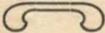
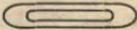


Labor Leg-Ironed



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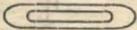
Liberal and Labor Party Arbitration Acts in N.S.W.



With brief reference to the New Zealand
Arbitration Act.

By H. E. Holland.

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INTRODUCTORY NOTE.

I am pleased at being invited to pen an introductory note to my friend and comrade's useful pamphlet. It was H. E. Holland's own magnificent fight against capitalist Compulsory Arbitration that aided myself and others at Broken Hill to painstakingly but confidently realise the working-class menace in such, whether considered tactically or in principle. From Wise to Wade and down to Labor rule, the industrial history of Australia—and especially in that State of it called New South Wales—has been crammed with vital and basic import to the international Labor movement for working-class supremacy. Holland had his share in the significantly exciting events, and will live therefor and thereby. I cannot help recalling how, when Holland and myself met in Melbourne at the interstate conference of 1907 which formed the Socialist Federation of Australasia, we carried an emphatic resolution warning the workers of the perils of arbitration, of which in earlier days I had been an enthusiastic defender and apologist. I am glad Holland has come to New Zealand and glad he has written this little pamphlet. I want him to make it part of a complete work on the subject, including in his vigorous analysis and judgment arbitral developments in South Australia, Western Australia and Queensland. He is the man to write such a work. He is now on the spot where the aftermath of arbitration projects blazing lessons, simultaneously with extraordinary turmoil in Queensland over the Industrial Peace Bill. His pamphlet is full of interest and instructiveness, and deserves a wide sale and study and as wide a filing.

R. S. ROSS,
Editor "Maoriland Worker."

Wellington,
August 24, 1912.

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OR

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THE FIRST ARBITRATION ACT IN N.S.W.

In the year 1901 the See Government (N.S.W.), largely at the instigation of the Labor Party, sent Judge Backhouse to New Zealand to report upon the working of the system of compulsory arbitration. New Zealand had been advertised as "a country without strikes," held up by the Capitalists as an example of what ought to be, and boomed by cunning "Labor" politicians on-the-make as a place where the working-man was given such ideal conditions by the Arbitration Court that he never wanted to strike—never dreamed of striking! Indeed, it was "God's Own Country," was New Zealand.

There was, however, another side to the picture. The clear-visioned Revolutionary Socialists saw that other side, and so did many others, including even that economically-puzzled and very much perplexed person, Mr. D. McLaren, who told us, in the columns of the "N.Z. Beacon":—"The ulterior object of the (N.Z.) Arbitration Act is to keep the trade unionists as quiet as possible, so that the industries of the colony may supply regular and continuous profits to those who have invested their capital therein, and the Act is so framed and administered as to keep in existence a large standing army of non-unionists to prevent any serious outbreaks on the part of Labor agitators. I would define the Conciliation and Arbitration Act as an Act for the special protection of employers and encouragement of non-unionism in New Zealand."

Judge Backhouse, nevertheless, brought back a most favorable report, and Mr. B. R. Wise (political chameleon) set to work, with the aid of the Labor politicians, to prepare arbitration chloroform for the workers.

Mr. Wise's measure lives in history as the Arbitration Act, 1902. It constituted a legally-expressed admission of the right of the Capitalist-class to appropriate the larger portion of the wealth created by the working-class, and in the constitution of the court that was to fix wages and conditions for the workers it gave the Capitalists (about 15 per cent. of the population) two-thirds of the representation, and to the useful workers (85 per cent. of the people) it gave one-third of the representation. In other words, the Act of 1902 gave the Capitalists unlimited legal control of the affairs of the trade unions and the workers generally. It converted the trade union into a mere machine for the making of conflicting awards and industrial agreements terminating at varying periods and constituting contracts to scab on the working-class in order to keep faith with the master-class. It reduced the trade union officials to mere dues collectors, salary drawers, and private policemen—whose time alternated between making compulsory (or Arbitration Court) unionists and securing prosecutions against the employers who broke the awards. And it is safe to say that every award made has been broken by every employer concerned.

The militant Socialists fought the idea of arbitration from the outset. The first newspaper attack on our side was delivered by "Dandelion," still a valued contributor to the "International Socialist." "The workers and the robbers have nothing to arbitrate about," he wrote in effect in the paper this writer was then editing. "Labor, being the creator of all wealth, should own all wealth, and, since labor-power is the sole commodity possessed by the working-class, only the working-class should fix the selling price of that commodity."

Because the Socialists protested against arbitration, they were denounced as traitors to "Labor," and the parliamentary members of the Labor Party replied to our criticisms and exposures that the Act was fundamentally good, and only certain of its details were faulty. "But if the unions will accept the principle," they said, "and give us time, we will get those details amended." The unions refused to listen to the Socialists; they accepted the master-class arbitration of the See Government. The master-class Lion and the working-class Lamb laid down together in the judicial gloaming of the Law Court. But the lamb was inside.

At first, the members of the N.S.W. Legislative Council were inclined to regard Mr. Wise's Bill with hostility. They feared that it was something that would make for the benefit of the working-class. But Mr. Wise was able to quite truthfully assure them that the Capitalists generally were not against the principle of the Bill, that it was only the extreme Socialists who were against it; and, to prove that this was so, he read to that class Chamber of fat, old conservative sweaters, exploiters, and grinders of the faces of the poor, newspaper articles written by myself. Of course, that settled it. The Legislative Council passed the Bill.

The central clause of the 1902 Act provided that:—

If, while a dispute is pending before the Court, any person does any act or thing in the nature of a lock-out or strike, or takes part in a lock-out or strike, or suspends or discontinues employment or work in any industry, or instigates to or aids

in any of the above-mentioned acts, he shall be liable to a penalty not exceeding ONE THOUSAND POUNDS or imprisonment not exceeding two months.

It will be noted that this penal clause only applied to persons who did the things named while a case was pending before the Court.

During the six years' life of the 1902 Arbitration Act, the Socialists' opposition was fully justified. Every prophecy we made in the bitter and strenuous days of 1901 was fulfilled to the letter, and the pitiless searchlight of dearly-bought experience furnished some revelations.

The first union to win an award under the Arbitration Act was the Newcastle Wharf Laborers' Union (a union which, some years earlier, the writer had helped to bring into existence). All Australia was made to ring with the glory of that achievement. Labor politicians, for political purposes, shouted it from the housetops, cried it in the city streets, and droned it in the drought-stricken remoteness of the Way Back. That "victory" cost the Newcastle watersiders hundreds of pounds. They got nearly everything they asked for, but a few years later they were out on strike against the very conditions they "won" in 1902.

Sydney Coal Lumpers spent something more than £1000 on Arbitration Court proceedings, and succeeded in "winning" an award that left them with infinitely worse conditions than they had previously experienced and a depleted treasury as well—an award which the force of economic circumstances compelled them to ultimately throw aside, and which in 1907, after a splendidly-determined struggle of four months' duration, they superseded with a set of better conditions and higher wages—forced from the employers by the strength of their own organisation.

Sydney Wharf Laborers, as the result of an expenditure of £3000, also "won" an award, only to fling it aside in spite of their officials and make a fresh demand upon the employers, ignoring the Court altogether.

The Broken Hill A.M.A. spent over £1000 to secure an award that gave preference to unionists and a slightly-improved form of contract that in time came to mean nothing to those on contract, as R. S. Ross pointed out in the Broken Hill "Flame" (1907), while the employers cheerfully and systematically ignored the "preference" clause.

When the Federal arbitration law was enacted, the great A.W.U. only got as far as the Federal Arbitration Court because the pastoralists were magnanimous and permitted them to get there, and the A.W.U. officials issued a special circular recognising this act of condescension on the part of the employers. The bitterest political enemy the A.W.U. had (Mr. G. H. Reid, who had denounced "preference to unionists" from end to end of Australia) the A.W.U. employed to go into Court and to plead for preference. And Mr. Reid, who had on the hustings denounced preference as a crime, took the A.W.U.'s money and in the Court advocated preference—because he was paid to do so—and "didn't seem to feel the disgrace of it." Writing of the depth to which this act of shame had dragged the A.W.U. R. S. Ross declared: "The grit has gone out of its teeth, the fight out of its heart,

else it had been whipped and killed ere it so prostituted itself. For the Reids are to be fought, not paid handsomely out of working-class funds to the further aggrandisement of a parasitic class the true union seeks to abolish. The question of exploited and exploiter is a serious one, and the wage-earners need to realise it. The A.W.U. men who, as a result of A.W.U. policy, conclude that the pastoralists and Reid aren't such bad chaps after all, are not going to be worth much in the inevitable days of stress and storm. Better, a thousand times better, to have fought in their own elemental strength and lost than to have preached and practised patience for a weary while, at the finish to brief Reid—to win, perhaps; but not to win as fighters win."

Judge Cohen was the first President of the N.S.W. Arbitration Court. During the earlier period of his adjudication he evidenced a class-consciousness that was unmistakable. Later, he leaned considerably to the side of the employees, and penalised employers (found guilty of breaches of awards) to the full extent permitted. It was his leaning to the employees' side that led to his removal from the Arbitration Court Bench—for he was removed. I do not mean to say that he was removed politically. Social pressure—class pressure—literally drove him out. He had either to reverse his decisions, leave the Arbitration Court, or suffer social ostracism. Apparently, he would not alter his attitude on the Bench, and was not prepared to accept ostracism. So he stood down.

THE INDUSTRIAL DISPUTES ACT.

The Act of 1902 expired in 1908, leaving nothing but a record of failure. Various governmental changes had taken place in the meantime, and Mr. Wade had become Premier of N.S.W. The first big Trade Union Congress sat in 1908, and just at the time of its meeting, Mr. Wade's Industrial Disputes Bill (to replace the expiring Arbitration Act) was before Parliament. In its foundation principle there was no difference between the Bill and the Arbitration Act. In its details it was far more stringent than the preceding measure, and there was class hatred and the cunning of class rule written all over the face of it.

To ensure permanency in profit-making to the exploiting class, the new law practically laid it down that a working-man or woman must be held to be the especial property of a particular employer until such time as the Wages Board or Appeal Court Judge gave him permission to seek a fresh owner. This sounded like a chapter from the history of feudal times, when the worker wore a brass collar about his neck, with his lordly owner's name engraved thereon, and when he was liable to be put to death if found wandering beyond the scope of his master's jurisdiction.

Even Sydney Labor Council rose in revolt against this measure—but only because it did not represent the Labor Party's views on arbitration. The Socialists opposed it for the same reason that they opposed Mr. Wise's Act—because fundamentally the principle was anti-working-class.

In the 1908 Trade Union Congress the writer (who was a delegate) was the principal Socialist speaker against the proposed law. Mr. F. H. Bryant, for Sydney Labor Council, had moved that the trade unions be recommended to refuse to register under the Act, and when it looked as if this would be carried,

Messrs. McGowen and Holman suddenly appeared on the scene, and, although not delegates, succeeded in engineering their way into the conference, and for half a day they pleaded with delegates to disregard both the Sydney Labor Council's motion and the Socialists' warning and to give the new law a trial—in spite of the fact that they had bitterly denounced Mr. Wade's Bill in Parliament. They came back with the original cry of 1901: "The measure is fundamentally good, only the details are bad. Give us time, and we will get it amended," they pleaded.

"Why," retorted Mr. Thyer, one of their own P.L.L. men (since provided with a Government position), "you told us **that** in 1901, and this worse law is the only amendment you have secured."

They had no answer to this retort, but as a result of their efforts Mr. Wade won his case before the 1908 Congress, and most of the unions eventually registered under the new Act.

The Industrial Disputes Act materially altered the scope of prosecution for striking. Under the old Act, a prosecution could only lie for striking while a case was pending before the Court. Under the new Act, it became a crime to strike at any time.

Clause 42 read:—

If any person does any act or thing in the nature of a lock-out or strike, or takes part in a lock-out or strike, or suspends or discontinues employment or work in any industry, or instigates or aids in any of the above-mentioned acts, he shall be liable to a penalty not exceeding ONE THOUSAND POUNDS, or imprisonment not exceeding two months.

And in the definition clauses the following appeared:—

"To strike" or "to go on strike" (WITHOUT LIMITING THE NATURE OF ITS MEANING) means the cessation of work by a number of employees acting in combination, or a concerted refusal or a refusal under a common understanding by any number of employees to continue to work for an employer in consequence of a dispute, done with a view to compel their employer or to aid other employees in compelling their employer to accept terms of employment.

Therefore, if two persons working for the same employer discontinued work (i.e., did any act or thing in the nature of a strike), they would render themselves liable to a quasi-criminal prosecution, and could each be fined ONE THOUSAND POUNDS.

If any person addressed a meeting in aid of unionists on strike, or took up a collection or gave a shilling to support the wives and children of men on strike, he (or she) could be fined ONE THOUSAND POUNDS, on a charge of having "aided" in a strike.

If a union voted either sympathy or money to members of another union on strike each of its individual members who took part in the meeting at which such sympathy or money was voted could be fined ONE THOUSAND POUNDS.

The union, as a union, could be fined £1000 for voting money or sympathy to another union on strike.

Theoretically, this quasi-criminal clause was held to operate against the employer as well as against the employee. But what it did in theory and what it did in practice are quite opposite matters.

Clause 46 was more daring than anything that had yet been attempted in N.S.W. against the working-class organisations by the governing Capitalist-class. It made possible legalised theft from the union funds to strengthen the Government in its efforts to ensure that there should be continuity and permanency in the making of profits. It also provided that a union could only escape the penalty under section 42 by proving that it instructed its members to scab.

(1) Where any person convicted of an offence against the provisions of section 42 was, at the time of his committing such offence, a member of a trade or industrial union, the judge may order the trustees of the trade union, or a branch thereof, or may order the industrial union to pay out of the funds of the union or branch any amount not exceeding twenty pounds of the penalty imposed.

(2) The said Court shall, before making such order, hear the said trustees or the said union or their or its counsel or attorney, and shall not make such order if it is proved that the Union has by means that are reasonable under the circumstances bona fide endeavored to prevent its members from doing any act or thing in the nature of a lock-out or strike, or from taking part in a lock-out or strike, or from instigating or aiding a lock-out or strike.

(3) Any property of the union or branch, whether in the hands of trustees or not, shall be available to answer any order made as aforesaid.

Even the death, benefit, and funeral funds were to be liable to be raided to pay penalties inflicted upon unions and unionists who might decline to scab upon their fellow-workers in times of industrial conflict.

If a member of a union gave, say, ONE SHILLING to a collection in aid of other unionists on strike, he (or she) could be fined £1000, and the union could be compelled to pay £20 of the amount of the fine.

A union with a thousand members (the Coal Lumpers, for instance) voting in favor of a motion of either support or sympathy with a striking union would be liable to a multiplied fine of £20,000! In addition each individual coal lumper could have been fined £1000—an aggregate of £1,000,000! A union with 3000 members (the Wharf Laborers) could be fined £60,000, with an aggregate of £3,000,000 for individual fines! The Newcastle Miners' Union (with 9000 members) could be called upon to pay £180,000, with an individual aggregate of £9,000,000!

There was NO APPEAL from decisions given under these quasi-criminal sections—the sections which in practice affected only the workers. Provision was made for the hearing of appeals against awards affecting wages, conditions, etc.—and it is worth noting that such appeals were almost invariably lodged by the master-class.

Care was taken to so word clause 46 as to exclude the Employers' Federation from the scope of its operations. Therefore, while working-class unions could be compelled to pay for "offences" committed by their individual members, no liability whatever in this direction was permitted to fall on the Employers' Federation—the central union of the master-class!

Clause 48 protected the employers against the ordinary dangers of prosecution under the quasi-criminal clauses by barring the institution of proceedings unless with the consent of a judge of the Supreme Court. A representative of the Capitalist-class was to determine when it should be permissible for the members of his class to be prosecuted, and he was also to hold the power to open or bar the law court doors for or against the prosecution of unionists.

The Industrial Disputes Act placed a premium on blacklegism, and protected the fraudulent employer against the working-class by binding working-class representatives on the Boards, under a £500 penalty, not to divulge to their fellow-unionists the extent to which they are robbed, as revealed by the employers' books. The chairman (always a master-class man) had power to decide that the employer need not show his books.

The attitude of the N.S.W. Labor Party on this carefully-devised plan to wreck working-class organisation makes exceedingly interesting reading.

Mr. Beeby was put forward, when the second reading of the Bill was under discussion in Parliament, to voice the party's official reply to the speech of the Premier. He commenced by declaring that "his party recognised a very serious danger in the present industrial position, that would take little to involve the country in a serious crisis; and the attitude which the House took on the Bill would have a bearing on the immediate industrial unrest. His side did not claim any monopoly of sympathy with the wage-earners." He also proclaimed that, "after 14 years of industrial experiment they had evolved in the Dominion what appeared to be as near as could be obtained a perfect system."

It was a somewhat humorous commentary on Mr. Beeby's statements that the daily paper that printed his speech also contained a message from New Zealand to the effect that the Government there was considering whether the Blackball miners should be jailed for having refused to pay a penalty imposed by the class-ruled Arbitration Court on account of a revolt against an award.

After insisting that "there must be a court of industrial appeal," and that "a judge of experience should preside over it," Mr. Beeby presented the proposals of the Labor Party as to the way in which the Bill should be amended. These proposals, he said, were not made in any party spirit. They were:—

(1) That a permanent industrial court, presided over by a Supreme Court judge, with absolute final jurisdiction, freed from all technicalities and accessible as a last resort in all matters of importance, should be maintained.

(2) That the Act should maintain the full recognition of industrial organisations of employees as a medium of approach to the Court or industrial council, and that the present system of legislation and organisation of employers and employees and the encouragement of collective bargaining should be maintained.

(3) That the board and the ultimate court of appeal should be given power to consider preference to unionists, if it deem it advisable.

(4) The extension of the scope of the Bill so that it may include all matters which may be the ground of industrial disputes.

(5) Provision to enable boards of the final court of appeal to ascertain and consider the profits in fixing wages and industrial conditions.

On these terms, said Mr. Beeby, the Labor Party would help to pass Mr. Wade's Bill. "The Labor Party was prepared to help the Premier to make awards effective, and punishment for disobedience salutary, if the tribunal chosen were acceptable."

As a brilliant afterthought, and with the I.W.W. and the Western Federation of Miners in America and also the Arbitration Court unionists of New Zealand in his mind, he oracularly declared that "unionism as conducted in America, uncontrolled, was a danger to the community, but unionism controlled, as in New Zealand, a benefit." To-day Mr Beeby curses the unionism of the New Zealand Federation of Labor with an exceeding bitter curse.

Mr. Arthur Griffith, speaking after Mr. Beeby, complimented Mr. Wade on having introduced the Bill, and told the House that "there were black sheep in every community, and the object of industrial legislation was to raise the bad employer up to the standard of the good one."

Mr. Charlton insisted that the debate "should be a non-party one," and "he did not consider that the whole of the proceedings (of the Industrial Court or Wages Board) should be open to the public. There were many things connected with companies which should not be considered publicly. Everything apart from profits and losses should be dealt with in open court."

Mr. McGowen, speaking in the second reading debate, said: "The Opposition desired to face this question of arbitration in the same spirit as the Premier. His party had no right to legislate for one section of the community, for the wage-earner, and the Government, on the other hand, had no right to legislate for the wage-payer. All members of the House were there to legislate for the country as a whole, and this question, he agreed, should be treated outside party. . . . The Opposition recognised that this question was above party politics, and had refused to address a public meeting of indignation with regard to the Bill, because they wished to see if there was a common ground on which to argue its terms. He wanted to thank the Premier on behalf of the Opposition side of the House, for the generous treatment he had given them in this Bill. . . . Another pleasing feature of this Bill was that it established a Supreme Court, and made it the final court, following the lines laid down in New Zealand."

I have quoted the above utterances of Labor Party members to show their closely-similar anti-working-class attitude to that of the Liberal Party.

When the Broken Hill lock-out of 1908-9 occurred, it was found by the Wade Government that the provisions of even such a stringent measure as the Industrial Disputes Act were insufficient to break down the working-class resistance to the employers' desires, and the conspiracy and sedition laws were dragged up from their century-old graves and put into operation.

THE COERCION ACT OF MR. WADE.

When the great coal strike of 1909-10 eventuated, and it seemed that the miners would win in spite of the treachery of the Federal Attorney-General and other Labor members who were in league with Wade and the employers, it was determined to make a new law to meet the situation.

The Coercion Act—otherwise the Industrial Disputes (Amendment) Act, 1909—was rushed through both Houses of the State Parliament, the most remarkable thing in connection with the whole matter being the revelation of the treachery on the one hand and sorry ineptitude on the other hand of the Labor Party.

In the "definition" section, the term "necessary commodity" was made to include coal, gas, water, and "any article of food the deprivation of which may tend to endanger human life or cause serious bodily injury."

Section 42 was amended by omitting the words "or instigates to or aids in any of the above-mentioned acts," and by inserting the following: "If any person instigates to or aids in any of the above-mentioned acts, he shall be liable to imprisonment for a period of 12 months."

Those two amendments were far-reaching enough to send every member of any union on strike to jail for a year.

Sub-clauses were added giving any policeman of or above the rank of sergeant the power to enter any house, home, or building, by breaking open windows or doors, if he suspected a meeting was being held to discuss strike matters.

Two people were declared to constitute a meeting, and therefore the police had power under this law to break into a man's bedroom on the plea that they suspected that he and his wife were talking strike, and if a man and his wife were found guilty of thus talking strike or even discussing how to aid a union on strike, they could each be jailed for a year with hard labor!

How the coal strike officials, betrayed by Labor members, were prosecuted under the conspiracy laws as well as under the Coercion Act, and how they were eventually jailed, is now a matter of history.

How the Labor Party's Parliamentary candidates denounced the Coercion Act, and declared they would repeal it if returned to power, and how—on this promise and by industriously jangling Peter Bowling's leg-irons from the Tweed to the Murray and from Sydney to Broken Hill, they succeeded in winning through to the Government Benches, and how for a year and a-half they continued to administer the Coercion Act and prosecuted strikers in hundreds and had them heavily fined, and flung some of them into jail, and how they did everything in almost exactly the same way that Wade did it, and how they employed the same police and the same magistrates and the same Crown prosecutors and the same judge (Pring) that Wade had employed against the workers, and how they put Brian Scully (President of the Western Miners) in the same jail that Wade put Peter Bowling in, is now a matter of infamous history.

THE LABOR PARTY'S NEW COERCION ACT.

The infamy of that history has now been added to by the enactment of the Labor Party's new arbitration law, which succeeds the Coercion Act. The new Act is also a coercion Act—it is designed to coerce men into scabbery. It is called the Industrial Arbitration Act, 1912, and it contains all the worst features of Wade's Coercion Act, as we shall see as we go along.

The Wages Board idea of the Wade Government is retained.

It is true that the 1912 Act repeals that portion of the 1909 Act which gave such extraordinary powers to the police and made it possible to jail either men or women for a year, with hard labor, if by striking they interfered with the supply of coal, gas, water or any article of food, etc., but it is significant that in the "definition" section of the 1912 Act Wade's clause re "necessary commodity" is retained.

The definition of the word "strike" is exactly as Wade left it, except that the word "ordinary" has been inserted before "meaning."

Section 9 of the new Act provides that:—

The Court may cancel the registration of an industrial union if proof is given to its satisfaction that a majority in number of the members of the union, by secret ballot taken as prescribed, require such cancellation.

But there can be no cancellation while an award is in force; and if no award affecting the union concerned is operating, and the union desires to cancel its registration, and end its connection with the Court, it is not permitted to have any voice or control in the conduct of the ballot. Clause 14 of the "Regulations" provides that the ballot shall be taken at a meeting summoned by the Registrar and presided over by the Registrar, who shall appoint the polling clerks, the scrutineers, and other officers. The Registrar is to provide the ballot boxes and ballot papers and everything else that is necessary. He is to decide who shall be present at the meeting and who shall not—who shall vote and who shall not vote. All questions of order and procedure are to be determined by him. And if the union disapproves of the way he does things, the Registrar is to have power to adjourn the meeting to any such time as he pleases. He may declare any voting paper invalid. At the close of the poll, he will open the boxes and examine the voting papers, and compute the result of the ballot, and report the result (not to the union) to the Court. If anyone attempts to persuade a member to vote in a certain way (say, in favor of cancellation) he shall be liable to a penalty of £10.

This "regulation" takes the control of the ballot as completely out of the hands of the union as though it had never existed.

The term for which industrial agreements may be made has been lengthened out to five years, and clause 12 provides that if a union of employees not registered under the Act should enter into an agreement with an employer, the employer (or, for that matter, the employees) can file the said agreement, and it at once becomes an instrument of the Court—and a reminder of the fate that overtook the fly who stepped into the spider's parlor.

The Act is made by a party that shouts its alleged democratic principles from the housetops, but in the constitution of the boards it stipulates that each board shall consist of either two or four representatives respectively from the side of the employers and employees and a chairman appointed by the Minister on the recommendation of the judge. The chairman is always a master-class man. Therefore, with two from each side and a chairman the master-class (say, 15 per cent. of the people) will have three-fifths of the representation, and the working-class (85 per cent. of the people) will have two-fifths of the representation, and the master-class will therefore decide every contested point. This is exactly in accord with the principle of the Wade Act.

Clause 19 debars, under a penalty of £500, any trade union representative from letting his union know the extent of the surplus value stolen from them by their employers, as revealed by the employers' books. The clause reads:—

Each member of a Board shall, upon his appointment, take an oath not to disclose any matter or evidence before the Board or Court relating to trade secrets, the profits or losses or the receipts and outgoings of any employer, the books of an employer or witness produced before the Board or Court, or the financial position of any employer or of any witness; and if he violates his oath, he shall be liable to a penalty not exceeding £500.

This is exactly as Wade passed it into law, and while all matters relating to the employers' income and expenditure, profits and losses are dealt with in secret every pitiable detail of the worker's income, every sorry fact as to his expenditure—what he pays for tobacco, for the dungarees he wears to work, for theatre tickets, for bread, for jam, for potatoes, for meat, for the boots his children wear, for his wife's hat, her dress, her latest blouse, even for her underwear—is dragged from him, under compulsion, in public for the press to print and the bourgeoisie to crack jokes about.

Sub-clause g of clause 24 provides that a Board shall have power to make an award giving preference of employment to members of an industrial union, "provided that where any declaration giving such preference of employment has been made in favour of an industrial union of employees, such declaration shall be cancelled by the Court of Arbitration if at any time such union, or any substantial number of its members, takes part in a strike or instigates or aids any other persons in a strike; and if any lesser number takes part in a strike or instigates or aids any other persons in a strike, such Court may suspend such declaration for such period as to it may seem just."

Wade did not have this in his Act. The clause as it now stands is what the Legislative Council (the nominee chamber the Labor Party is supposed to be pledged to abolish) insisted on placing in the Act; and what, to placate the moneyed interests represented by the Upper House, the Labor Party meekly accepted, thus further demonstrating that the Act in its penal aspect is directed against the workers. The clause just quoted means that a union can only retain preference by pledging itself to scab on all other unions in perpetuity, and by further pledging itself never to vote a shilling of its funds to other unions on strike.

The charity sweatshops and homes of humiliation for the unfortunate victims of capitalist society are pandered to, and provision is made in sub-clause 2 of clause 24 to meet their convenience.

The quasi-criminal clauses of the Labor Party's Act are more stringently far-reaching than were those of Wade's Act. Under the latter, it was possible to fine either a union or an individual £1000, with the option of two months' jail for the individual. The records will show that the highest fine inflicted on an employee was £40, in Tom Garraway's case, when the Rockchoppers were prosecuted. The next highest fines were of £30 each—in the same series of prosecutions. On the employers' side, Hoskins was once fined £50.

The new Act provides in clause 44 for a penalty not exceeding £1000 against an employer or an industrial union of employers or employees.

Clause 45 is framed to deal with workers (men or women) who revolt against conditions that don't suit them. It reads:—

If any person does any act or thing in the nature of a strike, or takes part in a strike, or instigates to or aids in any of the above-mentioned acts, the Court may order him to pay a penalty not exceeding fifty pounds.

This, with the exception of the amount of the penalty, is as Wade left it. It is exactly the same sort of thing in principle as was enacted after the Black Plague, when people were forbidden, on pain of dire penalties, to demand or receive more than a stipulated wage. In this case, the Labor Party places the power to fix wages in the hands of the master-class. Then it declares that if the workers dare to use their economic strength to force higher wages from their masters, it (the Labor Party) will severely punish them with fine and imprisonment.

Although in the ordinary course of procedure failure to pay a fine could be met with imprisonment, the Labor Party does not propose to jail men who are fined for striking. The flinging into jail of large numbers of men is very often an impossible matter, and always dangerous for the government that tries it on, as Mr. Wade discovered. For working-men buoyed up with the knowledge that they have done right the jail has no terrors; but the Labor Party, profiting by its past experiences and by Mr. Wade's failures, has, in its feverish desire to serve the bourgeois interests it stands for, devised a far more fiendishly reprehensible method than ever Wade would have dared.

The workers could laugh at the threat of the jail, but they are now to be struck at through the suffering and want of the women and children; and in future when men strike for their rights and are fined, the Labor Party, under its new law, will step in and week by week seize the wages (either wholly or in part) of the unionists until the amount of the fine has been secured. A garnishee order will be served on the employer, and in this way the workers' money will be legally wrested from them by their "Labor" Party. The South Australian Labor Party proposed to take all money over £2 a week earned by a married man, and all over £1 earned by a single man. The N.S.W. Labor Party gives the Court power to take all a man's wages and leave his wife and children to starve.

Sub-clause 2 of clause 45 reads:—

Where a person is ordered to pay a penalty, the Court shall order that the amount of such penalty shall be a charge on any moneys which are then or which may thereafter be due to such person from his then or future employer, including the Crown, for wages or in respect of work done. Such order may be for the payment of such penalty in one sum or by such instalments as the Court may direct.

On the making of any such order of attachment the employer, on being notified thereof, shall, from time to time, pay such moneys into the Court as they become due and payable in satisfaction of the charge imposed by the order.

No charge upon or assignment of his wages, or of moneys in respect of work done or to be done whenever or however made by any such person shall have any force whatever to defeat or affect an attachment; and an order of attachment may be made and shall have effect as if no such charge or assignment existed.

Clause 46—built up on Wade's foundation—provides that a union, whether registered or unregistered, may be made to pay £20 of the amount of the fine inflicted on its members—UNLESS IT CAN BE PROVED THAT THE UNION AS A UNION PRACTICALLY INSTRUCTED ITS MEMBERS TO BLACKLEG.

Where any person is ordered to pay a penalty, and it appears that he was, at the time of his doing the acts complained of, a member of a trade or industrial union, the Court may, in addition to making the charge provided for in the said section, order such union, or the trustees thereof, to pay out of the funds of the union any amount not exceeding twenty pounds of the penalty.

The Court shall, before making such order, hear the said trustees or the said union, and shall not make such order if it is proved that the union has by means that are reasonable under the circumstances bona fide endeavored to prevent its members from doing any act or thing in the nature of a lock-out or strike, or from taking part in a lock-out or strike, or from instigating to or aiding in a lock-out or strike.

If all the northern coal miners (numbering, say, 9000) should strike, and they through their union refused to order themselves to scab, they could each be fined £50—a total of £450,000—and of this amount ALL the funds of the union could be seized to the extent of £180,000! If the wharf laborers—now numbering 4000—struck, their individual fines could aggregate £200,000, and the funds of the union could be levied on for £80,000 of this amount. If the coal lumpers—with, say, 1500 members—struck, their aggregate fines could be made to reach £75,000, and the union could be "hit up" for £30,000 of this!

What a remarkable law for a Labor Party to make! What a remarkable law for any union not a scab union to register under!

Clause 47 goes one better still. It sets forth that if any union of employees, whether registered or not, gives any support whatever to another union on strike, either by resolution or financially—by voting £5 or any smaller portion of its funds, say, to support the wives and children of strikers, it is to be liable to a penalty of £1000 and to other punishments.

Clause 48 is the product of the gigantic intellects of the Labor Government who desire once and for all to subdue the inconvenient agitator. If the Australasian Socialist Party and the I.W.W. take sides (as they always do) with men who go out on strike, and their speakers publicly declare that the strikers are right, and that other workers ought not to scab on them, each speaker may be served with an injunction (the pet legal weapon of American capitalism), and if he or she disobeys the injunction, and persists in delivering the working-class message, the Labor Party will put each of them in jail for six months, with hard labor. If the "International Socialist" persists in delivering its sledge-hammer blows in the cause of the strikers—as it always has done and always will do—its publishers may likewise be served with injunctions and sent to jail for six months by the Labor Party!

Needless to say, the Australasian Socialist Party and the I.W.W. will fearlessly defy such an infamous law. Holding that the workers are ALWAYS RIGHT and NEVER WRONG when they meet the master-class in the clash of conflict on the industrial field, they shall always be found fighting on the side of Right, and neither the Labor Party nor the Law Court nor the Labor Party's jail shall deter them for one moment.

Clause 52 provides that an employer may be prosecuted and fined £20 if he unlawfully dismisses an employee; but NO PROSECUTION CAN BE INSTITUTED UNDER THIS SECTION EXCEPT BY LEAVE OF THE COURT. Twenty pounds on the employer for depriving a worker of the chance to live! Fifty pounds on the worker for striking! And the worker may be prosecuted without let or hindrance, but the employer only "by leave of the court."

Sub-clause 2 of clause 54 says that:—

Any property of a union, whether in the hands of trustees or not, shall be available to answer any order made as aforesaid.

Which means that all death funds, all funeral funds, all benefit funds, no matter how they are separated from the general funds of a union, may be seized to meet fines inflicted on unions that refuse to scab!

This is also exactly the law as Wade made it.

Clause 58 provides that the decision of the Court is to be final—there is to be no appeal from it!

This is also the law as Wade made it.

In all its fundamentals, it will be seen that the N.S.W. Labor Party's law is identical with that of the Liberal Party's law; and

as the whole superstructure of Australian Arbitration is fashioned after the idea of the New Zealand system of Arbitration, the New Zealand Act is deserving of some attention at this stage.

THE NEW ZEALAND ARBITRATION ACT.

The first Arbitration Act was passed in New Zealand in 1894. It has been amended from time to time, and is now known as the Industrial Conciliation and Arbitration Act, 1908.

Under its regulations, New Zealand is divided into eight "industrial" districts, and the Act itself provides for the appointment of four Conciliation Commissioners, who hold office for three years, and each of the industrial districts is placed under the jurisdiction of one of these Commissioners. When a dispute arises, the union or employer concerned is required to notify the Commissioner, who, with "assessors" from each side, hears the dispute. If the Conciliation Council fails to settle the dispute, the matter must be sent along to the Arbitration Court.

The Arbitration Court is appointed for the whole of New Zealand, and consists of one member from the employers' side, one from the union, and a judge of the Supreme Court; and it is not necessary to point out that in New Zealand, as in Australia, the employers thus have control of the Court—they have two-thirds of the representation. The judge and one member constitute a quorum. Except in the matter of jurisdiction, there is no appeal from the Arbitration Court's decisions. Awards and agreements may be made for any period up to three years. No award can be made and no agreement registered unless the union concerned is registered under the Act.

Except in the special case mentioned below, strikes and lock-outs are only illegal if the parties concerned are bound by an award.

If a strike occurs in any industry, each worker who is a party to it, and who is bound by an award or agreement, may be fined £10. For "inciting, instigating, aiding or abetting an unlawful strike or its continuance"—that is, for urging other workers not to scab on their fellow-workers on strike, or for contributing to strike funds, or in any way supporting those who are "illegally" on strike—a worker may be fined £10 and a union may be fined £200.

It is clearly laid down that "a gift of money or other valuable thing for the benefit of a party or union engaged in a strike is deemed to be aiding and abetting."

The New Zealand Act contains a special clause to reach strikers whose downing of tools affects "the supply of the necessaries of life, such as water, milk, meat, coal, gas, or electricity, or the working of any ferry, tramway or railway used for the public carriage of goods or passengers." In these cases, whether the union is registered or not, and whether there is an award or agreement or none at all, 14 days' notice must be given within one month of the intention to strike. Failing this notice, each striker is liable to be fined £25 and each union £500. For inciting, aiding, or abetting in such strikes a worker may be fined up to £25 and a union up to £500.

The purpose of such a clause is, of course, to give the employers time to secure scab labor, and furnishes one reason why the employers are so violently in favor of the Arbitration Court.

Strikes and lock-outs are forbidden while a case is before either the Conciliation Council or the Court.

The New Zealand Act defines a strike as "the act of any number of workers who are, or have been, in the employment, whether of the same employer or different employers, in discontinuing their employment, whether wholly or partially, or in breaking their contract of service, or in refusing or failing after any such discontinuance to resume or return to their employment, the said discontinuance, breach, or refusal being due to any combination, agreement, or common understanding, whether express or implicit, made or entered into by the said workers with intent to compel or induce any employer to agree to terms of employment, or comply with any demands made by workers, or with intent to cause loss or inconvenience to any such employer in the conduct of his business, or with intent to incite, aid, abet, or instigate or procure any other strike, or with intent to assist the workers in the employment of any other employer to compel or induce the employer to agree to terms of employment or comply with any demands made upon him by any workers."

For breaches of awards or agreements, an employer may be fined not more than £100; a union of employees may also be fined £100, and an individual worker £5. The fines may be recovered by levy and distress. If the worker has no goods and chattels that can be seized and sold, he or she may be sent to jail.

The records for the year ending March 31, 1911, show that there were 544 prosecutions of employers for breaches of awards and agreements, and that in 472 of these convictions were secured. There were only 68 prosecutions for strikes. There were 118 employers' unions, with 4262 members, and 308 employees' unions, with 57,091 members. Thus the ratio of employers charged with having broken awards and agreements for that period was one in eight, while the ratio of those convicted was one in nine. The ratio of employees who broke awards or agreements, etc., was a fraction more than one in one thousand.

Those figures show how ready the employers always are to break awards and violate agreements when it suits their class interests to do so. The payment of occasional small fines is a little thing to them. To the employees a fine of even £5 is a big thing, especially when the verdict is backed up by the power of levy and distress—the power to sell the workers' furniture or other goods. It need not, therefore, be wondered at that the employers are strongly in favor of the Arbitration Court; but that any "union" of working-men or working-women should ever be willing to come under the bondage of such a leg-ironing instrument is only understandable as the outcome of class unconsciousness—that is, ignorance of the working-class position.

THE SOCIALIST ALTERNATIVE.

The Socialist Party maintains its attitude of uncompromising hostility to the principle of the Arbitration Court. It declares that the present form of society rests on the ownership of land and machinery—the primary source of wealth production and the tools of wealth production. Those who own the land and machinery constitute the capitalist-class. This form of ownership divides society into two classes—the owners and the workers. The workers produce all the wealth, and receive an ever-decreasing portion of it. Because this is so there is an irreconcilable conflict of interests between the two classes. The owners strive to secure a larger proportion of the wealth the workers make; the workers strive to get more of the wealth they make. The Arbitration Court really exists to say how much the workers shall be legally robbed of—and to see that they are penalised if they object to the robbery. The Socialist Party proclaims that the workers should not be satisfied with a portion—they should demand ALL the wealth they wrest from Nature's resources. To get the wealth they make the workers must first abolish the wages system—they must abolish wage-slavery. To abolish wage-slavery and thus win economic freedom the workers of this country must unite on the industrial and political field. They must unite industrially in one great revolutionary organisation—ONE BIG UNION—on the lines of the Industrial Workers of the World, to fight scientifically and uncompromisingly, with never a section of the workers scabbing on any other section—to fight with every weapon that will serve working-class interests, to wrest from the exploiters every temporary concession that may be wrested, but ever to keep its eyes turned towards the goal of the Social Revolution (ownership of the world and its wealth by the workers), its feet ever tending thitherward. They must unite on the political field in one big revolutionary Socialist Party, likewise to wrest every concession that may be wrested, as our "Guiding Principle" lays down, but always to strive for our revolutionary objective: the overthrow of capitalism, the uprearing of the Socialist Republic.

So organised—and with our organisation built on a solid foundation of working-class knowledge—with no divisions of race or creed, color or sex, we might well laugh our exploiters to scorn, smash through the awards and penalties of their Arbitration Courts, tear down the superstructure of their legal power to oppress, and swiftly plant the Red Flag—emblem alike of working-class revolt and of humanity freed—on the world's citadel of industrialism.

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