

negotiations with it can begin. These are, to be sure, small things; but they detract from the quality of a book and interfere with its complete enjoyment.

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EFFECTIVE LABOR ARBITRATION: THE IMPARTIAL CHAIRMANSHIP OF THE FULL-FASHIONED HOSE AND HOSIERY INDUSTRY. By Thomas Kennedy. Philadelphia: University of Pennsylvania Press, 1948. Pp. xi, 286. \$3.50.

Professor Kennedy's book is Number 34 of the Research Studies of the Industrial Research Department of the Wharton School of Finance and Commerce of the University of Pennsylvania. The author served for a time as Deputy Impartial Chairman and later as Impartial Chairman under the Union-Industry National Agreement, and writes with the full understanding which that experience brought him.

The impartial chairmanship treated in the book is a mediation and arbitration system voluntarily established and maintained by the Full-Fashioned Hosiery Manufacturers of America, Inc., an association of hosiery manufacturers, and the American Federation of Hosiery Workers, an industrial union of hosiery workers. Under this system the parties agree to submit all problems, except changes in the general wage level, which arise at any time during the life of the contract under which they are operating, and which they cannot settle by negotiation, to a permanent impartial chairman for final and binding settlement. The book is a study of the 1,566 problems which were referred to the Impartial Chairman from the initiation of the system in 1929 to August, 1945. During this time six different persons served as Impartial Chairmen. The author classifies these problems according to types, and shows the attitude of the Impartial Chairman toward their solution.

The purposes of the study are stated¹ to be:

1. to present in an orderly and understandable fashion the procedures, techniques, and principles developed and tested by the Impartial Chairmanship of the full-fashioned hosiery industry.
2. to determine the factors and conditions which led to the adoption of these procedures, techniques, and principles and to analyze critically their effects on the economics and other phases of the industrial relations of the industry.
3. to discover what defects exist in the system as it now functions and to examine the possible remedies.

The industry, after a prosperous period in the early 1920's, during which large numbers of workmen learned the trade, became badly depressed toward the end of that decade. Competition had always been keen, with no recognized leading company in the industry to set prices; units of the industry were easily movable, and the low cost of shipping put each company in competition with every other, no matter where it was located. There were some non-union mills even in the Northeast where the union was strong, and there were non-union areas, principally in the South, where new mills were opened even when the established union mills in the other areas were operating part time.

In 1929 the president of the union of hosiery workers stated to its convention that the union had lost control of the industry, and that its ability to survive was in doubt. The union invited the management of all unionized mills to meet with it to devise means of defense. The spokesman for the owners said that at least 60 per cent of all hosiery-making machines were then being operated by non-union knitters and that non-

¹ P. 2.

union production was increasing twice as fast as non-union production. The owners requested concessions from the union, including decreased wage rates, and indicated that they wanted the union to unionize as many as possible of the non-union mills. An agreement was made which provided, among other things, for uniform and decreased wage rates, a closed shop, and an Impartial Chairman as a final means of settling all grievances arising under the contract. The author says that neither party regarded the impartial chairmanship provision as of great importance at the time, but that after a brief experience with it, both parties came to think of it as perhaps more important than anything else they had put in their agreement. The 1929 agreement has been followed by a succession of agreements, running for fixed periods, each of which has provided for the continuation of the impartial chairmanship.

The principal purpose of the agreement as a whole, then, was the defense of the union and the unionized employers in the industry against the competition of the non-union employers and workers. That is probably the principal purpose of any agreement which covers all the unionized portion of any industry in which there is a considerable un-unionized element. The question of the legality of such a combination is not discussed in the book, and this reviewer is not competent to discuss it. It is apparent that the several impartial chairmen have been conscious of this purpose, and have tried to decide their cases and set their precedents in such a way that the uniformity of wage rates among the member employers would not be impaired, and that the member employers would not be unduly handicapped in competing with un-unionized mills. The consequence has probably been that the decisions of the impartial chairmen have been somewhat more severe upon the employees than they might have been in a completely unionized industry where a disadvantage to an employer would not have been so vital to him. What I have said perhaps relates particularly to the question of work stoppages, which, under the agreement, are not to occur during its life, except in case of the failure of the employer to comply promptly with the decision of the impartial chairman.

A case is described² in which thirty-seven knitters "stopped off" and were discharged by the employer. They struck because they thought that two other knitters had been unjustly discharged. The impartial chairman concluded that the thirty-seven had been right in their view as to the injustice of the discharge of the two; hence he ordered the reinstatement of the two. He concluded, however, that the thirty-seven had been wrong in striking, and upheld their discharge. Such severity seems to have had the effect of practically eliminating stoppages in the industry. The employers have not, however, made use of the discharge power frequently, even though the impartial chairmen have been willing to permit them to do so.

In Chapter IV is an interesting discussion of the authority or "jurisdiction" of the impartial chairman. His function is that of secondary arbitration; that is, it does not include determination of the general level of wages or the terms of a new contract. It includes the determination of individual rates in line with the contract level of wages, and the interpretation and application of clauses written into the contract. As to whether the impartial chairman here under review has the power to determine issues which arise during the life of the contract but are not covered by its terms, the contract says that all disputes "including but not limited to the interpretation, construction or application of the terms of this agreement shall be submitted to the Impartial Chairman for final and binding decision by him." The author points out that the 1945 contract between the General Motors Corporation and the United Automobile Workers of America (C.I.O.) provides that the umpire may not "add to" the terms of the agreement. He says that

² Pp. 149-150.

the granting of the broader jurisdiction to the umpire has generally been limited to industries such as clothing and hosiery where collective bargaining has been in operation for a number of decades. One would suppose that some umpires would not allow themselves to be handicapped much by language such as that in the General Motors agreement, in view of the doctrines of implications, existing customs and practices, etc., which really are within the intent of the contract though not expressed. In any event, if one of the principal purposes of labor contracts is to prevent strikes and stoppages, it would seem better that a dispute should be decided, even though the parties have not foreseen it and provided for it in their agreement.

The author devotes three chapters to what he calls the "common law of the industry" made by the impartial chairman by the process of deciding cases. This result seems very natural to a lawyer or a law student. The author points out that in the New York men's clothing industry, the contracts provide that no decision is to establish a precedent for a decision in another case. Yet the impartial chairman for the coat-and-suit industry wrote in 1937 that, in practice, decisions were followed as precedents. This further evidence makes one who is unlearned in comparative law wonder whether there can be much difference, in practice, between the habits of the common law and those of any other system, all administered by rational beings, with regard to the use of precedents. In the industry here under discussion, the author thinks that the making of industrial common law is particularly important because of the agreement's objective of uniformity of direct labor costs throughout the industry.

The author refers³ to the contention that collective bargaining procedures have eroded management's proper status, and quotes Professor Slichter to this effect. He thinks, on the other hand, that the impartial chairmanship in the hosiery industry has improved the status of management over what it was when union contracts were made but there was no umpire for disputes. He says that the decisions—and, I suppose, the contract itself to some extent—have given labor the rights of protest, appeal, and retroactivity in return for management's right of administrative initiative. This means, in brief, that whatever management initiates is to be done, even though it is in breach of contract, or is unfair but not covered by the contract. The union makes its protest, a prompt review is had, and, if management was wrong in the opinion of the impartial chairman, the employees will be retroactively put in the same status they would have been in if the wrong had not been done. But, in the meantime, production has not been stopped, wages have not been lost, and hard feelings have not been engendered as they would have been if a strike had occurred. I think the author has made a good case for his contention that management's status has not been impaired in the hosiery industry. But, again, perhaps it has been easier to make that kind of industrial law in this industry because the union is so vulnerable to the competition of non-union mills.

The author's Chapter X, "Appraisals and Conclusions," shows that in general he regards the institution under discussion as a distinct success. He says, however, that one goal of the association-wide bargaining and the impartial chairmanship—stability of prices, profits and wages—has not been attained. As late as 1937 many union employees lost their jobs through liquidation of hosiery companies, apparently because of non-union competition, which, in fact, has increased down to the present time; and the author regards the war and post-war prosperity of the business as temporary. He attributes this lack of success to the union's inability to unionize the entire industry. But he says, "From the public's point of view it is doubtful if such industry-wide stabilization would be desirable. Its achievement probably would mean higher wages and higher prices for full-fashioned hosiery."⁴

³ P. 95.

⁴ P. 212.

The author believes, and regrets, that resort has been had to the impartial chairman for the decision of many questions which might have been solved by negotiation. This would not seem to me to be a substantial evil. The impartial chairman can probably decide most questions more wisely and fairly than the parties would decide them by negotiation, and the parties probably get plenty of practice in collective bargaining in making their periodic contracts and in negotiating the many grievances which, no doubt, are settled without reaching the impartial chairman.

The author regrets the decline in the effectiveness of the impartial chairman as a mediator. In the early years of the system many cases, though brought to the impartial chairman, did not have to be decided by him, because he could induce the parties to settle them. Beginning in 1933, the proportion of such settlements began to decline, and now practically no cases are settled that way. I think it is natural that in any field of controversy there should be, in the beginning, many cases brought into litigation which are really not very difficult to decide, and which are, in effect, withdrawn upon the suggestion of the judge. After the system has become more mature, such cases are not brought; those that are brought are harder to decide and are more worthy of litigation, and the parties are more insistent upon having them decided. Perhaps, also, when the parties have gotten used to appearing before the impartial chairman they are less affected by his obvious wish that they settle their differences and, rather than settle them just to please him, they leave them with him to decide.

Professor Kennedy has given us a clear, well-written description and analysis of the operation of the impartial chairmanship in one important industry. One of our great problems is how to make collectively bargained contracts operate smoothly and economically. Studies like this should be of great help in determining whether the impartial chairmanship system is a good way to do this.

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MAN, NATURE AND TIME: AN INTRODUCTION TO WORLD STUDY. By William Alexander Gauld. London: G. Bell & Sons, Ltd., 1946. Pp. x, 291, maps. \$3.25.

This book on world study is most timely. The author has based it upon the conviction that "the elements of world unity are deeply set in the living experience of mankind, as it develops through the ages, and that however conflicting the divisions, and however contrasted their lives, always and everywhere there are welding forces of world community at work."¹ He accomplishes his aim to prove the truth of his conviction not so much with the fervor of an apostle who defends his creed as with the painstaking labor of the scientist who exposes the facts.

In this process he covers world relations from all angles. The physical elements in their global interrelations, the bio-geographical factors, and economic resources are considered. The human aspects are treated under the viewpoints of race and culture, of economic and social orders, of movement and settlement, and of state formation and relations between independent states and between advanced and dependent peoples. Finally, the planned attempts of world organization are described.

The author believes that in the interdependence of the elements of Man, Nature and Time, "Man rather than Nature gives direction and purpose in history."² He sees this clearly, for instance, in the experience that geographical influences, though they are historical facts, vary greatly, at different times, under the impact of human minds. They may separate peoples, and then again unite them as did the Alps in Europe.

¹ P. 283.

² P. vi.