

**CONCILIATION AND ARBITRATION IN  
LABOUR DISPUTES: A HISTORICAL  
SKETCH AND BRIEF STATEMENT OF  
THE PRESENT POSITION OF THE  
QUESTION AT HOME AND ABROAD**

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Conciliation and arbitration in labour disputes: a historical sketch and brief statement of the present position of the question at home and abroad by J. Stephen Jeans

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# CONCILIATION AND ARBITRATION

IN

## LABOUR DISPUTES

*A HISTORICAL SKETCH AND BRIEF STATEMENT OF THE  
PRESENT POSITION OF THE QUESTION  
AT HOME AND ABROAD*

BY

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LONDON

CROSBY LOCKWOOD AND SON

7, STATIONERS' HALL COURT, LUDGATE HILL

1894

**I N S C R I B E D**

TO MY VALUED FRIENDS

**WILLIAM JACKS, M.P.**

**President of the British Iron Trade Association**

AND

**WILLIAM SPROSTON CAINE, M.P.**

**Past-President of the British Iron Trade Association**

IN TOKEN OF

MY HIGH APPRECIATION OF THEIR CHARACTERS AND LABOURS

## INTRODUCTION AND OUTLINE.

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THE "condition-of-England question" at the present moment, and for a considerable time past, has been dependent upon the solution of the problem of reconciling capital and labour. In consequence of the difficulties that appear to stand in the way of such a reconciliation, an infinite amount of mischief has been done to all the industrial interests of this country, and the outlook for the future has been clouded with trouble, uncertainty, and gloom. It is not only that employers have lost vast sums of money in resisting claims made by their workmen, and in supporting their own, but the public confidence in all industrial undertakings has been greatly shaken, until the value of such investments, as such, has been seriously deteriorated, and capitalists who were formerly eager to embark upon manufacturing enterprise have ceased to have confidence in it,—to such an extent, indeed, that it is shunned by many as if it were a certain plague.

So long as this condition of things exists, English commerce and industry must remain in a parlous and undesirable state. The backbone of our commercial supremacy, of our great command of shipping business, of our success as a colonising people, of our superior wealth and all the advantages that it confers, is our manufacturing industry. If that

industry is menaced by the unrest and turbulence of labour, by the exactions and unreasonableness of capital, by industrial war on a gigantic scale,—such as that which formed so painful and disastrous a feature of the history of labour in 1893,—capital will be withdrawn from it, new developments will be checked and frustrated, our ever-watchful rivals and competitors will gain a march upon our own manufacturers in the markets of the world, and our circumstances will be environed with even greater perils than Hudibras predicates for “the man that meddles with cold iron.” We repeat again, therefore, that the question of the hour is the solution of this great problem. The crucial question of questions is, not the incidence of taxation, not the operation of foreign tariffs, not the exhaustion of our coal supply, not the stringency of money, not the merits or demerits of bimetallism, but the avoidance of serious disputes between capital and industry. Solve this problem effectually, and we guarantee the continuance of English commercial supremacy, we give new life to home industries, we provide new outlets for capital, we secure protection to employers, and we relieve the working men and women of England from the thralldom and dominion of what must to them be the greatest curse of modern times.

It would be going much too far to affirm that the solution has already been found. Again and again it has been believed by sanguine admirers of economic systems or phases of systems that they had finally reached a panacea for the greatest of industrial evils,—at one time in conciliation, applied in a particular way ; at another time, in courts of arbitration ; at a third time, in the establishment of sliding-scales ; at a fourth time, in co-operation ; at a fifth time, in profit-sharing. But, unfortunately, every one of these systems has at one time or another broken down ; and the bitter and disastrous experience of the year 1893 proves, to the reluctant acquiescence of any candid



mind, that we are nearly as far from a solution as we ever were—if we are not still farther.

Many strikes have no doubt occurred in consequence of the ignorance of the workmen, or of their leaders and advisers, as to the actual conditions of the business in which they were engaged. There is often a wide difference between the prices as published in the newspapers or trade circulars, and the realised prices received by employers. This is especially so in the case of coal. The realised price of coal is affected by the proportions free for sale, and sold under contracts of longer or shorter duration. It often happens, moreover, that the employers, in busy times, find it necessary to check sales; and while not refusing orders, they put up a prohibitive price when they see that they have already as many orders as they can execute. These quotations are mistaken by the workmen for realised prices. Of course, all this liability to mislead would be got rid of, if, for the purposes of a sliding-scale or some other amicable mode of settlement, the employers and employed agreed upon the ascertainment of the actual realised selling prices from period to period; but the employers are not to be blamed if they do not attempt such an ascertainment, unless they have guarantees that it will be accepted as a basis of settlement.

Labour disputes are more or less liable to occur in every industry, according as the rate of wages paid is more or less liable to sudden and frequent fluctuations. Thus, in the textile industries, where the wages are usually fairly steady, and where oscillations of any account are comparatively infrequent, the occurrence of a general strike is rare. In the mining industry, on the other hand, the variations of wages are more common than in almost any other, and hence labour disputes are specially frequent.

Some interesting evidence on this point was submitted to

the Royal Commission on Labour (Group A). Mr A. K. M'Cosh, vice-chairman of the Lanarkshire Coal Masters' Association, stated that for a long period wages had been subject to great fluctuations in the Scotch collieries, varying from 6d. to 1s. per day, and that he remembered one time when they were twice reduced by 2s. a day within a single month! It was natural, after this, that Mr M'Cosh should add, that "if the variations were less violent, there would be less friction between employers and employed, and it was to ensure this result that the employers desired the adoption of a sliding-scale." \*

The facts just stated make it sufficiently clear that one of the greatest securities that could be provided against suspensions of labour would be the steadying of price, and that any system that could be devised with this end in view would be almost certain to effect immense advantage. It is, however, difficult to see how such a system is to be provided. The so-called law of supply and demand does not provide for a steady demand at all times alike. But even if this were not the case, artificial means are constantly being employed to raise or depress prices,—such, for example, as "cornering" the market, syndicating or monopolising the products of industry, and restricting the output. Of late years the oscillations of price from these causes appear to have been more violent and more frequent than formerly, and it is to be feared that this will continue unless commercial gambling can be got rid of.

Comparatively little attention has been given in the following pages to the French system of *Conseils des Prud'hommes*, established in France under the Napoleonic code, and afterwards extended to Prussia, Belgium, and other Continental countries. This system is well suited to the settlement of

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\* Group A, *cf.* 13633-7.

matters of detail—to small grievances and minor disputes—but it is not quite adapted to the more serious causes of difference which result in a general suspension of industry over a large area of operations, and are liable to affect prejudicially many allied and collateral interests. At the same time, the evidence submitted before the Royal Commission on Labour appeared to show that there was a real *raison d'être* for a tribunal that would adequately meet these minor troubles; and it is quite possible that the system of councils of experts, under such legal sanctions as exist on the Continent, would be more effective in this direction than the present system of joint-committees, or, as often happens, no system at all.

Anything in the shape of compulsion is, however, so repugnant to the spirit and to the traditions of the English people, that it might be found difficult to adopt a system that would depend essentially on legal sanctions. It is clear that this is the view of the most experienced among both employers and employed as to the principles on which conciliation and arbitration should be based. No one seriously recommends that the acceptance of either system should be forced upon industry, or that legal penalties should follow upon the non-acceptance of an award. While this spirit prevails, we must always more or less remain between the Scylla of non-acceptance of conciliation and the Charybdis of non-fulfilment of awards that have no proper legal sanction. The moral force of a voluntary sanction is, however, always the strongest with men of honour, and we may hope that this will ultimately enable us to dispense with legal requisitions. In not a few cases, indeed, the workmen have shown that they were fully alive to the moral obligation which devolved upon them, first, to accept a reference, and next to carry out the decision of the referee, and the leaders of the workmen have again and again threatened to give up their positions, if any attempt at repudiation of an award was