(*March 2nd, 1936*)

# Work of the International Labor Organizations

By C. Wilfred Jenks.

Frank Prendergast, Vice-President and acting Chairman, said:—In the absence of the president it is my privilege to offer a very hearty welcome to Mr. Wilfred Jenks, of the International Labor Office, particularly at this time when labor and social legislation is under consideration by most of the governments. Mr. Jenks has had a distinguished career, but like most Englishmen he is extremely diffident when anything nice is being said about him. Just before the meeting he told me that since leaving the Cambridge Union he has given up public speaking. However, as you know he is legal adviser to the I.L.O. at Geneva and you will be able to judge for yourselves as to whether or not he has given up public speaking. I have very great pleasure in welcoming him here today.

Mr. Jenks:—Mr. Chairman, Gentlemen. I propose this afternoon to attempt to give you just a brief description of the International Labor Organization and its work, and I must begin by telling you that the I.L.O. is an official international body of which sixty-one different states are members, including all that are members of the League of Nations and others beside, such as the United States and Japan. It is, therefore, with the single exception of the universal postal union, the most comprehensive international body in the world at the present day.

Though it is an official body, it is not merely an organization of governments, for it has representatives of employers and workers as well as governments, and to that fact we owe the vitality, which we can claim has made the I.L.O. one of the most effective of present-day institutions.

The general object of the organization is, of course, to co-ordinate international action taken by its members in respect of questions of social policy and legislation. It attempts to do this in a number of ways. In the first place, it is a research centre to which, as our special problems become more complex, all the accumulated experiments of the different countries are brought and studied from a practical standpoint. In this direction alone the I.L.O. has an immense task to perform. It is also its function to attempt to bring into being and secure ratification of international agreements on social questions. There is, of course, no international legislature competent to deal with labor questions, but in the I.L.O. we have machinery, developed as far as international conditions permit, the object of which is, to facilitate the bringing into force, between member states of the organization, agreements defining common standards of social policy. The organization has no power to impose its decisions upon any state nor has it power to compel any state to ratify any convention, but the members, by virtue of their obligations to the organization, are required to submit to the legislature of their countries all proposals that have been adopted by a two-thirds majority of the organization.

But why, you may ask me, is it necessary that labor questions should be on an international basis? Is that not an exceedingly difficult task? Are not conditions from country to country so varied that any effective international regulation becomes almost impossible. Obviously there are difficulties in the world condition, but obviously also there are very strong reasons why we should make an attempt to build up common standards of social legislation and policy.

It is important in the course of a brief address such as this to make it clear just how much these international conventions are being ratified, and in that case perhaps you will allow me to quote some concrete examples.

I suppose there is no issue within the general field of social legislation that has stimulated more controversy than the question of reduction of hours of work, and I suppose that whatever difference of opinion there may have been on the merits of that issue, one of the chief objections that has



been raised has been with regard to the effect which would be felt in the markets of the world by any country taking isolated action. One of the functions of the International Labor Office is to attempt to insure that any questions of that kind are dealt with as simultaneously as possible throughout the world, with a view to giving the utmost possible protection, against countries with lower standards of living, to any country making such an advance in its social legislation. It is, of course, difficult to get countries to agree upon a common plan of action in regard to far-reaching social reforms of a controversial kind, and we have perhaps not had yet the success we might have desired in attempting to secure general agreements for immediate change in the matter of reduction of hours. But while we have not yet succeeded in this matter, we have, I believe, been able, through the organization to make a contribution of considerable importance towards the movement, that when particular countries are advancing towards movements of social legislation, every possible opportunity is taken to stimulate similar progress elsewhere.

Even when it is not possible to achieve immediate agreement on the bans of conventions adopted at the I.L.O., the situation is greatly helped by the fact that any convention adopted must be submitted to the government of each country that is a member of the I.L.O., and that it thereupon becomes an issue in the political life of each country. And I am of opinion that the effect of the adoption by the I.L.O. of a general declaration of principle in favor of a general reduction of working hours to forty per week will be to give countries of relatively high standards a considerable degree of protection with respect to their foreign commerce, and will certainly set in motion forces which will attempt to bring about similar improvements in the countries of their competitors with lower standards.

The general issue of competition, however, is only one of those that require close attention from anyone wanting to get a complete picture of the things that must be dealt with by international action. The sort of thing in which difficulties are likely to rise is the degree of protection to which an alien is entitled under social legislation. I imagine

it must frequently crop up in the United States in the matter of paying compensation to injured workmen. Residence within the state is a condition that must be fulfilled if compensation payments are to be made. But consider the condition that would ensue if the United States and Canada had become parties to the I.L.O. conventions dealing with the subject. In that case a Canadian, injured in the course of his employment in the United States, or a citizen of that country injured in Canada would be entitled to return home across the border and still receive the compensation to which he has a right. By becoming a party to an international agreement in the matter you in Canada would have the advantage of securing for your nationals that protection in the thirty-five or more countries throughout the world which today are parties to that convention. That is an illustration of the type of thing with which we have been dealing.

And here is another type of thing in which some international regulation is necessary. Take the situation that arises in connection with the safety regulations aboard vessels. The loading and unloading of ships is recognized as being amongst the most dangerous of modern occupations. To mend that situation detailed safety regulations have been developed by the majority of important maritime countries. But these regulations have been built up in an isolated way, and do not agree in points of detail, so that when a particular ship moves from one port to another it may be found that it does not comply with the safety regulations of the port for which it is bound, and so cannot be unloaded. And equally it may happen that foreign ships coming here find that their safety equipment is not such as is satisfactory in Canada. Clearly, then, the only satisfactory way to deal adequately with the situation is to secure some common international agreement on the question of what are safety standards.

Let me give you another illustration of a matter of far-reaching importance which gives an opportunity for action that will be of real value. Take the case of a heavy package sent from central Europe to this country, the contents of which are not known to anyone on the dock, and the weight



of which can only be roughly estimated. What happens if the estimate is wrong, and the crane which hoists it is loaded beyond its working capacity? There is considerable danger of an accident, but if an international agreement can be concluded by which all packages are to be marked in a uniform way that type of danger is avoided, and by the application of common sense international laws people dealing with cranes would be in a position to know what weights they were handling.

It would be possible to take a variety of such cases and describe the situations with which the organization has constantly to deal, but the work it attempts to perform by bringing into existence a body of international social legislation is of more important significance than anything of this kind. What the I.L.O. attempts to do is to bring an analytical light to bear on all the accumulated experience of different countries, and the forces that have swayed them over a period of years. Whether these experiences have been of greater or less magnitude they have all been of value in that they all add to the information we need to devise sound social legislation.

Let me pass on to give some idea of the extent to which the I.L.O. has been built up to meet this need. Are we dealing with a movement on a large scale or are the conventions adopted by the International Conference merely to be regarded as gestures? Anyone who looks up the figures will be impressed with the fact that social legislation has rapidly been built up by the I.L.O. during the short space of fifteen years that it has been in existence. It has now met nineteen times. Normally it meets once a year, but for special reasons two sessions have occasionally been held in one year. In the course of its meetings it has adopted forty-nine conventions. Its progress was relatively slow in the beginning, but it has been speeded up as will be seen from the fact that sixteen of these conventions have been adopted in the last three years. It should, of course, be taken into consideration that the process of ratification is a long one, and ratifications of a convention rarely accumulate till the convention has been in existence for some years. The actual number of ratifications that has been obtained for various conven-

tions is 679. More than twenty states have ratified each of the thirty-three conventions, which would seem to indicate that the process of building up the I.L.O. has been carried very far, and that the I.L.O. is to be reckoned with as a real force.

It may well be asked how real have the acceptance conventions been? To what extent do we know that the ratifications that have been registered have really led to the effectual applications of the conditions laid down? Is there any machinery to discover if governments merely ratify a convention, and then take no steps to see that the application of its provisions is made effectual?

We have, I may say, already developed machinery for that purpose, and we are developing it still further all the time. Under our constitution every state that becomes a party to an international labor convention is required to submit annually to the I.L.O. a report of the measures it has taken to put into effect the obligations it has assumed. These reports are considered by a committee of experts whose function it is to consider how far the information contained in the reports shows that the obligation undertaken has, in fact, become operative. From the work of that Committee we know very exactly how far each country has placed on its statutes the necessary legislation to give effect to these obligations.

We have a further check. The I.L.O. is not a purely government organization. Employers and workers are represented. They have the same rights, and the reports of the committee of experts are presented to a committee of I.L.O., on which Government, employers, and employees are represented. Thus any body of employers which thinks that a competitor country is not living up to its obligations or any body of workers that thinks it is not receiving the proper standard of treatment, have the opportunity of expressing their grievances in the conference. And while we have no means of forcing governments to live up to their agreements, it has been our experience that the opportunity for bringing into the light of day these charges that a state has not lived up to its obligations, has led, after the lapse of longer or shorter periods, to such pressure of public opinion



in the defaulting state that it has had to implement its obligations. There is, moreover, provision for the application of sanctions of an economic character in cases of serious default, but so far it never has been found necessary to put them into force.

We have always been up against one problem—the problem of the Federal state, and the difficulties that it encounters in entering into international agreements on subjects of the type usually dealt with by Provincial or State governments rather than by Federal. That, of course, raises an issue that is a burning one in your country, and you are all more familiar than I am with the constitutional questions along these lines relating to the powers of the Federal government which are now being considered by the supreme court.

I have no desire to express any opinion on constitutional problems as they affect your country, for I have come here to learn rather than to expound my views on these questions. There are, though, one or two facts which affect the powers of federal states in the matter of international agreements, to which I would like to draw your attention. In the first place I should like to emphasize that the standards set are normally of a very general character. In view of the fact that they are international standards, they necessarily leave many matters of detail to national discretion. It seems obvious that standards so general in character that they can be discussed freely by representatives of sixty-one states, cannot be so detailed or rigid as to make them inappropriate to any differing local conditions. In any convention that is adopted by the I.L.O., it is left to the individual states who are a party to it to decide on the details and the machinery necessary to administer whatever regulations it has been necessary to make . This leaves a very wide margin of discretion to each party to the convention, and it is not prescribed that that discretion shall be exercised in any uniform or centralized way. Thus it is possible for any acceptance of the general rule laid down to be dealt with either on a uniform federal basis, or by varied methods on a provincial basis to suit the differing requirements of widespread provinces. In these conventions rigid requirements are not over-emphasized, they are an attempt to set world standards

and these relate to matters of principle rather than to matters of detail.

The second observation I should like to make is that international Labor Conventions are not intended just to set minimum standards and no more. The acceptance of a convention does not in any way preclude a country from developing above those set by the convention. Consequently that degree of uniformity necessary for giving effect to the general application of a convention need not prevent any part of the state from increasing its own standards beyond the minimum.

In the third place I should like to say a few words as to the extent to which other Federal States have found it possible to participate in international agreements. Particularly in recent years there has been a great advance in the number of Federal States ratifying conventions. The Argentine is now a party to sixteen conventions, and quite recently she was not a party to any; Brazil is a party to eight conventions; Mexico is a party to nine; Australia is a party to ten and Switzerland to ten also. It is impossible to single out any detail of constitutional or political background in any one of these federal states, and I should like to stress that the acceptance of standards is not one confined to any one country.

My fourth observation on the powers of federal states is simply this. In this country reliance has been placed for that purpose on a particular legal document. Upon the fact that the powers of the Dominion of Canada to give effect to treaties are wider than its normal legislative powers. Some may think that is an anomaly, but it is not one that is in any sense peculiar to Canadian constitutional law. The position is almost exactly duplicated in all other Federal States that are members. In Australia there is a large and increasing body of public opinion that the power of the Commonwealth of Australia is not subject to the same limitations in the matter of international legislation as govern it in matters that are purely internal, and that view was acted upon as long ago as 1909. In the United States there are important supreme court decisions to the same effect. In the constitutions of some states there is a specific provision made to that effect, and in discussing the constitutions of the Argentine and Brazil with their legal advisers, I found that they took the same view with regard to those countries. Thus, therefore, if it be true that the power of the Dominion of Canada to give effect to international agreements is not so restricted as its ordinary power, it is not an anomaly that is purely Canadian, but characteristic of most Federal States, and one which can be defended logically. Surely it is proper that Federal states should be in a position to participate effectively in promoting and sharing international action in relation to questions that have become of international concern. The difficulties of building up an international body of Social Legislation are considerable, and were it impossible to have the full participation of Federal States, then those difficulties might become insuperable.



MR. PRENDERGAST:—Gentlemen, I am sure we are very grateful to Mr. Jenks for his very lucid explanation of the International Labor Organization, and, on your behalf, it gives me great pleasure to tender him a most hearty vote of thanks.