

Comparative Study of the Legislation on Conciliation and Arbitration

Volume 6, Number 1, December 1950

URI: <https://id.erudit.org/iderudit/1023256ar>

DOI: <https://doi.org/10.7202/1023256ar>

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Publisher(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (print)

1703-8138 (digital)

[Explore this journal](#)

Cite this article

(1950). Comparative Study of the Legislation on Conciliation and Arbitration. *Relations industrielles / Industrial Relations*, 6(1), 11–22.
<https://doi.org/10.7202/1023256ar>

transferability of the inmates. But recently, another reason has come to light. According to reports from escaped FLC prisoners, it seems more and more likely that a certain proportion of the FLC prisoners in Cze-

choslovakia has been sent to the U.S.S.R, and that still others face the same lot. The dispatch center from Czechoslovakia into the U.S.S.R. seems to be the camp of Leopoldov, in the Sudetan Mountains.

Comparative Study of the Legislation on Conciliation and Arbitration

INTRODUCTION

This study is not intended to define the basic principles of the various systems of settling labour disputes, but merely to outline the main types of settlement procedure. Nor is it intended to pass judgment on the value of the different systems, notwithstanding certain necessary explanations.

By "labour disputes" we understand only those disputes of a collective nature and not individual disputes, even though the latter may easily be transformed into the former. Moreover, the distinction between individual and collective disputes is of a somewhat artificial character, as Rouast and Durand point out in their "Précis de législation industrielle".¹ At any rate, in spite of the difficulty in establishing the criteria of an individual dispute, the collective dispute presents characteristics which may readily be recognized.

In this connection, Rouast and Durand adopt the following position:

a) Collective disputes are those which concern fundamentals, the solution of which affects the legal status of the various members of a cer-

tain group. Such is the case when the dispute is in regard to the creation or revision of a statute of labour legislation. (Settlement by arbitration of prevailing labour conditions, revision of a collective agreement following an award because of a lack of foresight). Likewise those disputes present a collective aspect which concern the interpretation of the rules of law, whether it be a question of acts, customs, collective agreements or of awards. b) Secondly, collective disputes are those which bring into play an interest common to the whole or to a part of a group, for example, those which affect freedom of opinion, freedom of association, the rights of personnel representatives, the right to strike, even though the solution of the problem changes the legal status of only one member of the undertaking. So, a particular measure may give rise to a collective conflict: one has only to suppose the firing of a wage-earner because of his adhesion to a labour union. In harming the right of becoming a member of a union, the act encroaches upon the worker-group's prerogative. The competence of jurisdiction by arbitration could not, moreover, come about from a simple allegation, but from the proof of an injury to the common interest. The competence and the scope and depth of the case at issue are intimately related. The idea of the collective dispute is, then, quite large, and overlaps that of the

Note of the Editors — Under this title, we shall publish in the Review, a series of articles written by a professor in the Industrial Relations Department of Laval, who, for certain reasons, wishes to keep his identification anonymous.

(1) Rouast et Durand, *Précis de législation industrielle (Droit du Travail)*, p. 276 and following, Librairie Dalloz, 1948.

individual".² The methods of settlement analyzed in this study, fall under the head of disputes presenting the characteristics outlined by Rouast and Durand, whether it be a question of a conflict of rights or of interests (economic).

Much more important is the distinction between conflicts of rights and conflicts of interests as far as a scrutinization of the means for the settlement of collective labour disputes is concerned. For very often this distinction leads to the establishment of labour courts with the mission to settle conflicts of rights, especially in the Scandinavian countries, while conflicts of interests stem from the procedure of conciliation and arbitration. Besides, even if this distinction did not lead to the establishment of labour courts, it may lead to the prohibition of the suspension of work in connection with a conflict of rights, notably in the interpretation and application of collective agreements, a conflict which should be settled definitely through a procedure contained in the collective agreement, as is provided for, for example, in the federal labour code of Canada.

The conflict of rights concerns the interpretation or application of a right which is actual and existing, and it is of little importance that this right springs from a formal juridical prescription or from a clause in a collective or individual contract. Its interpretation normally depends on the judge, acting as a labour judge".³ The conflicts of rights which are contemplated in this study, concern principally those which are the outcome of the interpretation and application of the labour law and the collective agreements. The question as to whether these conflicts of rights should come under a special type of jurisdiction (labour courts) or under ordi-

nary jurisdiction does not enter into the considerations of this study. We shall limit ourselves to a description of the labour courts existing in those countries whose procedures for settling labour disputes are considered in this study.⁴

The conflict of interests "does not concern the interpretation of an acquired right founded on the law or on a contract, but depends on a simple claim which tends to change an existing right or to create a new one. This type of conflict is brought about usually by the conciliator or by the arbitrator".⁵ Again, conflicts of interests — which many call economic conflicts — include disputes which "are caused by the fundamental differences in salary and labour conditions, i.e., by questions which are normally settled by collective agreements."⁶ The proceedings for settling labour disputes which are analyzed in this study require an examination of the mechanisms of conciliation and arbitration and of the labour courts existing in the countries we have chosen. Let us elucidate at this point that the norm which influenced us in making this choice, aimed simply at bringing to light the various systems in practice and not at a complete analysis of all the systems in force in all countries. The countries chosen were picked for their susceptibility to serve as examples and not because their systems are the best. Moreover, as far as the settlement of labour disputes is concerned, we might say that there exists a number of systems, but not a unitary doctrine.

Indeed, the proceedings for the settlement of labour disputes vary fundamentally according to the economic structure of the countries. "When it is a question of a country

(2) *Idem*.

(3) *Les tribunaux du travail*, p. 20, *Études et Documents, Série A (Vie sociale)*, no 40, Bureau international du Travail, Genève 1948.

(4) *Idem*.

(5) *Idem*.

(6) *Relations industrielles, Rapport VIII -1-*, p. 93; Conférence internationale du travail; Trente et unième session, San Francisco. 1948.

with a planned economy where the relations between the management of the industry and the workers must be regulated and codified within the framework of the industrial structure, the latter being subordinated to the realization of the national economic ideal, the problem of settling labour disputes which might arise on the occasion of the conclusion of a collective agreement has a different aspect from that of a free economy".⁷ It is evident that an entirely planned economy demands certain modes of settlement of an obligatory nature, from the point of view of possible procedures as well as from that of the decisions which are made. Conflicts of interests as well as conflicts of rights come under the jurisdiction of tribunals whose decisions are binding, even though in certain countries with planned economies the right to strike has not been restricted by the law.

On the contrary, in the countries of liberal capitalism or in countries which, possessing in large measure a planned economy, practise free competition and freedom of price-setting and of wage-fixing, the systems for settling labour disputes do not present the same element of coercion. In certain of these countries, the conflicts of rights come under ordinary jurisdiction at times, at others, under a special jurisdiction (labour courts). Although it cannot be affirmed that the tendency is towards the final settlement of conflicts of rights (by labour courts or by other agencies or procedures) without a general interruption of labour, it seems however that industrial relations practices will tend towards these measures.

As for conflicts of interests (or economic conflicts), a well-defined tendency may be observed: the obligation of turning to conciliation and arbitration procedures. Just the same, we meet at this point several varieties of systems. Indeed, in certain

countries, only the procedure of conciliation before direct action, as much on the part of the unions as on that of the employers, is obligatory, either in virtue of agreements or in virtue of law. Needless to say, in such a case the conclusions of the conciliation proceedings are not of an obligatory nature. In other countries, a second stage of procedure is provided for: that of arbitration. In certain cases, recourse to this procedure is obligatory but the conclusions are not binding on the parties. In still other cases, the law does not oblige the parties to turn to this procedure, but only incites them to it, taking for granted that the decisions must then be respected.

What is the difference between the procedure of conciliation and that of arbitration? Conciliation tends "to alter the very will of the parties", while arbitration tends "to supply what the will lacks".⁸ The first method ends "in the agreement of the parties", while the other terminates in the "decision of a third party which is substituted for the agreement".⁹

The procedure of conciliation, be it conventional or obligatory, i.e., established by the parties or provided for by legislation, constitutes then the first stage. The eventual intervention of the conciliator is for the purpose of helping the parties reach an agreement on their own and not to impose upon them a solution to the problem. In other words, the procedure of conciliation does not give rise to an award as in the case of arbitration which, on the contrary, leads to a decision, a ruling which should be enforced. All countries agree on the great importance of the proce-

(8) Méthodes de collaboration entre les pouvoirs publics, les organisations professionnelles ouvrières et les organisations professionnelles patronales, p. 160, Vingtsixième session, Conférence internationale du Travail, Genève 1940.

(9) Idem.

(7) Idem, p. 125.

dure of conciliation to the point that a sort of priority is given, even in countries where obligatory conciliation exists, to those functions of conciliation which might have been provided for by the parties themselves.

The procedure of arbitration is of a much more exact nature, whether it be a question of conventional or of obligatory arbitration. While as a general rule the proceedings of conciliation are rather hazily defined, those of arbitration are quite precise: appointment of arbitrators or, more exactly, of the representatives of the union and of the employer; designation of the chairman of the council or of the court of arbitration, which, as a matter of fact, is the actual arbitrator; appearance of the parties in court; the filing of documents; summoning of witnesses, etc.

In analysing the various systems of settlement of labour disputes by legislation, the constant preoccupation on the part of the public authority of not intervening except to "supplement the lack of purpose of the parties" may be noticed. At all stages in the procedure, either during conciliation or during arbitration, it is always permissible for the parties to come to an agreement by means which they have chosen themselves.

The great merit of conciliation and arbitration procedures is that they bring under regulation the strike and the lock-out. Before resorting to direct action, the parties are obliged to examine all possibilities of compromise and agreement. Without encroaching upon the right to strike or the right to lock-out, these procedures condition their exercise.

In those countries where freedom of enterprise, freedom of price-fixing, and freedom of wage-setting are the general rules, there is not yet a tendency towards the obligatory settlement of conflicts of interests. As for conflicts of rights, the situation is somewhat different, for the procedure of final settlement without interruption of labour is gaining

ground. Is there reason to regret the fact that most countries have given up obligatory arbitration (with binding decision) in conflicts of interests? It seems that to grant an obligatory character to the decisions of arbitration boards in the case of conflicts of interests, except for certain branches of economics such as certain public services, would mean the acceptance not only of the prohibition of strike and lock-out, but equally as well the acceptance of an entirely planned economy.

Would the value and effectiveness of the arbitration awards be weakened by the fact that they are not binding upon the parties? To affirm this would mean that we forget the high moral value of the arbitration awards because of their official character and the publicity which accompanies their publication. The perusal of the reports of the conciliation and arbitration services of the labour departments of the various countries would demonstrate, we are certain, that in the great majority of cases the awards of the councils or courts or arbitration are as a matter of fact accepted and enforced by the parties, in spite of the fact that the law does not oblige them to do so.

In the present state of the principles which lie at the base of the economy of most countries and which govern industrial relations, it seems that the different systems of settlement of labour disputes will develop in the framework in which they are functioning at present.

Before passing on to the analysis of a few of the systems of settlement of labour disputes which are truly representative of the practices followed by various countries, we wish to point out that only the main characteristics of such systems are envisaged in this study, since its aim is simply to give a general view of those systems now in force. Insofar as possible, we have followed as closely as we could, legal texts in order to avoid

confusion. Finally, we consider only basic legislation, and not those acts which are applicable to certain industries or public services.

CANADA

The settlement of labour disputes belongs to the federal or provincial governments, depending on the nature of the conflict. Going on the assumption that the federal and provincial legislative bodies employ the same basic principles, i.e., obligatory conciliation without binding awards, except in certain cases, we shall limit this chapter to an exposé of the federal legislation and the legislation of the Province of Quebec.

A—FEDERAL LEGISLATION

There are two acts relating to the settlement of labour disputes: the Act Respecting the Industrial Relations and Disputes Investigation¹ and the Act respecting Conciliation and Labour² applicable to railroads.

I—The Industrial Relations and Disputes Investigation Act

This Act adopted by the House of Commons on June 17, 1948 and put into force on September 1 of the same year, "is in large measure a revision of the Wartime Labour Relations Regulations with modifications and additions considered advisable following from the experience gained in the administration of the Regulations and in the light of representations received from provincial authorities and labour and employer organizations."³

(1) An Act respecting the Industrial Relations and Disputes Investigation. 11-12 Geo. VI Chapter 54, 1948.

(2) An Act respecting Conciliation and Labour, chapter 110, R.S. of Canada, 1927.

(3) Labour Gazette, Vol. XLVII, July 1947, p. 923, Department of Labour, Ottawa.

a) Field of application

The Act is applicable to employees in work, undertaking or business that is within the legislative authority of the Parliament of Canada (art. 53). However, where legislation enacted by the legislature of a province and Part I of the Act are substantially uniform, the Minister of Labour may, on behalf of the Government of Canada, with the approval of the Governor in Council, enter into an agreement with the government of the province to provide for the administration by officers and employees of Canada of the provincial legislation (art. 62).

b) Organization of the act

The Act includes clauses respecting the right to affiliate with a union, unfair labour practices, collective bargaining and certification of bargaining agent by the Labour Relations Board, lock-outs, conciliation and the establishment of Industrial Inquiry Commissions charged with the responsibility of discovering the causes of trade disputes. We shall limit ourselves to the examination of those clauses in the Act respecting the settlement of trade disputes.

c) Negotiation of collective agreements

Where a notice to commence collective bargaining has been given under this act and a) collective bargaining has not commenced within the time prescribed by the Act; or b) collective bargaining has commenced, one of the parties may intervene before the Minister of Labour for the following purposes:

i) *Nomination of one or several conciliators*

Either party thereto may request the Minister of Labour to instruct a Conciliation Officer to confer with the parties to assist them to conclude a collective agreement. Follow-

ing an examination of the difficulties encountered, the Minister may, if he deems it advisable, instruct one or more conciliation officers to assist the parties.

ii) *Nomination of a conciliation committee*

Where a conciliation officer fails to bring about an agreement between the parties or in any other case where in the opinion of the Minister a commission of conciliation should be appointed to endeavour to bring about agreement, the Minister may appoint a commission of conciliation for such purpose.

iii) *Obligatory delays before resorting to strike or lock-out*

Article 21 of the Act defines the delays which must be observed before the parties may resort to direct action: "Where a trade union, on behalf of a unit of employees, is entitled by notice under this Act to require their employer to commence collective bargaining with a view to the conclusion or renewal or revision of a collective agreement, the trade union shall not take a strike vote or authorize or participate in the taking of a strike vote of employees in the unit or declare or authorize a strike of the employees in the unit, and no employee in the unit shall strike, and the employer shall not declare or cause a lockout of the employees in the unit, until a) the bargaining agent and the employer, or representatives authorized by them in that behalf have bargained collectively and have failed to conclude a collective agreement; and either b) a Conciliation Board has been appointed to endeavour to bring about agreement between them and seven days have elapsed from the date on which the report of the Conciliation Board was received by the Minister; or c) either party has requested the Minister in writing to appoint a Conciliation Board to endeavour to bring about

agreement between them and fifteen days have elapsed since the Minister received the said request and (i) no notice under subsection two of section twenty-eight of this Act has been given by the Minister, or (ii) the Minister has notified the party so requesting that he has decided not to appoint a Conciliation Board."

d) **Revision of a provision of the agreement, liable to revision during the term of the agreement within the limits of the latter**

The clauses cited above, i.e., "c (iii)", apply equally as well in the present circumstance.

e) **Renewal or revision of the agreement or conclusion of a new collective agreement**

Either party to a collective agreement may, within the period of two months next preceding the date of expiry of the term of, or preceding termination of the agreement, by notice, require the other party to the agreement to commence collective bargaining with a view to the renewal or revision of the agreement or conclusion of a new collective agreement.*

"If a renewal or revision of the agreement or a new collective agreement has not been concluded before expiry of the term of, or termination of the agreement, the employer shall not, without consent by or on behalf of the employees affected, decrease rates of wages, or alter any other term or condition of employment in effect immediately prior to such expiry or termination provided for in the agreement, until a renewal or a revision

(* Article 28 (2): "When the Minister has decided to appoint a Conciliation Board, he must immediately, in writing, demand each of the parties within seven days after receipt by the party of the notice, to nominate one person to be a member of the Conciliation Board, and upon receipt of the nomination within the seven days, the Minister shall appoint such person a member of the Conciliation Board".

of the agreement or a new collective agreement has been concluded or a Conciliation Board, appointed to endeavour to bring about agreement, has reported to the Minister and seven days have elapsed after the report has been received by the Minister, whichever is earlier, or until the Minister has advised the employer that he has decided not to appoint a Conciliation Board" [article 15 (b)].

Likewise, during this time, all votes in favour of strike, all strikes, and all lock-outs are forbidden.

f) Settlement of conflicts of rights without stoppage of work

The Act contains clauses providing for the prohibition of any suspension of work in regard to the interpretation or violation of a collective agreement. Such is the meaning of article 19: "(1) Every collective agreement entered into after the commencement of this Act shall contain a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or persons bound by the agreement or on whose behalf it was entered into, concerning its meaning or violation. (2) Where a collective agreement, whether entered into before or after the commencement of this Act, does not contain a provision as required by this section, the Board shall, upon application of either party to the agreement, by order, prescribe a provision for such purpose and a provision so prescribed shall be deemed to be a term of the collective agreement and binding on the parties to and all persons bound by the agreement and all persons on whose behalf the agreement was entered into. (3) Every party to and every person bound by the agreement, and every person on whose behalf the agreement was entered into, shall comply with the provisions for final settlement contained in the agreement and give effect thereto".

g) Prohibition of strike and lock-out

Except for that which concerns the revision of a clause of an agreement permitting of revision during the term of the agreement within the limits of the latter, no employer bound by the agreement may declare or cause a lock-out, the same as no employee bound by a collective agreement or on whose behalf a collective agreement had been concluded, may go on strike, and no bargaining agent that is a party to the agreement may declare or authorise a strike of any such employee, during the term of the collective agreement.

Likewise, no employee in a unit may strike until a bargaining agent has become entitled, on behalf of the unit of employees, to require their employer, by notice under this Act, to commence collective bargaining with a view to the conclusion or renewal or revision of a collective agreement, and as long as the provisions of the Act in this regard have not been complied with. No employer may declare or cause a lock-out of employees while an application for certification of a bargaining agent, to act for such employees, is pending before the Board.

h) Enforceable recommendations

The Act stipulates that after the appointment of a conciliation board, it is possible, at any time, before or after the presentation of the report of the board, to decide that recommendations of the board will be binding on the parties and that they must give effect thereto if the parties so decide.

i) Conciliation proceedings

1—Conciliation officers

Where a conciliation officer has been instructed to confer with parties engaged in collective bargaining, he must within fourteen days, after

being so instructed or within such longer period as the Minister may from time to time allow, make a report to the Minister setting on a) the matters upon which the parties have agreed; b) the matters upon which the parties cannot agree; and c) as to the advisability of appointing a conciliation board with a view to effecting an agreement.

2—Conciliation boards

Each conciliation board is composed of three members. Upon receipt of a notice from the Minister, each party must within seven days, nominate one person to be a member of the conciliation board. If one of the parties fails to nominate a person, the Minister charges himself with this appointment in place of the party. The two members who are appointed have a delay of five days in which to nominate a third person to be member and chairman of the conciliation board. If the third person is not appointed within the prescribed delay, the Minister makes the appointment himself. The Act outlines the reasons which are capable of rendering a person ineligible for member of a conciliation board.

3—Procedure

Except as otherwise provided in the Act, a conciliation board may determine its own procedure, but must give full opportunity to all parties to present evidence and make representations.

The decision of a majority of the members present at a sitting of a conciliation board constitutes the decision of the board and in the event that the votes are equal the chairman has a casting vote. A quorum consists of the Chairman and another member of the board.

The report of the majority of the members is the report of the conciliation board. The board has the power of summoning before it any witnesses

and of requiring them to produce such documents and things it deems requisite for its task, but the information so obtained from such documents may not, except as the conciliation board deems expedient, be made public. The members of the board and any persons authorized by the board may visit the place of work in question.

4—Report

Each conciliation board must inform the Minister of its decisions and recommendations within fourteen days after the appointment of its chairman, or within such longer period as may be agreed upon by the parties or may from time to time be allowed by the Minister. No report of a conciliation board and no testimony or proceedings before a conciliation board shall be receivable in evidence in any court of Canada, except in the case of prosecution for perjury.

j) Enforcement of the Act

The Act outlines the penalties which may be imposed because of a violation of the provisions of the Act. However, no prosecution for an offence under the Act shall be instituted except with the consent in writing of the Minister.

k) Industrial investigations

The Act also provides that the Minister may, "upon application or of his own initiative, where he deems it expedient, make or cause to be made any inquiries he thinks fit regarding industrial matters, and may do such things as he deems calculated to maintain or secure industrial peace and to promote conditions favourable to settlement of disputes".

An Industrial Inquiry Commission consists of one or several members appointed by the Minister. It has identical powers with those of the conciliation boards respecting the summon-

ing of witnesses, access to the place of work and its inspection.

Immediately following its appointment, an Industrial Inquiry Commission must inquire into the matters referred to it by the Minister, and endeavour to carry out its terms of reference. In the case of a dispute or difference in which a settlement has not been effected in the meantime, the report of the result of its inquiries, including its recommendations, must be made to the Minister within fourteen days after its appointment or within such extension as the Minister may from time to time grant.

The Minister transmits copies of the report to the parties concerned and publishes the report in a manner which he deems suitable.

II—Conciliation and Labour Act

The Act respecting Conciliation and Labour, Chapter 110, Revised Statutes of Canada, 1927, still figures in the statutes, but it is difficult at present to appreciate its usefulness since the adoption in 1948 of the Industrial Relations and Disputes Investigation Act.

In reality, this Act concerns particularly railroads. But the Act respecting Conciliation and Labour is directed principally at disputes which might arise in the railroads, at the same time providing for methods of settlement for other types of labour disputes, especially the intervention of a conciliator, the appointment of arbitrators, the registration of conciliation boards, etc.

Probably the Chapter 110 has been retained among the statutes "on principle", since the act respecting Conciliation and Labour is one of the oldest labour acts of the country.

B—LEGISLATION IN THE PROVINCE OF QUEBEC

Legislation in the Province of Quebec concerning conciliation and arbitration springs from the same basic

principles as federal legislation. Employer and employee organizations certified by competent authority are bound to bargain collectively. Generally speaking, the mechanism of conciliation and arbitration functions in a practically identical manner. The right to strike is withdrawn from certain classes of workers in the public services, especially those in municipal and educational bodies, but on the other hand, the decisions rendered by the arbitration councils are binding.

I—Labour Relations Act ⁴

i) *Intervention of a conciliator*

When the negotiations between the parties have been in progress for thirty days without success, or if either of the parties does not believe that the negotiations can be completed within a reasonable length of time, each party may serve notice to the Labour Relations Board, outlining the difficulties encountered.

Upon receipt of such a notification, the Board informs the Minister of Labour who appoints a conciliator to confer with the parties in order to reach a settlement. The conciliator reports within fifteen days after receipt of his instructions. If this report indicates that no agreement has been reached, the Minister appoints a Council of Arbitration in pursuance of the Quebec Trade Disputes Act. The report of the conciliator takes the place of the demand provided for in said Act.

ii) *Prohibition of strike and lock-out*

Strikes and lock-outs are forbidden for fourteen days after the report of the council of arbitration has been received by the Minister of Labour.

(4) The Labour Relations Act, R.S.Q. 1941, chapter 162A as enacted by 8 Geo. VI, chapter 30, amended by 9 Geo. VI, chapter 44 and 10 Geo. VI, chapter 37, assented to, the 28th of March 1946.

As we shall see further on, the public services employees cannot strike. The following is the text of article 24: "(1) Any strike or lock-out is prohibited so long as an association of employees has not been recognized as representing the group of employees concerned, and so long as such association has not taken the required proceedings for the making of a collective agreement and fourteen days have not elapsed since the receipt by the Minister of Labour of a report of the council of arbitration upon the dispute. Until the above conditions have been fulfilled, an employer shall not change the conditions of employment of his employees without their consent. (2) Any strike or lock-out is prohibited for the duration of a collective agreement, until the complaint has been submitted to arbitration in the manner provided in the said agreement or, failing any provision for such purpose, in the manner contemplated by the Quebec Trade Disputes Act (Chap. 167), and until fourteen days have elapsed since the award has been rendered without its having been put into effect. (3) Nothing in this section shall prevent an interruption of work which does not constitute a strike or a lock-out." In other words, the conflicts of rights, just as those of interests, must be submitted to arbitration proceedings before the parties may have recourse to direct action.

II—Quebec Trade Disputes Act ⁵

The Act specifies that no litigation or dispute may be submitted to a conciliation council nor to an arbitration board if there are less than ten employees implicated in said litigation or dispute. The Act sets down the functions of the registrar of the conciliation and arbitration councils, which are charged with the settle-

ment of labour disputes. The registrar reports to the Minister of Labour within the shortest time possible. In fact, his intervention is at present determined and guided by the Labour Relations Act which provides also for the intervention of a conciliator.

i) *Councils of conciliation*

A dispute may be submitted to a Council of Conciliation in the following two cases, i.e., either at the request of the employer and workers, or at the request of one of the parties.

Each council of conciliation is composed of four conciliators, each party naming two.

After taking cognizance of the dispute and the facts, hearing the parties and endeavouring to conciliate them, the Council of Conciliation forwards its report to the registrar. After receipt of the report, the registrar, within a delay of not more than ten days, renders a copy certified by him of the report to the parties concerned. In case of failure to reach a settlement, each party may request the registrar to refer the dispute to a Council of Arbitration.

ii) *Councils of arbitration*

A Council of Arbitration is composed of three members, Canadian citizens of full age, appointed by the Minister. The employer and worker parties must each suggest one person within a delay of ten days. In case of failure in this regard, the Minister of Labour makes the appointment. The two persons thus designated must reach an agreement within five days upon the appointment of a third person as president of the Council of Arbitration. If they are unable to agree on the choice of this third person, the Minister makes the appointment himself.

The Council of Arbitration may be vested with a matter already examined by a Council of Conciliation, or with a dispute which has

(5) The Quebec Trade Disputes Act, Chap. 167, R.S.Q., 1941, modified by 12 Geo. VI, Chap. 27, 1948.

not been submitted to such a council. If the award of a council of arbitration is not accepted and put into force by the parties, the latter, or one of them, have the right to submit the dispute again to a council of conciliation.

The Council must proceed with the inquiry into the dispute and render its decision with all possible dispatch, but at the latest within the three months from the appointment of its president. If the Council of arbitration so requests, on account of the nature and the particular circumstances of the dispute, the Minister of Labour may grant, if he judges advisable, any supplementary delay which must not exceed the delay suggested by the council of arbitration.

The award is written and signed by the majority of the members of the council.

iii) *Acceptance of the Council of arbitration award*

Before the decision of a Council of arbitration is rendered, the parties may, at any time, agree in writing to be bound by the award of the council, in the same manner as parties are bound upon an award made pursuant to a submission under Chapter LXXIII of the Code of Civil Procedure. Every such agreement made by one party must be communicated by the registrar to the other party, and, if such other party also agrees in like manner to be bound by the award, then the award of the Council of Arbitration becomes executory.

III—The Public Services Employees Disputes Act⁶

Every dispute respecting conditions of employment, between a public service and its employees, must be submitted to arbitration in accordance with the provisions of the existing collective agreement, if any, bet-

ween such public service and the representatives of such employees, if such agreement makes provision in that behalf, and, in every other case, according to the provisions of the Quebec Trade Disputes Act.

The arbitration award, whether unanimous or by majority, may be executed under the authority of a court of competent jurisdiction, at the suit of an interested party or of the Labour Relations Board, which shall not be obliged to implead the party for whose benefit it is acting.

As regards civil servants included under the Civil Service Act, the Civil Service Commission serves as a Council of Arbitration.

All strikes or lock-outs are forbidden in all circumstances as far as employees of the public services are concerned.

By public services are understood municipal and school corporations, public charitable institutions, insane asylums, and businesses of public utility and transportation excepting those railroads which come under the jurisdiction of the Canadian Parliament, federal branches within the province, but with regard only to the workers and civil servants included under the Civil Service Act.

Persons violating the provisions of the Act are subject to penalty.

IV—Act respecting Municipal and School Corporations and their Employees⁷

The Council of Arbitration which are charged with disputes between the municipal and school corporations and their employees, are composed of three members.

Every two years, at the latest during the thirty days preceding the end of its fiscal year, any municipal corporation must recommend to the Minister of Municipal Affairs, a person to act as a member of the Council of

(7) Municipal and School Corporations and their Employees Act, 13 Geo. VI, Chapter 26, 1949.

(6) The Public Services Employees Disputes Act, 8 Geo. VI, Chapter 31, 1944.

Arbitration whose duty it is to hear any dispute between it and its employees during the two next fiscal years. The employees or a certified association representing them must act in like manner.

The Council of Arbitration hears and settles any dispute which may arise, for the duration of its existence, between the municipal corporation wherefor it was established, and its employees.

The preceding provisions apply, *mutatis mutandis*, to school corporations. It is the secretary of the province who acts in the case of school corporations.

The Quebec Trade Disputes Act stipulates that in rendering its award in a dispute concerning a school board or a municipal corporation, the council of arbitration must take into account the financial standing of such corporation, its capacity to meet additional obligations resulting from taxes already burdening ratepayers.

Notwithstanding any inconsistent stipulation, no provision of an arbitration award or of a judgment of homologation involving an increase of expenses for a municipal or school corporation shall be executory before the expiration of the current fiscal year during which the award was made and must not retroact further

than twelve months reckoning from that award.

The Act also contains provisions about certain contingent clauses in the award of the Council of Arbitration or of the collective agreement notably in regard to the possibility of a clause of automatic readjustment of salaries according to the fluctuation of the official cost of living index. Furthermore there must be no clause or condition coming into conflict with the rights and powers assigned by law to municipal or school authorities in matters of the engagement, suspension and dismissal of their employees.

The Council of Arbitration according to the Quebec Trade Disputes Act, may not establish the coming into force of the award before the sixteenth day following the date of the award; if there is an appeal to the Quebec Municipal Commission, the execution must be suspended until the final adjudication of the Commission on such appeal. The appeal must be made within fifteen days from the date of the award. The Commission hears the parties, completes the proof if necessary, and annuls or amends the award if it is so necessary to meet the financial conditions of the municipal or school corporation. The decision of the Quebec Municipal Commission is final.

Civilization ceases when we no longer respect and no longer put into their correct places the fundamental values, such as work, family and country; such as the individual, honor and religion.

R.P. Lebert

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Pride is a deeply rooted ailment of the soul. The penalty is misery; the remedy lies in the sincere, life-long cultivation of humility, which means true self-evaluation and a proper perspective toward past, present and future.

Robert Gordis

Be methodical if you would succeed in business, or in anything. Have a work for every moment, and mind the moment's work.

W. Mathews

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The ascending spiral of greatness in America has risen because industry has produced wealth, which in turn has supported educational institutions, which in turn have supplied leadership to industry in order that with each succeeding generation it might produce more wealth.

Wallace F. Bennett