— Concerning mines and smelters, 30; concerning transportation or means of communication, 23; concerning disputes in industries which were not public utilities, 2. In these two cases, both parties to the industrial dispute applied for an investigation, the Act providing that its benefits may be extended to industries other than public utilities, if both parties, instead of only one, make application for the establishment of a Board.

Ninety-six per Cent of Strikes Avoided or Ended

On the fifty-five applications received, strikes were avoided or ended in twenty-five coal mines, and four metalliferous mines; in fifteen railroads and three street railways; in two bodies of 'longshoremen; in one body of teamsters, and in one body of sailors; and in two industries not public utilities. There were two cases in which strikes were not averted or

ended. Only two cases, therefore, out of fifty-five ultimately resulted in strikes, these two strikes being in perfect accordance with the wise terms of the Act, which permit owners to lock out their men and workmen to strike *after* the public investigation has been completed and its results published.

The details of these two exceptional cases are highly interesting.

A coal mine strike occurred in 1907 among the employees of the Cumberland Railway and Coal Company at Spring Hill, Nova Scotia, concerning the rates of payment for certain portions of the miners' work which did not directly yield coal, such as pillar work. The Investigation Board appointed for this case could not agree, the majority report being signed by the chairman and the member nominated by the employers, the minority report by the nominee of the employees. The recommendations of the Board were not accepted by the employers. The strike which was threatened prior to the application for the Board on May 8th was averted for the time being, but took place on August 1st, continuing until October 31st, when the employees returned to work on the conditions recommended by the majority of the Board.

The other strike which was not prevented occurred among the employees in the mechanical departments of the Canadian Pacific Railway Company. Here,

again, the Board did not present a unanimous report. The majority of the Board made certain recommendations for the settlement of the dispute which were accepted by the company with some demur. The employees refused to accept the findings of the Board, and ceased work on August 5th. They returned to work on October 5th, accepting finally the recommendations of the majority of the Board.

In this case, the tribunal was made up, first, of the representative nominated by the employees, secondly, of a representative appointed by the Minister of Labor with the consent of the employers, and thirdly, of the chairman, who was appointed by the Minister in the absence of a joint recommendation by the two members first appointed. In the former case, that of the Cumberland Railway and Coal Company and its employees, both the workmen and the company were represented on the tribunal by their own nominees; but the chairman was appointed by the Minister, because the two members first appointed could not agree on a joint recommendation.

Controversies Involved Tens of Thousands of Employees

The question naturally arises whether these Canadian disputes were on a large scale or a small; whether they directly affected a large number of

persons or only small groups; and whether the general welfare of the community was seriously threatened by any of them. May it not have happened in Canada that these quarrels were insignificant as regards the number of persons affected?

The official reports (see the *Labor Gazette,* issued monthly by the Department of Labor, Ottawa, April, 1909, pp. 1080–91) make it plain that some of these disputes were serious, affecting directly large numbers of persons and indirectly threatening the common welfare. Among the strikes in mines may be mentioned that on the Cumberland Coal Company, with seventeen hundred men concerned; that on the Crow's Nest Pass Coal Company, in which eighteen hundred men were involved; that on the Dominion Coal Company, January 4, 1908, with seven thousand men affected; that on the Nova Scotia Steel and Coal Company, with seventeen hundred and fifty men affected; and that on the Dominion Coal Company, on March 4, 1909, with three thousand men affected. Among the disputes in transportation companies, the most important were the Grand Trunk Railway of Canada and its locomotive engineers, with thirteen hundred men affected; the Canadian Pacific Railway Company and railroad telegraphers, with sixteen hundred and fifty-six men affected; the Canadian Pacific Company and carmen employed on the eastern lines of the company, with twelve hundred and fifteen

men affected; the Canadian Pacific Railway Company and the men in its mechanical departments, with eight thousand men affected; the Canadian Pacific Railway Company and its railway telegraphers, with sixteen hundred and five men affected; the Canadian Pacific Railway Company and its firemen and engineers, with seven thousand men affected; the Shipping Federation of Canada and the 'longshoremen of Montreal, with fifteen hundred men affected. These were all serious disputes affecting large numbers of persons and the general welfare.

The last case mentioned illustrates first a violation of the Act and then its successful application. On May 13th the 'longshoremen went on a strike, notwithstanding the provisions of the Act. On May 15th the Secretary of the Department of Labor went to Montreal and explained the provisions of the Act to both parties to the dispute. As a result, the employees returned to work, agreed to refer the dispute to a Board to be appointed under the Industrial Disputes Investigation Act, and made a formal application for the establishment of a Board. The employing companies withdrew on May 18th the application they had made on May 15th for the appointment of a Board. In the end the employing companies accepted the recommendations of the Board which the 'longshoremen had asked for; but the 'Longshoremen's Union did not formally accept

them. Nevertheless, the members of the Union, with the exception of a few persons, signed individual agreements with the employers, based on the recommendations of the Board, which covered the conditions of employment for the seasons of 1907 and 1908. No further cessation of work took place.

As a rule, interruptions of work in coal mines and in industries which provide transportation and other means of communication are troublesome to the public, and occasion large losses both to employers and employed. The Canadian industrial disputes between March 22, 1907, and March 31, 1909, would have illustrated this rule, had they not been prevented or settled by the Industrial Disputes Investigation Act.

Of the fifty-five applications for the appointment of Boards, seven were made by employers, forty-six by employees, and two by both employers and employees. The Act requires that every application for the appointment of a Board shall be accompanied by a statement of the nature, cause, or subject of the dispute. In the fifty-five applications for the appointment of Boards, the alleged nature of the dispute covers the usual sources of industrial strife, such as the employment of non-union men; the hours of labor; the terms of the joint agreement concerning wages; the conditions of employment; alleged discrimination against members of certain

unions; alleged wrongful dismissals; the reinstatement of former employees; and the introduction of machinery.

It is obvious that the Canadian workingmen, in numerous trades connected with public utilities, have acquired confidence in the just operation of the Act; otherwise they would not have applied, in forty-six cases, for the appointment of Boards. The satisfaction of the employers is not so clearly determined, because the number of applications for Boards on the part of employers has been relatively small. Nevertheless, the employers did not ultimately reject in a single case the advice of the Boards; and they must have taken satisfaction in the fact that interruption of service to the public was prevented in fifty-three cases out of fifty-five.

It is quite natural that the employers should have been slower than the employees to accept cordially an Act which relies on publicity. The sound principle, that the public has a right to know much about any business which is conducted on rights or privileges conferred by legislation, is not universally accepted by proprietors and managers — not even by corporations which enjoy the great privileges of limited liability and long viability, privileges exclusively conferred by the public through general or special laws. Its stout assertion that the public has a right to know about the causes of industrial

disputes in public utilities, including mines, is one of the good incidental services which the Act of March 22, 1907, has rendered to Canada.

Majority of Each Board Familiar with Business Involved

It is an admirable feature of the Canadian Act that a special Board of three members has to be appointed for each separate dispute. Every corporation or body of employees can count on obtaining a Board of Investigation, two members of which, at least, will be well informed about the particular business in which the dispute has occurred. As soon as a Board has made its report, it disappears, and will probably never reappear.

It is another very important feature of this admirable Act that there is no arbitration in it whatever, and no standing Board of Arbitration, which must be employed in all sorts of industries. Neither party promises to abide by the decision of the Board, or to adopt its recommendations. It has long been known that arbitration is not a means of preventing industrial strife, and is, to say the least, a very imperfect means of adjusting a strife already declared and in effect. The Act absolutely abandons arbitration, and relies exclusively on discussion, conciliation, publicity, and public opinion.

Under the operation of this Act, both employers

and employed are prevented from striking a sudden blow, either against the other. Employers cannot lock out their men without notice, and a strike cannot be suddenly declared. Although perfect liberty to strike or lock out ultimately is reserved under the Canadian Act, several weeks must elapse from the time the dispute began before work can be stopped. How long this time may be is a matter of importance; for both parties to an industrial dispute may reasonably object to a long delay of decisive action. The date at which each Board was constituted and the date of the receipt of that Board's report are both given in the official *Labor Gazette* with regard to every industrial dispute which has occurred in Canada in the two years between March 22, 1907, and March 31, 1909. The interval between the two dates has been ordinarily between one month and two months, although in twenty-one cases it was less than one month. Some days must elapse, in most cases, between the sending in of an application for a Board and the bringing of the Board together — particularly when the dispute has occurred in some remote part of the Dominion. During this interval of from one to two months there is time for passions to cool, and for the costs of war to be counted by both parties. The interests of the public may also get some sort of effective expression during this interval; and when the report of the Board is thor-

oughly published, in accordance with the provisions of the Act, public opinion, being well informed, usually expresses itself with clearness and force. Indeed, the Act relies solely on the ultimate reasonableness of the parties to the dispute when the facts on both sides are publicly stated and discussed, and on the fairness and sound judgment of that long-suffering and patient public which ultimately pays for the greater part of the cost of industrial warfare.

American States Could Adopt a Similar Act

It is obvious, from these two years of experience with the Canadian Industrial Disputes Investigation Act, that it is the best piece of legislation in the world for the prevention and settlement of lockouts and strikes in an important class of industries, which, in the interest of the nation as a whole, ought never to be interrupted. It is simple, prompt, and just, and therefore effective.

Canada has this great advantage over the United States in regard to industrial disputes, that the central government can constitutionally take cognizance of industrial disputes; whereas in the United States the power of intervention in such quarrels resides with the States. The Canadian Minister of Labor can interfere equally well in a lockout or strike the effects of which are confined to one prov-

ince, and in a strike on a continental railroad, or a telegraphers' strike which involves the whole Dominion and indefinite regions beyond.

The several States of the American Union could, however, exercise through some single official — Labor Commissioner or Governor — the powers which are exercised by the Minister of Labor in the Dominion of Canada, and could appoint the Boards applied for in local disputes. If an industrial dispute extended beyond the limits of a single State, some combination of State officials could probably be contrived to make the appointments for the Boards needed in such cases. The prompt appointment of Boards would be facilitated if the provision of the Canadian Act were copied whereby the normal mode of securing a Board is for each party to nominate one member to the Minister of Labor, and these two members to select a third.

One very formidable feature of lockouts and strikes in industries concerned with public utilities, or in monopolistic industries which deal with necessaries of life, is the secrecy with which preparations are made on both sides for a war to be suddenly declared. The Canadian Act does not prevent secret preparations on both sides; but it does prevent — not only by its theory or promise, but in its practical application for two years — the sudden declaration

of secretly prepared hostilities. This is an enormous gain for the community as a whole, both materially and morally.

Some of the Canadian unions connected with railroads have suggested one or two amendments to the Act, which are under consideration at the present time; but these amendments relate to some of the existing requirements concerning procedure, and do not affect the Act in any material respect. The nature of the amendments suggested indicates pretty clearly that the unions have become entirely reconciled to the principle of compulsory investigation before resort is had to lockouts or strikes. Moreover, the Trades and Labor Congress of the Dominion have officially indorsed the Act at each of the sessions of the Congress held subsequent to its enactment.

An Incentive to Conservatism in Labor Leaders

The respect for the law shown by the workingmen and the labor organizations has been such that the government has had no occasion to consider the question of enforcing penalties against striking before public investigation. The possibility or impossibility of enforcing such penalties has, therefore, not come up for serious consideration. The Dominion government has wisely pursued the policy of non-interference; because the law against strik-

ing or locking out before public investigation has been made can be set in motion by any private person or corporation, and it may be presumed that any parties injured through violations of the law will take advantage of the machinery which the law itself has provided for their protection. If the injury is not sufficient to induce the injured parties to set the machinery of the law in motion, it is questionable whether the government ought to take upon itself that task.

The policy of non-interference on the part of the government has also another advantage. If individual labor leaders bring men out on strike without securing for them in the first instance the advantages to their case that would probably accrue from public inquiry before an impartial tribunal on which the workmen are represented, the final issue of the dispute will probably discredit such leaders, and demonstrate the unwisdom of that method of proceeding; and this result would be highly educative to the unions concerned. In strikes which concern large masses of men, it is wiser for any government to try to educate and convince the masses through public discussion than to drive them — particularly when the driving process has to be applied to a comparatively small number of individuals. The Act of March 22, 1907, has proved to be an excellent means of public instruction.

Results in the Dominion

To the question whether the Industrial Disputes Investigation Act has been effective, the clear answer is that since its enactment in March, 1907, the Dominion has known no cessation in the continuous operation of any of its great agencies of communication — steam railways, electric railways, telegraph and telephone lines, or other public utilities of the kind — and the national industries and the public have not suffered any inconveniences other than a few of a purely temporary and local nature through the cessation of some mining operations. This remarkable record may not be continuously maintained; but it seems quite possible that never again will the interests of the Canadian public be injured through the threatening, or actual outbreak, of sudden and extensive industrial conflicts, such as frequently occurred in Canada prior to the enactment of the law, and still occur, with enormous and wide-spread damage, in the United States.

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