were accommodated in up-to-date buildings and they have never rivalled the voluntary hospitals in popularity.

For the better paid citizen serious illness has remained an expensive luxury, bringing in its course hospital, nursing home and medical charges crippling to the majority of incomes.

The choice of hospital or consultant will presumably be left in the first instance to the patient's general practitioner, but if congestion is to be avoided and early admission to a suitable hospital secured, some arrangement must be made for helping the general practitioner by supplying information as to the hospitals in which beds are available at the moment when they are needed. For this purpose it is probable that bureaux will be set up by the Regional Hospital Boards.

No hard and fast rules will be laid down to compel the use of free hospital accommodation. The single room or the small ward in which a fee for privacy will be charged, and indeed the private patient block are not ruled out of the scheme though provision for them can only be made subject to the needs of patients who require accommodation on more pressing medical grounds.

Nurses and Specialists

It is probable that the new comprehensive service will be hampered in its full development by a shortage of personnel to man it.

The nursing service of the whole country is far below its required strength and the introduction of a domiciliary nursing seirvice available to all, must inevitably accentuate the difficulties which Hospital Committees are facing at present.

Again, certain of our specialist services are undermanned, and although the Secretary of State has already taken steps to encourage young specialists on demobilization, by financing additional hospital appointments, some years may elapse before this side of the scheme can be fully developed.

Conclusion

There are critics of the new Health Service who regret the encroachment of the States into fields already tilled by private arrangement. There are others who would have preferred a complete break with the past and the substitution of a whole-time salaried State Medical Service. Strophe and antistrophe are loud just now in Britain in every discussion of public affairs.

In the result the Nation is perhaps wise in choosing a blend of the old and new—an Evolution rather than a Revolution.

But in a world which has been promised freedom from fear, it must at least be regarded as good that Great Britain has determined to launch a comprehensive and universal Health Service which with the increased sickness insurance benefit payable from July, 1948, should go far to remove the fear of the economic distress consequent on ill-health, should inspire the patient to seek early medical advice and give him assurance of obtaining all the aids to restoration of health which science can provide.

Provincial Collective Bargaining Legislation

By Eugene Forsey

SIR JOHN A. MACDONALD, in 1865, thought that the Confederation proposals would make "one people and one government, instead of five peoples and five governments." If he could return and look at provincial collective bargaining legislation, he would probably say that what we have is nine peoples and nine governments; not a nation but a loose league of semi-independent states For the most notable feature of these Acts is their extraordinary and bewildering diversity. The only approach to uniformity is that Manitoba, Ontario

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and New Brunswick have adopted almost word for word the Dominion's war-time emergency regulations; (New Brunswick as an Act, Manitoba and Ontario as regulations under their own enabling Acts) that Nova Scotia has included in its Act provision for co-operation with the Dominion if Parliament passes "substantially uniform" legislation; and that Alberta provides for the suspension of its Act and the application of Dominion legislation in relation to coal mines. Otherwise, the various Acts or regulations are as different from each other as chalk is from cheese. In particular, the Acts and regulations of the three chief industrial provinces, Ontario, Quebec and British Columbia, which together account for about ninety per cent of the manufacturing industry of the country and most of the other industry as well, bear almost no resemblance to each other.

Some of the inconveniences of this situation were evident in the recent packing house strike. Nation-wide employers confronted a nation-wide union; but legally the whole thing had to be dealt with not according to a single nation-wide law but under eight provincial laws, three of them practically identical, the other five almost infinite in their variety.

Collective Bargaining

The central idea of all the legislation is that employers must bargain collectively with representatives chosen by the majority of their employees. All the Acts except Prince Edward Island's (which is practically a copy of the Nova Scotia Trade Union Act of 1937) provide for a Labour Relations or Industrial Relations Board, whose duty it is to define the bargaining unit and to certify that the union, employees' organization or individuals seeking to bargain on behalf of the employees actually do represent the majority. In Manitoba, Ontario and New Brunswick, only individuals may be certified, though they may be elected or appointed by a union. In Saskatchewan, only unions can be certified; in Quebec and Nova Scotia, only unions or employees' organizations; in Alberta, unions, employees' organizations or individuals; in British Columbia, unions or individuals. Saskatchewan defines a union as a Labour organization which is not company-dominated, and rules out any organization which is or has been dominated or interfered with by an employer in any way, or assisted by an employer otherwise than as provided by the Act. Nova Scotia and Alberta define a union as any organization of employees formed for the purpose of regulating relations between employers and employees, but Nova Scotia denies certification to any "union" the Board considers so dominated or influenced by the employer as to impair its fitness for collective bargaining. British Columbia, Manitoba, Ontario and New Brunswick define a union as an international, national or provincial employees' organization, or a local branch chartered by and in good standing with such an organization, and British Columbia denies certification to any "union" or individuals the Board considers so dominated or influenced by the employer as to impair their fitness for collective bargaining. Quebec includes a union among the associations which may be certified, and specifies that all such associations must be "bona fide," and must have for their objects "the regulation of relations between employers and employees and the study, defence and development of the economic, social and moral interests of their members, with respect for law and authority." "Bona fide" is presumably intended to rule out company unions, or what the Quebec Board considers such. Prince Edward Island defines a union to cover any employees' organization. All except Prince Edward Island provide penalties for employer domination or interference, but Alberta, Manitoba, Ontario, Quebec and New Brunswick do not explicitly deny certification to organizations or individuals dominated or interfered with by employers.

Strike

All provinces except Prince Edward Island impose some limitations on the right to strike. In British Columbia, Manitoba, Ontario, New Brunswick and Nova Scotia, no strike can legally take place during the life of a collective agreement, though in British Columbia this does not apply to uncertified unions. Every province except Saskatchewan, Quebec and Prince Edward Island requires that all collective agreements shall contain provision for settlement without stoppage of work of all disputes arising under the agreement, though again, in British Columbia, this does not apply to uncertified unions. In Quebec, no strike can legally take place during the life of an agreement until the dispute has been submitted to arbitration under the agreement or to a Council of Arbitration composed of one representative of the employer, one of the employees, and one chosen by the other two, or, failing agreement, by the Minister of Labour. Quebec prohibits strikes by uncertified unions or associations' Saskatchewan prohibits strikes while an application for certification is pending before the Labour Relations Board. Alberta prohibits strikes unless a majority of the employees affected have voted in favour in a Government-supervised vote, on which the Act sets no time limit. British Columbia has a similar provision but the required majority is a majority of those who vote. Nova Scotia also insists on a strike vote, by secret ballot, before any strike can legally take place, but does not specify Government supervision of the ballotting.

Conciliation

All provinces except Prince Edward Island provide for more or less elaborate conciliation proceedings, during which strikes are prohibited. Except in Saskatchewan, these proceedings usually involve two stages: a Conciliation Officer or Commissioner, and a Conciliation Board (Arbitration in Alberta and Quebec), consisting of three members, one chosen by the employer, one by the employees, and the third by the other two, or, failing agreement, by the Minister of Labour. In no case is the report or award of the Board binding, unless the parties agree to make it so. In Quebec, the Minister must appoint a Conciliation Officer; and if the Officer fails to settle the dispute, the Minister must appoint a Council of Arbitration. Strikes are prohibited until fourteen days after its award. There is no time limit on the proceedings of the Council except that it must make its award within one month of the end of its hearings on the case. In British Columbia, the Minister may appoint a Conciliation Officer and a Conciliation Board If he does not appoint a Board, no strike can legally take place at all. If he does appoint a Board, no strike can legally take place till the Board has reported and its report has been submitted to a Government-supervised secret ballot of the employees, and a majority of those voting have voted in favour of a strike Ordinarily, it will take at least six weeks for the Board's report to get to the parties, and there is no time limit on the taking of the vote. In Alberta, the Minister may ask the Industrial Relations Board to intervene, or may appoint a Conciliation Commissioner. If the Industrial Relations Board or the Commissioner fails to settle the dispute, the Minister must appoint a Board of Arbitration, and no strike can then legally take place till fourteen days after a vote by secret ballot on the question of acceptance of the Board's award. The minimum delay is likely to be about two months, and even then no strike can legally take place till there has been a further vote on that specific question. In Saskatchewan, the Minister may appoint a Conciliation Board; if he does, no strike can legally take place till three days after its report has been sent to the parties. In this case, the minimum delay is likely to be a little over a month. In Manitoba, Ontario and New Brunswick, there is provision for both a Conciliation Officer and a Con-

ciliation Board, and strikes are prohibited till fourteen days after the Board has reported. The minimum delay is likely to be about two months. In Nova Scotia, the Minister need not appoint either a Conciliation Officer or a Conciliation Board. If he does not appoint a Board when asked to do so, a strike is legal when fifteen days have passed since the request. If he does appoint a Board, a strike is illegal till fourteen days after it has reported, and even then, there must be a vote by secret ballot. The minimum delay is likely to be about two months if the Minister appoints a Board and about a month if he does .ot.

Manifestly, except in Saskatchewan, the prohibition of strikes during, and for some time after, conciliation proceedings, places very serious limitations on Labour's economic power. The principle that the strike weapon should be used only as a last resort, after conciliation has failed, will command general assent. But the actual terms of the legislation are often open to considerable objection. For one thing, the length of time involved is often altogether excessive. The theory presumably is that strikes usually take place in a white heat of emotion, that therefore a "cooling off" period will usually prevent them, and that the longer the period the cooler everybody will get. In most cases, however, the facts do not seem to support this theory. Most strikes of any importance take place only after prolonged negotiations. Any heat there may be is largely the result of that fact, and further delay is likely to make matters worse. The "cooling off" period is likely, in practice, to be a "hotting up" period, and the longer the hotter. If, after negotiations which may have lasted months and got nowhere, workers are called on to wait another two or three months, or even longer, with no certainty of any result except frustration at the end of the process, the last remnants of their patience may disappear, and they may decline to have anything to do with conciliation unless and until they are starved into submission. Moreover, the timing of a strike is often of vital importance. If the employer or the Government can spin out the proceedings till a slack season, or till late fall or winter, when the workers will find it harder to get along on strike relief, then "industrial peace," of a sort, may be preserved. But it may be preserved at too high a price: industrial despotism, or sweated wages and conditions. A strike postponed is often a strike lost, and a strike lost may be a very bad thing for the community.

Union Security

A major issue in Canadian industrial relations at present is union security. British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and New Brunswick all explicitly permit agreements which provide that some or all employees must be members of a specified union as a condition of employment, though Saskatchewan limits it to a union chosen by the majority of the employees. Saskatchewan alone provides that, if the union chosen by the majority requests it, the employer must include in the agreement a clause providing that all present union members must remain members, and all new employees must become and remain members, as a condition of employment. "So shines a good deed in a naughty world"? Quebec and Prince Edward Island say nothing about union security. Nova Scotia says only that "No provision in a collective agreement requiring an employer to discharge an employee because such employee is or continues to be a member of, or engages in activities on behalf of a union other than a specified trade union, shall be valid." This is exactly the same as section 6 (2) of last session's Dominion Bill; but in the Dominion Bill it was preceded by a subsection explicitly permitting union security clauses. This subsection was left out of the Nova Scotia Bill as originally introduced. Its absence can hardly be the result of accident or oversight, because almost everywhere else the Nova Scotia Bill

followed the Dominion Bill almost word for word. The result is that union security clauses in general are not explicitly permitted in Nova Scotia, but a particular kind of union security clause, aimed at "double-headers" (people who belong to two unions at once) is explicitly outlawed.

Check-off

Allied to union security is the check-off. Five provinces, British Columbia, Alberta, Saskatchewan, Nova Scotia and Prince Edward Island, provide for this. In British Columbia and Alberta, the check-off is compulsory if the individual employee requests it and till he revokes the request, and in British Columbia the employer must furnish the union with the names of the employees concerned. In British Columbia, the check-o ff is available only to genuine unions. In Saskatchewan, the check-off is compulsory if the employee and the union representing the majority of the employees both request it, till the employee revokes the request, and the employer must give the union the names of the employees concerned. In Nova Scotia, the check-off is compulsory if, when a union asks for a vote on the subject, the majority of the employees by secret ballot under Government supervision vote in favour of it, and if the individual employee asks for it, and until he revokes the request; and the employer must give the names of the employees concerned. In Prince Edward Island the check-off is compulsory if the employer is already making deductions for other purposes, if the employees vote for it in a Government-supervised secret ballot, and if the individual employee asks for it.

Legal Status of Union

Another big issue in Canadian industrial relations is the extent to which unions are or ought to be legal entities, subject to prosecution or suits for damages. British Columbia, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia all impose penalties on unions as such, for violations of their respective Acts, though prosecution can be undertaken only with the consent of the Minister of Labour in British Columbia and Nova Scotia, the Attorney-General in Quebec, and the Labour Relations Board in the other three. British Columbia and Nova Scotia explicitly provide that collective agreements between an employer and a certified organization or certified individuals shall be binding on the organization or individuals and on every employee in the unit. Manitoba, Ontario and New Brunswick provide that every party to a collective agreement and every employee on whom a collective agreement is made binding by this legislation shall do everything he is by the agreement required to do, and shall abstain from doing anything he is by the agreement required not to do. Nova Scotia has a similar subsection.

Saskatchewan and Ontario are careful to provide: (a) that a union and its acts are not to be deemed unlawful merely because they are in restraint of trade; (b) that any act done by two or more members of a union if done in contemplation or furtherance of a trade dispute shall not be actionable unless it would be if done without any agreement or combination; (c) that a union shall not be made a party to any action in any court unless it may be made a party irrespective of this legislation; and (d) that a collective agreement shall not be the subject of any action in any court unless it might be the subject of such action irrespective of this legislation. British Columbia provides for the last, but not for the other three, though it has a separate Act of long standing which places certain restrictions on civil actions against unions. Quebec has a special Act, originally described by the pleasing title, "An Act to facilitate the exercise of certain rights," which makes unions suable, though they cannot be sued. The Acts of the other provinces are silent on the matter. In British Columbia, the question has been before the courts and will probably be carried to

the Judicial Committee of the Privy Council.

Unfair Labour Practices

All the provinces except Prince Edward Island list a set of unfair labour practices, most comprehensive in Saskatchewan, where they include not only the usual coercion, intimidation, discrimination, attempts to dominate or interfere with unions, and the less usual refusal or failure to bargain collectively (in most of the Acts this is not listed as an unfair practice), but also industrial espionage, threats to shut down or move a plant and threats to change wages or conditions while any case is pending before the Labour Relations Board or a Board of Conciliation. All the provinces except Saskatchewan provide for enforcement through police court proceedings. Saskatchewan gives its Labour Relations Board power to order an employer to bargain collectively, to refrain from violating the Act or engaging in any unfair labour practice, to reinstate any employee discharged contrary to the Act and pay him back pay, and to disestablish company unions. Orders of the Board are filed in the Court of King's Bench within a week and are then enforceable as judgments of that court, and breaches of such orders are then punishable as contempt of court. Any person who takes part in, aids, abets, counsels or procures any unfair labour practice is subject, on summary conviction, to heavy penalties. If the Board considers that an employer has wilfully disregarded or disobeyed an order of the Board, the Provincial Government may appoint a controller to take over the business till the employer repents. In general, the police court method of enforcement has been slow, cumbrous and ineffective.

This is, necessarily, only a sketch of the provisions of the nine "Codes." But it is enough to show how far the law has intervened in Canadian industrial relations, and also the bewildering complications and variety with which employers and workers are confronted because labour questions in general belong to the provinces, and each province goes its own sweet way.

Basic Principles of Labour Legislation

By L. D. Currie

THERE has probably never been a time in human experience when there is more dependence upon the written word of the law rather than upon the spirit of the law than has been the case during the past thirty or so years. It is one of the most evident experiences of our modern life. A former Minister of Justice of Canada, and one of its ablest, the late Right Hon. E. L. Lapointe, once said that every time you pass a new law you create a new crime. An ancient philosopher once said that happy is the country which needs no law. And yet the mills of parliament year after year grind out new laws, new codes, new regulations, because of the pressure of groups, the influence of individuals, the looseness of thinking of the leaders of the people, the whole modern tendency of believing that a law upon a statute book is an end in itself.

But it is a most strange and curious incident in the growth and development of this new phase in human experience, and one which would intrigue a philosopher to explain, that in one of the most important of all human activities, that of management-labor relations, there has until lately been a marked absence upon the statute books of laws dealing with labor relations. It is true that during this century every country developed some form of labor laws, most of which

EDITOR'S NOTE: Hon. L. D. Currie is Minister of Labour and Attorney General for Nova Scotia. The article is the summary of an address delivered at the recent Maritime Conference on Industrial Relations in Halifax