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

dealt largely with procedure rather than with age-old principles.

The first World War brought about the greatest dislocation of industrial relations that the modern world had known up to that time. There came upon us a sweeping, widespread change in the methods of industry and in the capacity for production. Unfortunately the employers of labor, who could show such ingenuity and skill in that great change seemed to have been incapable of realizing that the new day was a whole day and could not be broken into segments. In other words, the change worked its way from the top down to the bottom and from the bottom through to the top. It was idle for men like President Warren G. Harding to talk about what he called a return to normalcy The normal conditions that mankind had known had gone forever. We saw the beginning of that tremendous growth of trade unions and the acquisition by them of enormous power which has had a deep influence upon modern life. Whereas in a former age the reins of power were in the hands of management, and often all too badly used, we now see a great deal of that power thrust suddenly into the hands of labor, and often all too badly used.

This period after World War I was further disturbed and twisted by the great Depression, and business management which following the war had not yet been able to perceive and recognize the intellectual stirring that was taking place among the ranks of labor, was equally unable during the Depression to shake off its strange paralysis. The world was out of joint and people began to look to the law to solve its problems. Never since men learned how to write have there been so many laws of all kinds as has been the case since 1920. Laws loosely drafted, laws that stated no principles, laws that were pushed through legislative halls in their dying hours, laws that were the result of the filibustering lung power of coatless and tieless participants, laws that had their inspiration in mass hysteria and the self-seeking of groups and individuals.

It was in such an atmosphere that the British labor law of 1926 and the Wagner Act of 1935 were passed.

It astonishes and pains one to look back over the years and to recall the tremendous opposition that was raised against the principle of freedom of association which was propounded, perhaps all too weakly, in the Wagner Act. From that opposition stems much of that clash of feeling, attitude, and atmosphere that has brought such trouble and agony in the field of industrial relations. During all this period from 1920 up to the present, much thinking was being done by the better educated among the ranks of labor, in the universities, in the church and by many persons sympathetic to labor. The working people, being in the majority, were the most frequent in attendance at church and they heard clergymen of all denominations declare that the right of workmen freely and voluntarily to form themselves into unions and associations was an inalienable and natural right which employers had no power to confer or take away, and which parliaments had merely the right to affirm, except, of course, where the common good is involved. The correct philosophic doctrine on this subject is laid down for us by Jacques Maritain, perhaps the most eminent of modern philosophers, when he says in his book "The Rights of Man and Natural Law" as follows:

"The rights of the worker as an individual are linked to the rights of the working group, of the trade unions and of other vocational groups, and the first of these rights is freedom to organize. It comprises—the freedom of workers to group themselves in trade unions of their choice; the autonomy of the trade unions themselves, free to confederate as they see fit, without the State having the right to unify them by force or to regiment them; their freedom to make use of those natural weapons which the law grants them, in particular the right

to strike (except in the case of a national emergency). This freedom springs from the natural right of association sanctioned by positive law, and it is the normal condition of the movement of transformation from which a new economic organization will emerge."

The right of workmen to form themselves into a trade union of their own choice is a natural right. It is a right that is not dependant upon any law of the state. When educated trade unionists found from bitter experience that employers were questioning and in many instances denying to them the right of free association they sought refuge in every avenue and used every weapon, particularly that of the strike, which they could secure. The result was a further widening of the chasm between industry and labor.

It follows logically from the foregoing that the state and industry should permit such proper procedures as are conducive to the public interests to enable a free association of trade unions to function properly in the affairs of men. While the form that these procedures should take may be a matter of difference of opinion, it is well to apply the lessons of experience from time to time in arriving at the fairest methods of procedure.

The notion of right and the notion of moral obligation are correlative. As the failure on the part of legislators and others to understand the doctrine of the right of man to freedom of association has been the cause of much labor disturbance so also has been the failure to understand the ethical doctrine just mentioned been the cause of industrial turmoil.

The failure on the part of employers and others to discriminate as between the responsibility by labor for their misdeeds as citizens and not as labor unionists, as such, and as between the possession of their natural right of freedom of association has been responsible for some of the worst labor legislation of modern times. What is meant is this. It is frequently urged, and often unfortunately with success, that because an individual or a group of individuals commit wrongful acts of aggression, declare unlawful strikes, engage in violent acts of picketing, therefore the right of workmen to have a trade union should be denied to them. It is true that th notion of right and the notion of moral obligation are correlative. But the moral obligation imposed upon a trade unionist is not a moral obligation peculiar to him as a trade unionist. It is a moral obligation imposed upon him as a citizen of the country, and if he commits acts that are detrimental to the public interest, then he should be punished like any other citizen, without trying to take away from him his right of freedom of association.

It was in the light of the foregoing principles that the Trade Union Act of Nova Scotia was passed on May 12, 1947. It incorporates what were believed to be the best features of legislation elsewhere. The closest cooperation was maintained throughout with the Dominion Department of Labour so that as much uniformity as possible could be achieved, because that was the desire expressed by the provincial and Dominion Ministers of Labour at a joint conference a year ago. But we in Nova Scotia were not attempting to draft a model labour code for the world. Nor did we allow ourselves to be unduly influenced by the management-labour situation in the United States, in other countries or in other provinces. We were seeking to draft a law suitable to the needs and requirements of this province and based upon the experience of many years in Nova Scotia. Whether or not we have succeeded time alone will tell.

The spirit of the operative sections of our Trade Union Act is to point the way to voluntary collective bargaining and to impose penalties upon those who by their wrong doing as citizens and not alone as members of industry imperil the peace, order and harmony of the commonwealth. It is of no avail to pass a law providing for voluntary collective bargaining if in the first place

the bargaining is not voluntary and if in the second place the negotiations are not conducted ,n a spirit of cooperation and mutual understanding.

All the good citizens of the world today are seeking for peace following the war. Twenty-three centuries ago the great philosopher Aristotle said—"it is more difficult to organize peace than to win a war, but the fruits of victory in war will be lost if peace is not well organized." As it is in the case of the field of battle and the desire for peace thereafter, so it is, to a lesser degree of course, in the field of labour relations.

For twenty years now many parts of the world have been in the throes of industrial disputes that have retarded progress, produced much suffering and engendered bitterness and rancour. It is easy to start industrial warfare, it is not easy to secure peace thereafter. Some of the causes which created industrial warfare such as the contest over the right of free association, the opportunity for collective bargaining are disappearing. There now remains the task of approaching the conference table and remaining at the conference table in a spirit of good will and understanding, and not in seeking unfair advantage, one over the other. That is a task which will require patience and cooperation. It will require more. It will require bringing into play all the forces of fair play, good citizenship and the application of the golden rule which are the heritage of a free people, of a Christian people, and which are one of the pillars upon which our civilization rests, without whose sustaining strength we will all surely perish.