January 1921

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Recommended Citation

Carl I. Wheat, American Legislation for the Adjustment of Industrial Disputes, 27 W. Va. L. Rev. (1921). Available at: https://researchrepository.wvu.edu/wvlr/vol27/iss2/5

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AMERICAN LEGISLATION FOR THE ADJUSTMENT OF INDUSTRIAL DISPUTES*

By Carl I. Wheat**

THE EARLY DAYS OF GOVERNMENTAL INDUSTRIAL ARBITRATION.

I. EUROPEAN BEGINNINGS.

This is not the place for an extended discussion of governmental industrial arbitration (to use a happy phrase coined by Dr. Leonard W. Hatch) in the countries of Europe, but no analysis of American legislation would be complete without some brief remarks regarding these events in European economic history which preceded our own experiments. This history has, moreover, been so completely covered by other writers as to make only a very brief resume worth while here.¹

Although a series of laws in Great Britain, going back to the Statute of Apprentices in 1562, dealt with varying phases of labor regulation, the first special law for industrial arbitration to find its way to the English statute books was passed in 1747. This law merely referred disputes to local magistrates, but was scarcely ever used, in practice, as industrial disputes, as we know them, had not yet become frequent enough to attract much attention. The Statute of Labourers, passed in 1351 after the ravages of the Black Death had created a scarcity of labor, and intended to fix wages at the rate they had been before the plague, had, by the time of the so-called industrial revolution fallen into disuse, but the first small combinations of laborers, usually formed with the object of fight-

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¹ This is the second of a series of articles on this subject. They consist of chapters from a forthcoming book which is to be published as one of the new series of Harvard Studies in Administrative Law.

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Among the materials dealing with the early history of governmental industrial arbitration in other countries (especially England) are: "Industrial Conciliation and Arbitration", REPORT OF THE MASSACHUSETTS BUREAU OF STATISTICS OF LABOR, 1881, containing a reprint of a report by Joseph D. Weeks of Pennsylvania; DOUGLAS KNOOP, INDUSTRIAL CONCILIATION AND ARBITRATION, London, 1905; SYDNEY AND BEATRICE WEBB, A HISTORY OF TRADE UNIONISM, London, 1894 and 1920, and INDUSTRIAL DEMOCRACY, London, 1897; CARL H. MOTE, INDUSTRIAL ARBITRATION, 1918; and 60 BULL. U. S. BUR. OF LAB., Sept., 1905, containing the report of Dr. Leonard W. Hatch on "Governmental Industrial Arbitration". The author has drawn freely from these and numerous other sources for the brief sketch here published.
ing the introduction of machinery, found the English politicians accustomed to the use of legislation to regulate labor. They did not hesitate to use this legislation. In the cotton trade, under the influence of the new factory system, large numbers of laborers for the first time found themselves in a position to combine against the unbearable conditions of work and wages. Parliament in 1800, 1803, 1804, and 1813 met this combination with statutes, applying first to England, and then to Scotland and Ireland, in which a new departure was introduced in the form of provisions for the appointment of two arbitrators, one by the employer and one by the employee, from nominations made by a justice of the peace, the latter to have the right to decide the question at issue in case of a deadlock. The decisions of these arbitrators were binding.

In 1824, by the Consolidation Act, these acts were consolidated into one, and their application was extended to all trades. The principle of freedom of contract on the part of employer and laborer was then uppermost in the minds of the legislators. This was evidenced by the repeal of the Statute of Apprentices in 1814. The new law provided that no justice of the peace might make an award to "establish a rate of wages or price of labor or workmanship at which the workmen shall in the future be paid, unless with the mutual consent of both master and workmen." This law remained in force until 1896.

In 1824, also, the hated anti-combination laws were repealed. These had been passed in 1800 at the instance of the employers and forbade workers to combine in any way to better their position or to make demands upon their employers.

In 1837 the Consolidation Act was amended by a statute which set up compulsory arbitration between parties to industrial disputes at the request of either party. By this law the local magistrate was given authority to appoint four or six arbitrators, half from either side, and if these failed to agree, the magistrate might make the decision. Such awards could be enforced by distress or imprisonment, but the act, which was intended largely for the textile industry, forbade a decree fixing the rate of wages of the standard of workmanship in the future, save by mutual consent of the parties.

For the most part these laws remained largely dead letters on

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2 39 & 40 GEO. III, c. 90; 43 GEO. III, c. 151; 44 GEO. III, c. 87, and 53 GEO. III, c. 75.
3 1 VICT., c. 67.
the statute-books, but meanwhile, across the channel, a new and totally different system was growing up in France. For many years prior to the French Revolution a more or less formal system of quasi-industrial arbitration had been known in the silk industry in the form of corporative tribunals, which, however, had been swept away when the trade guilds were abolished in 1791. In 1806, on the petition of the silk manufacturers of Lyons, the Emperor Napoleon I restored these ancient tribunals, under the name of Conseils des Prud'hommes (Councils of Experts). These councils were created for the purpose of settling minor disputes, either by conciliation or by adjudication, if the matter in dispute was not more than sixty francs. They were only adapted to the handling of disputes coming under existing wage contracts, and the arbitration which they introduced was consequently confined to cases of secondary arbitration. While these councils handle only individual disputes, and have no jurisdiction over collective controversies, their use has grown continually during the century that has passed since their first establishment. By 1894 there were reported to be 117 such councils in France, and the number is largely increased at the present day. In 1879, when Mr. Weeks of Pennsylvania, published his report on industrial conciliation in England, he was able to say, regarding these French boards:

"The workings of these courts have been beneficial to French industry, especially in conciliation, by which more than ninety percent of all cases brought before the tribunals are settled. In 1847, the sixty-nine councils then in existence had before them 19,271 cases, of which 17,951 were settled by conciliation in the private bureau, 519 by more open conciliation, and in only 529 cases was it necessary to have formal judgment. In 1850, of 28,000 cases, 26,800 were settled by conciliation. There were, at the close of 1874, 112 councils in France."

This experience did not pass unnoticed in England, and in 1867, by the Councils of Conciliation Act, usually known as Lord St. Leonard's Act, a system was legalized which in many respects followed the French Conseils. Councils consisting of not less than two nor more than ten each of masters and workmen with some person unconnected with trade but chosen by the members, as chairman, were provided for. These councils could, by complying

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6 "Industrial Conciliation and Arbitration", 8-9.
5 30 & 31 Vict., c. 105.
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with certain procedural features of the act, obtain a license which would make it possible for them to compel the attendance of witnesses and enforce their awards. A committee on conciliation composed of one master and one workman was to be appointed to handle disputes in the first instance.

This act remained on the statute-books until 1896, but was never anything more than a dead letter, and no application for a license was ever made under it. This is all the more surprising in view of the fact that the act was publicly favored by both employers and workmen throughout Great Britain while it was before Parliament. The causes of its failure, however, according to Dr. Hatch, are that:

"The act was too inelastic, laying down too many hard and fast rules as to the constitution and procedure of the councils, so that no latitude was left to employers and workmen who might desire to form them. Not the least serious of the law's defects would seem to have been the practical exclusion of all questions of future wages from arbitration by the licensed councils. . . . The license offered by the law of 1867 would have given private councils most ample powers for the adjudication of disputes under existing contracts—that is, individual disputes; but for nearly all disputes as to future terms of employment—collective disputes—it would have made them little more than conciliation committees, for which indeed the detailed requirements of the law were superfluous."a

Five years after the passage of Lord St. Leonard's Act, Parliament, again confronted with the same problem, passed the Arbitration Act or Masters and Workmen Act. The bill was drafted by Mr. (afterwards Sir) Rupert Kettle, and was introduced by Mr. A. J. Mundella, both of whom had long been interested in industrial arbitration. The Arbitration Act was also in force until 1896, but was hardly more successful than its predecessor. It provided for the enforcement of contracts between masters and workmen to submit disputes to arbitration, and provided in detail for the procedure to be used. Says Dr. Hatch: "The idea was taken directly from a private arbitration system in the building trades of Wolverhampton, and of which Sir Rupert Kettle, who drafted the law, was the founder."b

No inducement was provided for the making of such contracts,

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a 60 BULL. U. S. BUR. LAB. 394-5 (1905).
b Ibid. 396.
however, and employers and workmen did not avail themselves of it. "... a not surprising result in the face of the ... negative character of the law."8

The Act of 1896, which followed, and took the place of the above laws, will be discussed later. It will suffice to say here that it, also, has proved a failure, and that England is still groping for some more satisfactory method, in the same manner as are most of our own states.

Private industrial arbitration has, however, been continually growing in favor in England, and the efforts of its pioneer protagonists there exercised a great influence on American observers. Mr. Weeks, whose report to Governor Hartranft of Pennsylvania, has been mentioned before and will be taken up at greater length in the discussion of American beginnings, writes at length of these attempts; and English writers are accustomed to lay much stress upon the early efforts of Kettle and Mundella. Mr. Henry Crompton, author of the first work of any consequence on industrial conciliation,9 says of the latter, "Mr. Mundella must be regarded as the inventor of systematic industrial conciliation." It seems clear, however, that he was guided largely in his early efforts by the experience of the French Conseils des Prud'hommes, when he established his board of arbitration in the hosiery trade in Nottingham in 1860. He was himself a successful factory owner, and the success of his methods of preventing disputes was so great that he became known throughout the country for this work. He was later sent to Parliament, and was there one of the leading exponents of arbitration and of trade union principles. As we have seen, he was the introducer of the Arbitration Act of 1872, which had been drafted by Sir Rupert Kettle. The latter had established his system of joint committees in the Wolverhampton building trades only three years after the beginning of Mr. Mundella's successful experiments.

All was not smooth sailing, however, for when the Amalgamated Society of Engineers, in 1851, offered to refer a dispute to arbitration the employers ignored the offer, and in 1856 and 1860 select committees of the House of Commons found employers skeptical as to arbitration, although the workmen were generally in favor of some such system.

8 Ibid. 397.
9 Henry Crompton, Industrial Conciliation.
"But," say the Webbs, "Between 1869 and 1875 opinion among captains of industry, to the great satisfaction of the Trade Union leaders, gradually veered round. 'Twenty-five years ago', said Alexander Macdonald in 1875, 'when we proposed the adoption of the principle of arbitration, we were then laughed to scorn by the employing interests. But no movement has ever spread so rapidly or taken a deeper root than that which we then set on foot. Look at the glorious state of things in England and Wales. In Northumberland the men now meet with their employers around the common board. * * * In Durhamshire a Board of Arbitration and Conciliation has also been formed; and 75,000 men repose with perfect confidence on the decisions of the Board. There are 40,000 men in Yorkshire in the same position.'"10

At the same time the Webbs caution the reader that the words arbitration and conciliation were very loosely employed during the period of which we have been speaking "often meaning no more than a meeting of employers and Trade Union representatives for argument and discussion."11

Thus, when American thinkers turned their attention to the problems of industrial disputes, they found that much had already been done by the English and French in attempting to solve the difficulty. It has not been within the province of the present work to recount in detail these attempts, and for further accounts of them the reader is referred to the works noted at the end of this article. This brief sketch is, however, thought necessary for a full understanding of the early American experience, which will be described in some detail in the sections immediately following.

II. FIRST STEPS IN STATE ACTION IN THE UNITED STATES.

The great strike on the Baltimore and Ohio Railroad in 1877 was the moving cause of the first state action looking toward industrial conciliation in the United States. That strike, which resulted from a reduction of 10% in wages by the railroad in question, grew in a few days from a simple stoppage of work by a few trainmen, to an industrial struggle which, in violence, has scarcely ever been surpassed in this country. The claim of the railroad was that the financial and industrial conditions resulting from the panic of 1873, and its aftermath of business depression, were such as to make it

11 Ibid.
imperative to reduce wages all along the line. On the day set for this reduction a few of the men went out. The spark spread rapidly, so that within a few days Governor J. L. Carroll of Maryland was forced to call out the state militia to protect the property of the railroad. A train carrying a regiment of militiamen was attacked by a mob, and the soldiers fired into the crowds, killing several. Retaliation followed in the form of burning of railroad property. Governor Carroll then telegraphed the President asking for the assistance of Federal troops in putting down the disorders, and military guards were placed on all trains. The disorder was not confined to Maryland alone, for at Pittsburgh, Pa., it was estimated that damage to the extent of more than $4,000,000 was done by the rioters. It was the first truly general strike on American railroads, and extended from the Atlantic to the Mississippi.

When the Maryland legislature convened the following January these incidents were fresh in the minds of the legislators, and Governor Carroll related them at length in his annual message. While he did not specifically recommend industrial arbitration, this message was without doubt the main cause of the bill which was early laid before the state senate, and which passed unanimously both houses of the legislature on March 22, 1878,—the first example of state legislation in the United States for the settlement of industrial disputes. It may be said in passing that a similar bill, but providing for compulsory arbitration, in the event of an application by one party, was introduced in the Pennsylvania legislature, but failed to become a law.

An innocuous affair, this earliest industrial arbitration bill was passed after practically no debate in either branch of the state legislature. In the senate two amendments were offered and accepted, one of which substituted the words "employers and employees" in the act in the place of "masters and workmen" but there was practically no other discussion.

Perhaps it was some prophetic vision of the inefficacy of the machinery they were creating that caused these legislators to pass over this matter with so little notice or care. At any rate, so far as can be learned, no use has as yet been made of the machinery thus pro-

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12 Annual Message of the Governor, Documents of the Senate of Maryland, 1878.
13 Laws of 1878, c. 379; Code of 1912, Art. 7.
14 Infra, 141.
15 Report of Maryland State Senate, sess. 1878.
vided some forty odd years ago. All that was created was a permissive method of local arbitration, with no permanent agency of the state to carry on and coordinate the work or to direct activity into useful channels. The law declared, in essence: "If you desire to compose your difficulties in a peaceable manner, you may do so." It added simply the possibility of making the agreement a judgment of a court, and it was as unsuccessful as were the early English arbitration laws described above.

As a type of several which came later, it may be well to pause here to consider this Maryland statute. The law first provided that whenever any controversy should arise between any corporation incorporated in Maryland, in which the state was interested either as stockholder or as creditor, and its employees, the Board of Public Works might demand from the parties to such a dispute a statement of the facts and grounds of controversy. The Board might propose arbitration, and should the parties agree to this the Board was given the duty of arranging the process. In case of a refusal to arbitrate, an investigation into the causes of the dispute was made mandatory on the Board.

This might seem at first reading to provide what would be in essence a State Board of Arbitration, but strangely enough this narrow situation was the only one in which a state agency of any sort entered into the operation of the act. In all other disputes between employers and employees the machinery provided was exceedingly simple and permissive. If the parties so desired they might agree in writing to submit to the decision of any judge or justice of the peace, these officials being given the power to hear the question, "and finally determine in a summary manner the matter in dispute between such parties." A board of arbitration for the case might also be created, of either one or two members representing each side, and the judge or justice of the peace as umpire, such board to have full power finally to hear and determine such dispute." Any such determinations were to be given effect by being entered as judgments of the courts under which they were made, execution issuing thereon as upon any other verdict of the court.

Determined not to allow anything to escape them, the legislators next provided that:

"In all such cases of dispute as aforesaid, as in all other cases, if the parties mutually agree that the matter in dispute
shall be arbitrated and determined in a mode different from the one hereby prescribed, such agreement shall be valid, and the award and determination thereon by either mode of arbitration shall be final and conclusive between the parties.'"

To this was added a provision that:

"In all proceedings . . . costs shall be taxed as are now allowed by law in similar proceedings, and the same shall be paid equally by the parties to the dispute."

From the standpoint of practical utility, a more impossible law could hardly be imagined than this creating a permissive type of local agency. Yet the lead of Maryland was followed in several other states, thus proclaiming anew the oft-remarked tendency of American legislators to copy the laws or ideas of other states without taking the trouble of investigating to learn whether the statutes they were copying had actually amounted to anything or not in practice. In the case under discussion, although no action seems ever to have been taken under the Maryland act, New Jersey in 1880,16 Pennsylvania in 1893,17 and Texas in 1895,18 created similar machinery for local industrial arbitration with no permanent agencies, and statutes allowing the creation of local district or county boards with no permanent state body, were passed in Pennsylvania in 1883,19 in Ohio in 1885,20 and in Iowa21 and Kansas,22 in 1886. These district or county boards appointed by the parties were never more in evidence than boards under the original Maryland type of statute. All in all, the action of Maryland was peculiarly unfortunate, as it directed the attention of legislators throughout the country toward this unworkable method of dealing with the problems of industrial warfare. The laws in this whole group have never been anything but dead letters. In its annual report for the year 1898, the New York State Board of Mediation and Arbitration says of these permissive statutes:

"The laws of Iowa, Kansas, Maryland, and Pennsylvania simply authorize the courts to appoint tribunals of voluntary arbitration when the parties to labor disputes petition for or consent to their appointment; the jurisdiction of such tribunals being limited to the county or portion of the state in

16 PUBLIC LAWS OF 1880, c. 138.
17 LAWS OF 1893, No. 55.
18 LAWS OF 1894-5, c. 379.
19 LAWS OF 1883, 15.
20 82 LAWS OF OHIO, 45.
21 ACTS OF 1886, c. 20.
22 LAWS OF 1896, c. 28.
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which the dispute may arise. The parties to such controversies have seldom, if ever, availed themselves of the provisions of such laws in states in which there are no regularly constituted Boards of Arbitration.\textsuperscript{223}

Dr. Leonard W. Hatch thus criticizes this type of agencies:\textsuperscript{24}

"The Maryland law of 1878, according to the Chief of the Maryland bureau of industrial statistics, in 1900 had 'never been availed of'. The New Jersey acts of 1880 and 1886 (a permissive act passed to supplement the one mentioned above) were never put to practical use, and were repealed in 1892. In 1900 the chief of the Pennsylvania bureau of industrial statistics had 'no knowledge of any effort to make use of the act of 1893' in that State. The nearest approach, and, so far as appears, the only approach to practical application of the Pennsylvania law is reported by a former president of the Amalgamated Association of Iron and Steel Workers who stated before the United States Industrial Commission that his organization had on one occasion desired to invoke the law, but the employers had refused to join in that course."\textsuperscript{225}

Continuing with regard to the similar group of laws which provides for permanent, or semi-permanent, local, district, or county boards but for no state-wide body, Mr. Hatch says:

"Much the same verdict of failure as above must be pronounced upon the second group of laws. In Pennsylvania alone has anything been accomplished under this system. Under the Wallace Act of 1883 a tribunal for the coal trade in the fifth judicial district was licensed on May 19, 1883, composed of 5 representatives of the miners, 5 representatives of the operators, & an umpire chosen by unanimous vote of the 10 members."\textsuperscript{226}

This action resulted in a decision by the Umpire on the question of the price for mining up to Oct. 1, 1883, a decision which was probably a disappointment to both sides in the controversy. The process was repeated, however, and for two years the tribunal seems to have kept the district at peace industrially.\textsuperscript{27} But.

"This two years of successful work by the coal-trade tribunal for the fifth, or Pittsburgh, district appears to constitute the history of the Wallace Act so far as practical results are concerned. No evidence has been found that anything further

\textsuperscript{223} REPORT OF BOARD OF MEDIATION AND ARBITRATION, 239.
\textsuperscript{24} 60 BULL. U. S. BUR. LAB. 606 (1905).
\textsuperscript{25} 12 REPORT OF THE UNITED STATES INDUSTRIAL COMMISSION, Testimony, 87.
\textsuperscript{26} 60 BULL. U. S. BUR. LAB. 607 (1905).
\textsuperscript{27} Ibid. 608-9.
was ever done by that tribunal, or that any other tribunal under the law was ever established."

"A year after the Ryan Act of 1885 in Ohio was passed, the Bureau of Labor Statistics of that State reported that 'no effort was made to put its provisions into practical use, largely for the reason that compulsory arbitration is generally regarded as impracticable'. The acts of Iowa and Kansas (1886) present the same record of total failure, neither having been put into practice. The Kansas commissioner of labor in 1900 expressed the opinion that the complicated machinery of the law nullified it."

This last statement is borne out by Mr. Will F. Wilkerson, Chief Clerk of the Kansas Department of Labor and Industry, who states,

"Kansas has never made use of the provision in our statute books providing for the creation of 'Local Boards' of Arbitration in mechanical and mining industries."

III. GROPINGS IN THE DARK.

The feeling during these early days of state experiments in industrial arbitration and conciliation was that theoretically much more could be said for the system of special boards for each dispute, or at least for local boards, having a knowledge of the particular and peculiar problems of the locality and of the persons interested in the dispute than for state-wide and permanent boards. That this theory was a false one was early to be seen, as these special and local boards were, as we have noted, almost never utilized in practice.

The period was one of great development, and the prominent position which had been achieved by the Knights of Labor, that mushroom organization which for a time largely dominated the field, led to increasing power on the side of the workers. A natural consequence of this growth of labor organization was the power to carry on industrial warfare on a much more extended scale than could the feeble organizations of pre-Civil-War days. Strikes for the first time menaced the industrial life of the people as a whole, and the public at large, caught between the hither and nether millstones, began to take a new interest in these extraordinary manifesta-

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1877 was a year of great strikes. The Baltimore and Ohio Railroad strike of that year, with its accompanying violence, succeeded in cutting off the food supply of the city of Baltimore for several days, and thus the whole population was influenced. This strike, as has been mentioned above, undoubtedly became the moving cause of the creation of the first state agency of industrial arbitration.

There had been some interest in this matter before this time, but it was largely academic and had not expressed itself in statutory enactment. In 1876, for instance, the State of Massachusetts made an investigation through its Bureau of Statistics of Labor. At that time there was, of course, no state agency for industrial conciliation and the investigation was thus concerned entirely with what voluntary systems had at that time been created in the state. A report issued in 1881 by that same bureau and edited by its chief, Mr. Carroll D. Wright, later Chief of the Federal Bureau of Labor Statistics, says that early study:

"At the time of making the investigation of 1876-77, no real arbitration had been accomplished in this State; nor has any board been established since that time, in any industry, so far as we have been able to learn. A few attempts to secure settlement of difficulties have been made, notably one in Fall River in 1878. Before proceeding to inaugurate a strike, the spinners proposed to submit the matter in dispute to a board of arbitration; but their proposition was summarily rejected by the manufacturers, who, however, gave their reasons for such rejection."\(^{31}\)

The report of 1876-77, mentioned above, was largely concerned with the efforts to secure arbitration in the violent disputes which at this period were occurring between the boot and shoe manufacturers and the Knights of St. Crispin, as the shoe-workers' union was called. Organization of shoemakers had been attempted in Milford, Mass., in 1864, but had failed because the leader moved to the West. But this same leader had organized the Knights of St. Crispin in 1867 in Milwaukee, and it spread rapidly throughout the country, becoming very powerful for a time in Massachusetts. Many successful arbitrations were carried on through this union before it was finally crushed by the employers.

Interest in the matter of industrial conciliation was growing

\(^{31}\) "Industrial Conciliation and Arbitration". See also 11 REPORT OF MASS. BUREAU OF STATISTICS, 54.
at this time, and the Massachusetts legislature of 1880 passed
the following resolution:

"RESOLVED; that the Bureau of Statistics of Labor is
hereby directed to make a full investigation as to the prac-
tical working of the principles of industrial conciliation and
arbitration, and to consider what legislation, if any, is nec-es-
tary to enable employers and employees in this State to secure
the benefit of such principles, and to report the results to the
next legislature. (Approved April 13, 1880.)"

During the planning of this investigation by the Bureau, it
was learned that just the material needed was already collected
and in the hands of Mr. Weeks of Pittsburgh, who had made his
report to the Governor of the State of Pennsylvania the pre-
vious year (1879), in which, as we have mentioned in another
place, he detailed the work of arbitration and conciliation in En-
land. His report on American attempts was therefore presented
by the Massachusetts Bureau in obedience to the resolution of the
legislature quoted above.

These reports of Mr. Weeks deserve more careful attention than
they have hitherto been given by writers on this subject. This
writer was, before he went into this work, associate editor of the
"Iron Age", and was a man eminently qualified to make just
this particular investigation. He brought to it much enthusiasm
and a real faith in arbitration as the remedy for most industrial
ills. His report on the situation in England was published in
pamphlet form early in 1879, and in his letter of transmittal, he
states:

"I found at the very beginning of my inquiries, that though
there were at least three laws on the statute books of England
on this subject, they were virtually dead letters, and, therefore,
I directed my attention to the workings of the voluntary
Boards of Arbitration and Conciliation, that exist in a num-
ber of trades of that country. . . . I would most respect-
fully suggest that this subject is worthy of a more extended in-
vestigation than I was enabled to give it in the time at my
disposal, and I would recommend that some legislation be
adopted to this end, and also that the inquiry be extended so as
to include the workings of this principle in other European
countries, as well as the condition of labor." It is believed that nothing further came of this in Mr. Weeks'
own state, but his report found its way into other states and three years later, as related above, was reprinted in toto by the Massachusetts Bureau of the Statistics of Labor,\(^5\) thus becoming immediately available to the general public.

In the report of "Industrial Conciliation and Arbitration in Other States", which was included in this Massachusetts report of 1881, also from material gathered by Mr. Weeks, much interesting data regarding early attempts at arbitration in various industries is to be found. In connection with the demand which was then gradually taking shape for some sort of state action along this line, this report states, with regard to arbitration in Pennsylvania:

"In no State of the Union has industrial arbitration received so much attention as in Pennsylvania. . . . In the coal trade of this State there are records of at least three attempts at formal arbitration in three of the great coal basins,—the Anthracite, the Pittsburgh, and the Shenango Valley. . . . It has also been a subject of careful investigation and discussion by the executive and legislative branches of the State government. At a meeting of the legislature next after the Pittsburgh riots of 1877, a bill was introduced providing, upon the application of either party to a labor dispute, for compulsory arbitration with legal sanctions and enforcement of the award. . . . Previous to the introduction of this bill, Gov. Hartranft had requested the writer to visit England as special commissioner of the State to examine into the practical workings of arbitration and conciliation. The appointment was accepted, and the investigation made in 1878; and the result embodied in a report\(^6\) which Gov. Hartranft transmitted to the legislature with his last message in 1878, devoting considerable space in the message to a discussion of the labor question and the advantages to be derived from arbitration.

"Notwithstanding the agitation of the subject, however, there is not at present any arbitration board in the State, nor is formal and systematic arbitration employed as a means of settling disputes between employers and employees."\(^7\)

After a careful study of the private attempts at arbitration in the Pennsylvania coal fields, Mr. Weeks turns to the neighboring state of Ohio, and writes as follows:

"In Ohio the attention not only of employers and employed,
but of the legislature and the people of the State, has been repeatedly called to industrial arbitration, and to its advantages in the settlement of disputes arising between labor and capital. Mr. H. J. Walls, the Chief of the Bureau of Labor Statistics of Ohio, has written at length upon this topic in every report he has made, and has endeavored to excite an interest in the subject, and gather information as to its operations, by inquiries extending through all the industries of the State.

"For several sessions a bill for establishing courts of arbitration and conciliation was before the legislature of the State, though of its fate I have no knowledge." 38

The bill mentioned by Mr. Weeks provided as follows:

"1. That when employers and employees met and agreed upon a question of wages, etc., for a definite period, such agreement could be legally enforced;

"2. That if they met, and failed to agree, an arbitrator mutually acceptable might be called in, the decision to be legally binding for a certain term, and

"3. If the parties could not agree upon an arbitrator, then the judge of a court of record would, upon notification, be required to act as arbitrator, his decision to be a court record, and legally binding upon the parties." 39

In his message to the Ohio legislature of 1880, the subject of industrial arbitration was considered at length by Governor Bishop, who spoke as follows:

"Boards of arbitration and conciliation are a simple, inexpensive, and complete plan by which labor troubles may be avoided, to the great benefit of employer and employee, as well as the great consuming public, which is, at times, a great sufferer from 'strikes', over which it in no manner exercises any control. There are certain prejudices that must be overcome before the plan of amicable adjustment will be generally adopted.

"Legislation can only aid in bringing about this certainly desirable system of preventing 'strikes' by making such settlements legally binding upon both parties when voluntarily entered into by both." 40

Nothing came of this until five years later when Ohio adopted the ineffective system mentioned above which allowed the creation of local boards, with local and restricted jurisdiction, by the parties to disputes.

38 Ibid. 154.
39 OHIO LABOR STATISTICS REPORT FOR 1878, 67.
40 Annual Message of the Governor of Ohio to the Legislature, 1880.
IV. INCREASED DEMAND FOR LEGISLATION

For some years strikes had been increasing both in numbers and in intensity. Before the year 1885 the number of strikes in the United States was never over 500 per year, but in that year 645 strikes were recorded. In previous years never more than 155,000 laborers had been involved in strikes in any single year. In 1885, 242,705 employees went out on strike, and in 1886 the number of strikes jumped to 1,432, while 508,044 laborers were involved.41

Wage reductions due to the period of depression of 1884-5 were the cause of a most important change in the nature of the labor movement in this country. Up to that time trade unions had largely been confined to the skilled workers, while little was heard of the revolutionary doctrines of Marx and others, which were to influence the movement at a later date. But during this period of depression the labor movement began to claim the attention of unskilled and semi-skilled workers, who were as greatly affected by the decrease in wages as were the skilled workers. It was then that the class consciousness in these wage workers was first developed in this country to any great extent.

"The idea of the solidarity of labor ceased to be merely verbal, and took on flesh and life; general strikes, sympathetic strikes, nation-wide boycotts, and nation-wide political movements became the order of the day."42

In addition, during this period the greatly increased power of capital, together with the unprecedented development of labor-saving machinery, tended to draw skilled workers nearer to unskilled laborers. Immigration increased to an enormous extent, more than 5,000,000 arriving during the period. Pools and combines of far greater power than ever before known were formed, and their break-ups, inevitable in such loose combinations of capital, led to increasing bitterness in the war of cutthroat competition.43

Reductions in wages were considerable, "Bradstreet's" estimating that the average cut was 15%, with a maximum of 40% in coal mining.44 Hard times continued until 1887, although a gradual recovery movement began toward the end of 1885. This

42 2 Commons, History of Labor in the United States, 357.
44 Bradstreet's, Mar. 14, 1886.
period of recovery was naturally a period of struggle for a regaining of the old level of wages, and this meant increased industrial warfare. The strikes of 1884 had in general been failures and were almost all strikes against reductions in wages. The falling market made it impossible for the workers to defeat the employers, and the greatest strikes of the year, those of the Fall River spinners, the Troy stove mounters, the Cincinnati cigar makers, and the Hocking Valley miners, notwithstanding assistance by labor organizations of other sections, were all complete failures.

This was the period of the boycott, which began to be used to an important extent during the latter half of the year 1884. Organization of these economic weapons proceeded rapidly and they were carried to great extremes. One authority, writing of this period, says:

"An instance of a perfect local boycott was the one in Orange, N. J., against Berg's hat factory, the only 'unfair' factory among the twenty hat factories in the town. The boycotting union had the local dealers so well under control that brewers refused to furnish beer to saloon-keepers who sold drinks to strike-breakers employed in Berg's factory; and the cooperation of the other hat manufacturers is strikingly illustrated by the fact that one manufacturer discharged an employee for no other reason than that he lived with his brother who was 'foul', that is, worked for Berg."

Indeed, a veritable epidemic of boycotts was begun at this time, and the estimated number in 1885 was seven times as large as that of 1884. Most of them were begun and fostered by the Knights of Labor, while few trade-unions were affected, save those connected with the printing trades.

The year 1885 witnessed, as has been said, almost twice the number of strikes as the previous year, but these strikes were marked even more than those of 1884 as "spontaneous outbreaks of unorganized masses". Even the lowest of unskilled workers were drawn into the movement. Most of the unskilled workers' strikes, being those of unorganized and turbulent men, resulted in violence, which gave excuse for the use of troops to put down the strikes.

Many railway strikes were the feature of the year 1885, the most notable being that on the Gould railways, which finally

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44 2 Commons, op. cit., 364-5.
45 Ibid, 366
forced Jay Gould to concede all that the strikers demanded. This victory lent an enormous prestige to the previously rather unsuccessful railroad labor organization and to the Knights of Labor generally.

"But far more important was the effect of the strike upon the general labor movement. Here, a labor organization for the first time dealt on an equal footing with the most powerful capitalist in the country. It forced Jay Gould to recognize it as a power equal to himself, a fact which he amply conceded when he declared his readiness to arbitrate all labor difficulties that might arise. The oppressed laboring masses finally discovered a champion which could curb the power of a man stronger even than the government itself. All the pent-up feeling of bitterness and resentment which had accumulated during the two years of depression, in consequence of the repeated cuts in wages and the intensified domination by employers, now found vent in a rush to organize under the banner of the powerful Knights of Labor. To the natural tendency on the part of the oppressed to exaggerate the power of a mysterious emancipator who they suddenly find coming to their aid, there was added the influence of sensational reports in the public press. The newspapers especially took delight in exaggerating the powers and strength of the Order."  

The Knights of Labor were not slow to take advantage of this great increase in prestige. The Order led the agitation before Congress for the prohibition of the importation of contract laborers, and this legislation was passed in February 1885. The Order was now the equal in power of some of the greatest combinations of capital in the country, and the movement took on all the aspects of a social war. Commons says:

"A frenzied hatred of labor for capital was shown in every important strike. During the second Wabash strike, a convention of the employees of the Gould Southwestern system declared that 'labor and capital have met in a deadly conflict' and pledged themselves to stand firmly by the Wabash employees, 'sustaining them by . . . sympathy, money, and . . . lives if necessary.' Extreme bitterness towards capital manifested itself in all the actions of the Knights of Labor, and wherever the leaders undertook to hold it within bounds they were generally discarded by their followers, and others who would lead as directed were placed in charge. The feeling of 'give no quarter' is illustrated in the refusal to submit

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grievances to arbitration when the employees felt that they had the upper hand over their employers. Powderly (Grand Master Workman of the Order) wrote as follows in the beginning of 1886:49 'In some places where our Order is strong, the members refuse to arbitrate, simply because they are strong. Such a course is not in keeping with plank XXII of the declaration of the principles of the Knights of Labor. One of the causes for complaint against employers has been that they refused to recognize the employees in the field of arbitration. Now that we are becoming powerful, we should not adopt the vices which organized labor has forced the employer to discard.'50

The increased public feeling with regard to these developments in the labor movement of the country was such that the year 1886 was ushered in by an increased demand for some sort of state action looking toward industrial peace. This was especially true of our two greatest industrial states, New York and Massachusetts, in both of which industry had been seriously affected by the strikes of the years immediately preceding.

Nor was this feeling confined to the separate states, for the greatly increased intensity of industrial struggles had brought the matter before the Federal Government. Strange as it may sound to one familiar with the present attitude of the American Federation of Labor, the convention of the Federation of Organized Trades and Labor Unions of the United States and Canada, its predecessor, in Pittsburgh in 1881, demanded in one of its planks that the incorporation of trade unions be allowed through act of Congress. At this convention, young Samuel Gompers represented the Cigar Makers' Union, and was accused by his opponents of representing the radical and socialist element of the convention. The platform, as adopted, included, among other matters, the legal incorporation of trade unions, the plank reading as follows:

"That an organization of workingmen into what is known as a Trades or Labor Union should have the right to protection of their property in like manner as the property of all other persons and societies, and to accomplish this purpose we insist upon the passage of laws in the State Legislature and in Congress for the incorporation of Trades Unions and similar labor organizations."

49 JOURNAL OF UNITED LABOR, (Philadelphia, Jan. 25, 1886).
50 2 COMMONS, op. cit. 374.
51 3 REPORT OF FEDERATION OF ORGANIZED TRades AND LABOR UnIONS, 1881.
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The motive which inspired this expression of sentiment, so foreign to the expressions of opinion of the American Federation of Labor at the present day, was not simply a desire to secure fuller protection for union funds. It was bound up with a desire to free the unions from the operation of the odious conspiracy laws which had forbidden various manifestations of labor organization for so many years. The leaders of the newly-formed Federation were heard before the Senate Commission on Education and Labor in 1883, and during the course of this hearing, it was brought out that one of the motives of this demand was to assist in the newly-formed aspirations toward the use of arbitration and conciliation in dealing with employers. The feeling was expressed that employers would be more ready to treat with legally organized and recognized unions, than they were to deal with the loose associations then existing. These spokesmen for the trades unions were vehement in their opposition of compulsory arbitration, but expressed a desire for compulsory dealing with the union or compulsory investigation by an impartial body.62

"The feelings as expressed before the Senate Committee show that 'the argument for incorporation had shifted from cooperation, the ground upon which it was urged during the sixties, to collective bargaining and arbitration—a change which denotes a fundamental change in the aim of the labor movement—from 'idealistic striving for self employment to opportunistic trade unionism. The young and struggling trade unions of the early eighties saw only the good side of incorporation without its pitfalls; their subsequent experience with the courts converted them from exponents into ardent opponents of incorporation and of what Foster termed 'Legalized arbitration.'"63

V. FIRST FEDERAL ACTION.

Such was the condition of the labor world when, on April 22, 1886, President Grover Cleveland, addressed to the first session of the Forty-ninth Congress a special message on the subject of arbitration in industrial disputes. The President, in this message, demanded legislation looking to the creation of a permanent body which might at all times be ready to handle the problems of industrial arbitration as they arose. The importance of this document merits its reproduction in full:

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62 1 Report, Senate Committee on Education and Labor, 326 (1885).
63 2 Commons, op. cit. 326.
"To the Senate and the House of Representatives:

"The Constitution imposes upon the President the duty of recommending to the consideration of Congress from time to time such measures as he shall judge necessary and expedient.

"I am so deeply impressed with the importance of immediately and thoughtfully meeting the problem which recent events and a present condition have thrust upon us, involving the settlement of disputes arising between our laboring men and their employers, that I am constrained to recommend to Congress legislation upon this serious and pressing subject.

"Under our form of government the value of labor as an element of national prosperity should be distinctly recognized, and the welfare of the laboring man should be regarded as especially entitled to legislative care. In a country which offers to all its citizens the highest attainment of social and political distinction, its workingmen cannot justly and safely be considered as irrevocably consigned to the limits of a class and entitled to no attention and allowed no protest against neglect.

"The laboring man bearing in his hand an indispensable contribution to our growth and progress, may well insist, with manly courage and as a right, upon the same recognition from those who make our laws as is accorded to any other citizen having a valuable interest in charge, and his reasonable demands should be met in such a spirit of appreciation and fairness as to induce a contented and patriotic cooperation in the achievement of a grand national destiny.

"While the real interests of labor are not promoted by a resort to threat and violent manifestations, and while those who, under the pretexts of an advocacy of the claims of labor, wantonly attack the rights of capital, and for selfish purposes, or the love of disorder sow deeds of violence and discontent, should neither be encouraged nor conciliated, all legislation on the subject should be calmly and deliberately undertaken, with no purpose of satisfying unreasonable demands or gaining partisan advantage.

"The present condition of the relations between labor and capital is far from satisfactory. The discontent of the employed is due in a large degree to the grasping and heedless exactions of employers, and the alleged discrimination in favor of capital as an object of governmental attention. It must also be conceded that the laboring men are not always careful to avoid causeless and unjustifiable disturbance.

"Though the importance of a better accord between these interests is apparent, it must be borne in mind that any effort in that direction by the Federal Government must be greatly limited by constitutional restrictions. There are many griev-
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ances which legislation by Congress cannot redress, and many conditions which cannot by such means be reformed.

"I am satisfied, however, that something may be done under Federal authority to prevent the disturbances which so often arise from disputes between employers and the employed, and which at times seriously threaten the business interests of the country; and in my opinion the proper theory upon which to proceed is that of voluntary arbitration as the means of settling these difficulties.

"But I suggest that instead of arbitrators chosen in the heat of conflicting claims, and after each dispute shall arise, for the purpose of determining the same, there be created a Commission of Labor, consisting of three members, who shall be regular officers of the government, charged among other duties with the consideration and settlement, when possible, of all controversies between labor and capital.

"A commission thus organized would have the advantage of being a stable body, and its members, as they gained experience, would constantly improve their ability to deal intelligently and usefully with the questions which might be submitted to them. If arbitrators are chosen for temporary service as each case of dispute arises, experience and familiarity with much that is involved in the question will be lacking, extreme partisanship and bias will be the qualifications sought on either side and frequent complaints of unfairness and partiality will be inevitable. The imposition upon a Federal Court of a duty so foreign to the judicial function as the selection of an arbitrator in such cases, is at least of doubtful propriety.

"The establishment by federal authority of such a bureau would be a just and sensible recognition of the value of labor, and of its right to be represented in the departments of the government. So far as its conciliatory offices shall have relation to disturbances which interfered with transit and commerce between the states, its existence would be justified under the provisions of the Constitution, which gives to Congress the power 'to regulate commerce with foreign nations and among the several States'. And in the frequent disputes between laboring men and their employers, of less extent and the consequences of which are confined within state limits and threaten domestic violence, the interposition of such a commission might be tendered, upon the application of the Legislature or executive of a State, under the constitutional provision which requires the general government to 'protect' each of the States 'against domestic violence'.

"If such a commission were fairly organized, the risk of loss of popular support and sympathy resulting from a refusal to submit to so peaceful an instrumentality, would constrain
both parties to such a dispute to invoke its interference and abide by its decisions. There would also be good reason to hope that the very existence of such an agency would invite application to it for advice and counsel, frequently resulting in the avoidance of contention and misunderstanding.

"If the usefulness of such a commission is doubted because it might lack power to enforce its decisions, much encouragement is derived from the conceded good that has been accomplished by the railroad commissions which have been organized in many of the States, which, having little more than advisory power, have exerted a most salutary influence in the settlement of disputes between conflicting interests.

"In July, 1884, by a law of Congress, a bureau of labor was established and placed in charge of a commissioner of labor, who is required to 'collect information upon the subject of labor, its relations to capital, the hours of labor and the earnings of laboring men and women, and the means of promoting their material, social, intellectual, and moral prosperity'.

"The commission which I suggest could easily be engrafted upon the bureau thus already organized, by the addition of two more commissioners and by supplementing the duties now imposed upon it by such other powers and functions, as would permit the Commissioners to act as arbitrators when necessary between labor and capital, under such limitations and upon such occasions as should be deemed proper and useful.

"Power should also be distinctly conferred upon this bureau to investigate the causes of all disputes as they occur, whether submitted for arbitration or not, so that information may always be at hand to aid legislation on the subject when necessary and desirable.

Executive Mansion, April 22, 1886.

—Grover Cleveland.\textsuperscript{54}

Just a month previous to this message from the President, Congressman Glover had introduced a bill providing for the creation of local arbitration boards for disputes through the agency of the Federal judges, together with the most elaborate provisions for the carrying out of such a plan. A substitute bill by the Committee on Labor providing for temporary boards of arbitration in the case of disputes connected with railroads in interstate transportation, was passed by the House of Representatives during the first session of the Forty-ninth Congress, and by the Senate during the second session, but because of the failure of the President to approve it, it did not become a law.\textsuperscript{55}

\textsuperscript{54} Senate Executive Documents, No. 130, Forty-Ninth Congress, first session.

\textsuperscript{55} See letter from the Acting Commissioner of Labor, Annual Report N. Y. Bus. of Med., 692 (1887).
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Shortly after this a new bill was introduced in the House, altered in order to conform more nearly to the wishes of the President, and including a provision for independent initiative by the Government in both the investigation and arbitration of industrial disputes. There was considerable discussion of this measure in both the House and the Senate, but after some amendment, the bill finally passed, and was approved by the President on October 1, 1888. This law, the first Federal act regarding industrial disputes, applied only to disputes between "railroad and other transportation companies" which were engaged in interstate traffic, when such disputes "may hinder, impede, obstruct, interrupt, or affect transportation of property or passengers."

One portion of this act of 1888 was voluntary, permitting parties to disputes on railways or other lines of transportation to agree on a board of arbitration for the dispute in question. Such a board might summons witnesses and administer oaths, but no provision was made for the enforcement of their awards, although a copy of the same was to be filed with the United States Commissioner of Labor. Publicity, in case of need, was provided for, this being the only method of enforcement. Another portion of the act gave to the President the power of appointing in any particular controversy two commissioners, who, acting in conjunction with the Commissioner of Labor, should investigate the dispute with a view to ascertaining the causes of the same, reporting to the President and to Congress. Publicity here also was the only means of enforcement provided.

The provisions of this act came into practical use just once in its ten-year history, when, on the occasion of the railway strikes of 1894 the President appointed a Commission to inquire into these strikes and their causes. This Commission, headed by Mr. Carroll D. Wright, after an elaborate investigation, reported to the President, and the act of 1898, dealing with the matter, was largely the result of their efforts.56

VI. THE FIRST STATE BOARDS OF ARBITRATION.

Meanwhile two of the most important industrial states, Massachusetts and New York, were busy with the creation of the first State Boards of Conciliation and Arbitration to be erected in this country.

56 See 17 REPORT U. S. INDUSTRIAL COMMISSION, pt. 3, c. 3 (1901).
On January 7, 1886, Governor George D. Robinson of Massachusetts addressed the state legislature as follows:

"That perfect independence of thought and action which characterizes the citizens of a free State like our own, underlies the right of every person to determine for himself what occupation he will follow, whether he will work at an offered price, or employ others to labor for him at such terms as they may demand. Absolute liberty in such matters is essential to individual success. But when great differences arise between labor and capital, when all the industrial interests of a community are paralyzed in the fierce conflict for the mastery, when irreparable injury is inflicted on every hand, the voice of reason ought to be heard above the din of force. Strikes and lock-outs may be quite legitimate, or even unavoidable at times, but they represent the storm periods, the war crises, of industrial affairs. Any practicable measures that shall facilitate peaceful negotiations, recognizing absolutely the equal rights of all parties to the dispute, will be approved in the intelligence and conscience of the employed and employers. Legislation can accomplish nothing further than to give formal sanction and character to some method for adjusting such differences by mutual agreement. Arbitration should be voluntary, not compulsory. I doubt the expediency of authorizing an appeal to legal process even to enforce the ultimate decision. The chief practical difficulty arises in the selection of arbitrators. Invest some official whose tenure of office is independent of the result of popular elections, with the power to appoint a board upon proper application in each case, and to preserve for future reference all agreements, stipulations and decisions that may be made in the cases brought before him, and the way is then open for amicable settlement. I know of no better depositories of such authority than the judges of the probate courts. The functions of their office bring them into intimate relations with the people, and in the performance of their duties they are little exposed to distrust.

"A permanent State Board of Arbitration could not be constituted so as to include members qualified by information and experience to consider and determine the differences arising in all the varied industries, and therefore would not fail to lose a measure of confidence. It is, I submit, altogether more wise to treat each dispute as a separate issue, and to present it for settlement before a special tribunal."\(^{67}\)

Thus cropped up once more the old idea of a special tribunal for each dispute, a method which, in no case in which it has been

\(^{67}\) Annual Address of the Governor, Mass. Senate Documents, 37 (1884). (Italics mine).
tried, has attained even partial success. Pursuant to the advice of the Governor, however, several bills providing for such machinery were introduced in both the house and senate of the state, but the better sentiment prevailed, and a State Board of Arbitration was created, sharing honors with New York as the first such body in the United States. Senator, later Governor W. L. Douglas, himself greatly interested in the manufacture of shoes, was author of the senate bill and instrumental in getting action upon this matter. The act was approved by the Governor on June 2, 1886.

In New York Governor Hill, who was a student of the work along arbitration lines in other countries, also addressed his state legislature in January 1886, as follows:

"The differences that arise between employers and employees concerning the question of wages almost inevitably lead to pecuniary loss to both parties to the controversy. This loss falls directly and most heavily upon the employed, while at the same time, by reason of the possibility of such differences, the capital of the employer is exposed to undue risk, and development of industry is unnaturally limited. Properly understood, there is no great conflict between capital and labor. In their aggregations they are essentially a component part of the progress of every country, and only where they dwell in harmonious relations does true prosperity exist. That this true prosperity may belong to the State of New York is the desire of every patriotic citizen.

"Arbitration as a means of settlement of differences, without the use of force, has come to hold a recognized place in the statesmanship of the world, and I am strongly of the belief that the principle can be applied with equal benefit to the reconciliation of the diverse opinions often held by those who pay and those who are paid for manual labor. The railroad commission has concededly corrected abuses in the management of railroad corporations. In many respects it acts substantially as an arbitrator between the citizens of the State and the corporations over which it has a general supervision.

"I recommend that provision shall be made by law for a commission, which shall have the power to investigate the subject generally, and especially the system of courts or boards of arbitration as they are established in other countries, and shall report to the President, or to some future Legislature, such a law as is necessary to secure the benefits of the system of arbitration to those interested in the advancement of the industries of the State. The progress that this principle has made is conspicuously illustrated by the recent selection of the
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Hon. Allen G. Thurman as arbitrator, in the matter of differences arising in relation to wages in our neighboring State of Ohio.

"It is believed that, with proper attention to the subject, a system can be perfected in this State whereby labor differences can be amicably adjusted, especially as between corporations and those whom they employ. The subject is of great moment, and it increases in importance as the country progresses. It concerns largely the security of the public peace and the welfare of the workingmen, and should receive the earnest and thoughtful consideration of the Legislature."\(^{58}\)

In accordance with the desire thus expressed the state legislature took prompt action upon this subject, but went the Governor one better by creating, not a commission to investigate and report, but a state board itself. The act itself was dated May 18, 1886, and the members were appointed and entered upon their duties on June 1, 1886.

These two state boards in Massachusetts and New York commenced operations at once and have consistently since that time maintained their lead over all other organizations of like character which other states have created. They have both maintained a continuous existence, although both are now organically connected with state departments of labor, and no longer maintain their former independent status. Almost every state that has legislated upon this subject since 1886 has copied one or the other of these boards.

VII. SUMMARY.

We have seen that the first state-wide bodies for the settlement of industrial disputes were those of New York and Massachusetts, created in 1886. There were then in existence permissive provisions for local boards in Maryland (1878), New Jersey (1880), Pennsylvania (1883), and Ohio (1885), and the year 1886 witnessed the passage of statutes looking toward such local arbitration in Iowa and Kansas. None of these latter statutes had produced any practical results, and no such permissive type of statute has as yet—1920—proved to be of any practical value.

The period in which these agencies were being evolved by the states was one of extreme importance in the development of the nation, not only along labor organization lines but in other, perhaps even more important, ways. The rise of great business com-

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\(^{58}\) Annual Address of the Governor, New York, 1886. (Italics mine).
binations had been favored by the financial depressions of the Seventies and early Eighties, which enabled certain individuals and groups to gain control of the sources of production in several essential industries. The foundations of the great steel combines, and of Standard Oil were being laid, and the railroads, having been completed to the Pacific Coast, were now reaching out into every hamlet, and covering the country with a network of lines, a fact which not only increased the market for advertising and business, but brought the country mechanics and laborers into competition with those of the cities for the first time. The South was gradually recovering from the havoc of war, although not as yet sufficiently to catch up with the North in industrial development. Organization became the watchword of development, and labor was not slow to follow the lead set by the manufacturers.

The Knights of Labor was then at the zenith of its power. The older trades unions of the Sixties had embraced only skilled mechanics and artisans—the aristocracy of the labor world—but by 1880 many of the older unions had largely disintegrated during the periods of depression, and many skilled men had been reduced almost to the condition of unskilled workers. A new solidarity therefore developed between them; a solidarity the Knights of Labor sought to capitalize. In the year 1886 the Knights of Labor had a membership of 700,000, and the trade unions 250,000.

Throughout this period the frequency of strikes against reductions in wages is notable, the march of increasing wages not as yet having been begun, even for the more skilled trades. The struggle was to maintain the standard of living, not to better it, and its history was marked with violence, with such events as the Haymarket Bomb in Chicago to stir up hatred on the part of the public, and with the development of a fierce internecine struggle between the rival types of labor organization to mar development within. It was in 1885 that the Knights and the trade unions first clashed on any large scale with the unions, even then under the leadership of Samuel Gompers, slowly gaining the ascendancy. The labor world, sensing its power, was enduring with little composure the pangs of birth that were to produce a new era in labor history.

It was in this unsettled period that the states began to look to state-created and state-assisted industrial conciliation and arbi-
tration for some way out. How the attempts succeeded will be
told in a later chapter.

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