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Le Canada en tant que membre de l'O.I.T. : réalisations et possibilités
Canada as an I.L.O. Member : Performance and Potential

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Article abstract

Most Canadians - and indeed most union members - know relatively little about the ILO. Knowledge may pick up somewhat next year. 1969 will be the fiftieth year since the founding of the ILO. The Department of Labour - along with the Canadian Labour Congress, the CNTU, the Canadian Manufacturers Association, some other private organizations, and the provincial departments of labour - is planning commemorative activities. These activities will have two main purposes: to make the ILO better known in Canada; and to accomplish certain specific objectives relating to the ILO's work.

Why is the ILO not better known in Canada ? This is a difficult question. I have known people go to ILO meetings and return to Canada full of enthusiasm to rouse public interest in the ILO. From time to time, public relations experts decide they will make the same attempt. Success does not crown their efforts.

One reason seems to be that most people get bogged down trying to describe the technical aspects of how the ILO works - its tripartite structure; the composition at the delegations to the Conference; the voting system; the relationship between the Governing Body and the Conference; how the convention system works; the difference between a convention and a recommendation; and all this is made even more complicated as far as Canada is concerned when one tries to explain the federal-provincial relationship.

Probably another reason for the difficulty in making the work of the ILO better known in Canada is that few Canadians, even including those who have actually been delegates to the Conference or to industrial committees for example, manage to develop any real sense of involvement in the ILO's work after their return to Canada.

Finally, there may be a faint air of unreality about the ILO convention system, ingenious as it is, in view of the technical and political difficulties in the way of getting ILO Conventions implemented in Canada, let alone ratified. People tend to feel, consciously or unconsciously, that the exercise is not related too closely to basic objectives of social and economic policy in this country.

The ILO, as I said, is fifty years old. It has a history, and perhaps to some extent it is saddled with its history. There is an intriguing question that I ask myself now and then - supposing one were to start all over again in 1968 to set up an international organization, as part of the United Nations family, and devote it to problems affecting labour, how much of what is presently in the ILO Constitution would one retain, and how many new ideas would one want to introduce? The ILO today has an annual budget of over 25 million dollars. It has access also to additional funds coming from the United Nations Development Program, the Special Fund and the Expanded Program of Technical Assistance which give it another 10 to 15 million dollars. Suppose one had the opportunity to start all over again today to set up an organization which would have forty million dollars a year at its disposal, what would one do with the money ?

We may be too prone to take as given the activities that the ILO new performs. I would like to see more basic thinking about the ILO and its role and its potential, by labour and employer organizations and by university research people - as well as by governments.

My own views concerning ways in which the ILO might evolve as regards its programs are set forth in the booklet « The ILO Today » of which a few copies are available for those of you who can find the time and patience to read them. This is not really what I want to discuss today however. Whether or not the ILO's role and purpose could be improved, it is my belief that in its present form and with its present structure and objectives, the ILO has a good deal to offer Canada, and that this is particularly so at the present moment in our history. So what I want to talk about essentially is the way in which the ILO has affected Canada in the past, the extent to which we have taken advantage of the opportunities it offers, and the potential for the future.

The ILO - as I think most Canadians probably *do* know - was set up under the Treaty of Versailles following the First World War in 1919. During the Peace Conference, a nine-country labour commission was established to deal with a British proposal for the establishment of an international labour organization as part of the League of Nations apparatus. The conference of this organization would be composed, not merely of government delegates, but also of delegates representing employers and workers in each member country. And this, of course, was the unique idea, this tripartism, which has had so many implications for the ILO and its work and which sets it off today so sharply from other UN bodies.

Samuel Gompers was named by the United States Government as one of its delegates on the nine-country labour commission. Canada was not a member. In fact, Canada did not have national representation at the Peace Conference being merely a part of the so-called British Empire Delegation. The Canadian group was headed by Sir Robert Borden, the Prime Minister. One of his advisers was P.M. (Paddy) Draper, the Secretary of the Trades and Labour Congress. It is a matter of history that Sir Robert Borden engaged in various struggles to protect the status of Canada. One struggle related to the composition of the Governing Body of the ILO, which was to be the executive of the organization. Canada had a good claim to be represented on the Governing Body in the capacity of one of the eight states of chief industrial importance. However, the Labour Commission decided that Canada and the other Dominions should be excluded from consideration for membership on the Governing Body in view of Britain's membership. Borden fought and won the battle for recognition of Canada's right to be independently represented.

The first general Conference of the ILO was held in Washington. There was some uncertainty as to whether this Conference would actually take place since following the Peace Conference, the United States had turned towards isolationism and, in fact, did not become a member of the ILO until the Franklin Roosevelt regime many years later. The invitation for Canada to participate in this first ILO Conference was transmitted to the Governor-General of Canada by Britain's Colonial Secretary. Canada was not yet very far removed from colonialism ! Another struggle was necessary to ensure our right to participate as a full independent ILO member.

All this may have strengthened our interest in the ILO and our determination to put up a good front at our first independent participation in an international conference.

In planning for the Conference, everything was new to us, and everything had to be worked out from scratch. The Canadian Manufacturers Association was invited to name the employer delegate, which they have done ever since. The Trades and Labour Congress of Canada was invited to name the workers delegate, and Paddy Draper was named as delegate with Tom Moore as his principal adviser.

Then came the question of Government representation; and a decision had to be made as to the Position of Canada's nine provinces. At the Peace Conference, the Canadians had taken the view that section 132 of the British North America Act, which sets forth the treaty powers of the Federal Government, conferred on the Parliament of Canada power to deal with any obligations that might arise out of its membership in the ILO. Nevertheless, the fact remained that the Washington Conference was to deal with certain matters that were normally within provincial jurisdiction, including for example hours of work and various aspects of the protection of women and children. It was decided that the Dominion Government should name the two principal delegates to the Conference, and that the Provinces should be invited to name advisers. All of them did so. Never since in fact have the Provinces been so fully represented at any subsequent ILO Conference.

Probably the most important item on the agenda was the project for a convention on hours of work. The object was to develop an international standard calling for an eight-hour day and a forty-eight-hour week. This may not seem much of an objective and, in fact, even in 1919 Paddy Draper, as Canadian workers delegate, urged as a counter-proposal that the eight-hour-day should be coupled with a forty-four instead of a forty-eight-hour week. He got ruled out of order. But the curious fact is that even today Canada - and probably we are no different from a good many other countries - does not comply fully with the provisions of this first ILO Convention - even though it is one of the Conventions that Canada has ratified.

Back in 1919, the adoption by Canada of an eight-hour day and a forty-eight-hour week would indeed have been a major reform. I have not found it possible from available records to piece out what was going on in the minds of civil servants and politicians at that period in our history. It was obviously a time when much might have been expected following on this first International Labour Conference whose aim had been to equalize international competition based on labour standards. A period of frustration was to set in.

We find on our files correspondence between the Honourable J.W. de B. Harris, Minister of Labour for British Columbia, and the Minister of Labour for Canada, Honourable Gideon Robertson. The Provincial Minister demanded to know what sort of action Canada was going to take to implement the ILO forty-eight hour week standard. There is an interesting telegram on file in which the Minister of Labour for Canada sets forth his view that Section 132 of the BNA Act conferred on the Canadian Parliament the power to legislate to implement this particular ILO Hours of Work Convention, while agreeing that the provinces also had jurisdiction in this field and could, if they wished, enact standards which would be in advance of the forty-eight-hour week standard.

Months went by and the issue was referred to the Department of Justice. The Minister of Justice gave it as his opinion that it was the provincial governments that had jurisdiction in this field and not the federal. This being the case, it would require legislation in each of the nine provinces as well as in the industries coming within federal jurisdiction in order to secure compliance with the Convention. How could this be accomplished? Nobody had any clear answer. The Trades and Labour Congress of Canada was urging the Government to take action, though what kind of action was possible seemed less and less clear. It suggested that if necessary the BNA Act be amended to make such legislation possible. The Congress also approached the various provincial governments asking that they enact legislation on hours of work. The most satisfactory response came from the Government of British Columbia which passed a series of Acts to conform with the Hours of Work Convention and various other ILO Conventions. The proclamation of these Acts, however, was made contingent upon the passing of similar legislation in other provinces, and this was not forthcoming.

Back came the Congress to the Federal Government, this time with a two-fold suggestion, that it introduce the eight-hour day on works coming within federal scope, and that it call a meeting of provincial government representatives to facilitate joint action to implement the Convention within each jurisdiction.

During the 1920's a series of such federal-provincial meetings did in fact take place. One such meeting in 1923 was attended by representatives of workers and employers as well as the Dominion and provincial governments, and it gave consideration to the various ILO Conventions which had been adopted up to that time. The CNA commented after the Conference that it seemed to be consensus of opinion of delegates that implementation of the Hours of Work Convention was not practical politics. The CMA also argued that it would be « absolutely impossible for Canada to think of passing such legislation unless and until similar legislation was passed in the United States ». The United States at that time was not a member of the ILO, and the prevailing opinion of the American Federation of Labour in any event was not very much in favour of labour legislation.

As time went by, Canada was able to ratify a few ILO Conventions dealing with matters coming exclusively within federal jurisdiction and covered by the Canada Shipping Act. With respect to other ILO Conventions, Canada took no action to ratify during the 1920's. This was somewhat embarrassing with respect to Canada's international posture since Canada had now been recognized as one of the states of chief industrial importance of the ILO and hence it might be expected that Canada would set a better example in dealing with ILO standards.

There was a feeling that the legislative position in Canada was better than shown by our record of ratifications. The ILO published - and still publishes -regularly a chart showing for each member country whether or not it had ratified the various ILO Conventions. Canada complained that this chart did not give recognition to the fact that many provinces were well up in their legislation even though ratification of a Convention by Canada was not possible. The ILO agreed to amend its chart so as to show the position in the various Canadian provinces. This idea was subsequently dropped. But the basic notion - of maintaining a score-board of the provincial performance with respect to ILO Conventions - is an interesting one.

In all fairness, it must be stated that the position of some of the other industriallized countries with unitary and not federal forms of government was not all that much in advance of Canada. During its first few years of life, the ILO did not attain the quantity of ratifications of Conventions that might have been hoped for. The concept of the ILO as a body which could eliminate international competition based on labour standards was a difficult concept to achieve. The Convention system has been effective in other ways. ILO Conventions have come to represent a consensus of opinion on what constitutes a desirable international standard. Some governments may have already reached the standard and can ratify the Convention. Others will move towards it at their own pace. By and large, the more successful ILO Conventions have dealt with subjects whose economic significance is not too conspicuous. This would include Conventions on technical matters such as safety standards, protection of women and young workers, labour inspection, and so on. It would also include the very important ILO Conventions on human rights.

It is generally felt that the Convention system has an influence on national standards apart from anything that can be measured by the record of ratifications. I am fond of quoting an observation from Albert Thomas, the first head of the International Labour Office, who once said « We have taught the world to speak something like the same language on labour questions. » This very realistic remark suggests that the research carried out by the ILO and the exchange of experience at International Conferences may mean more than the actual record of ratifications.

Ratification, however, remains the goal, at least as long as one is dealing with a Convention which has been soundly constructed, which is not always the case. And this leads us to the next episode in Canada's relationship with the ILO standard-setting system. During the early 1930's and the depression years, the ILO was much concerned with the problem of unemployment which, according to ILO figures, affected as many as 25 million workers throughout the world. The ILO pioneered in the concept of public works as a means of sustaining employment. It advocated such measures as the abolition of overtime and the adoption of social security programs including in particular unemployment insurance. It must be remembered that these were the days when social security legislation was rare among the nations of the world. Also, the ILO emphasized the desirability of a shorter standard work week as a means of distributing available work over a larger number of persons.

In 1932, the Canadian House of Commons adopted a motion calling attention to the Hours of Work Convention and urging its implementation throughout Canada. The response was not particularly noticeable. In 1935, R.B. Bennett announced his intention as part of his program of « New Deal » legislation to ratify the ILO Hours of Work Convention. Mr. Bennett took as his authority the famous Section 132 of the BNA Act dealing with international treaties. He reasoned that if Canada ratified an ILO Convention, it would then be bound by the Convention as though it were a treaty. Having become subject to treaty obligation in this manner, Canada would then find power in Section 132 to carry out its obligation by adopting the necessary legislation. Accordingly, Mr. Bennett's government ratified the Hours of Work Convention as well as two other labour standards Conventions. Parliament then enacted legislation to implement the Conventions, going beyond the normal federal jurisdiction and applying to Canadian industry generally.

This was indeed a bold step. Shortly afterwards, however, Mr. Bennett's government lost a federal election. The New Deal measures were not proclaimed, but were referred to the Canadian Supreme Court, which divided three to three on the validity of Mr. Bennett's initiative. They were then referred to The Judicial Committee of the Privy Council, which declared the legislation ultra vires of the Parliament of Canada. Their lordship reasoned that the use of Section 132 to expand the area of federal jurisdiction might very well be carried to an extreme so as to undermine provincial constitutional autonomy. However, they also concluded that Canada was by no means incompetent to legislate in performance of treaty obligations. « In totality of legislative powers Dominion and provincial together she is fully equipped ». Totality of powers however meant cooperation between the Dominion and the provinces.

This ruling by the Privy Council has of course become an important part of Canada's constitutional history and the so-called Labour Conventions case is known and cited by people without other knowledge of the ILO and by people without any particular interest in labour legislation.

Canada's position with respect to ILO Conventions was next examined by the Rowell-Sirois Commission on Dominion-Provincial Relations and was declared to be unsatisfactory. The Commission recommended « that the Dominion and the provinces together should decide how international labour conventions should be implemented ».

Meanwhile World War II had started and the various Canadian Government and the Canadian people had other things on their minds. Our interest in ILO Conventions lapsed. However, Canada's history with the ILO took a new turn in 1940, when following the Nazi invasion of France we invited the ILO to set up headquarters in Montreal and on the campus of McGill University. Here the ILO spent the war and early post-war years.

When things came back to normal and the ILO returned to its Geneva headquarters, Canada as an ILO member had to re-examine its obligation with respect to the Conventions that had been ratified by the Bennett Government. Obviously, we had defaulted on our international obligation with respect to these Conventions. We had ratified them, but we had not implemented them. Thus began a somewhat embarrassing period for Canadian delegates to ILO Conferences, since the ILO Committee which has the responsibility each year of scrutinizing the way in which member governments are applying the Conventions they have ratified had some rather awkward questions to ask. Theoretically Canada might very well have taken advantage of its right to denounce the Conventions, and thus escape its obligations. Canadian authorities, however, took the view that this would be a retrograde step. It would be preferable to call the attention of the provinces to the situation and rely on them to improve their legislation to the point where we would achieve full compliance. In fact, this point has been pretty well reached with respect to two of the Bennett ratifications. With regard to the third, however, the Hours of Work Convention, our legislative position has indeed improved but there are many gaps in our compliance with the ILO standard. The ILO calls attention to these gaps from time to time. But by and large, it has shown good understanding of our difficulty, and has accepted our decision to try to move towards complete conformity rather than denounce the Convention. The ILO maintains a « black list » of countries seriously in default on their ILO obligations, but we have not been included in this list.

One result of our embarrassment with respect to the Bennett ratifications was negative. Once bitten, twice shy. The prevailing opinion in Canadian Government circles during the first ten or fifteen years after the war was that Canada should not again seek to ratify Conventions where the jurisdiction to legislate in Canada was divided between the Federal Government and the provinces. It was simply felt to be too much trouble. It was also felt that the Federal Government would be in taking an unnecessary chance if, even with the full agreement of the provinces, it assumed an international obligation which one of the provinces might later, possibly as a result of a change in government, cause us to violate.

By the early 1960's, a change had come about in the prevailing Canadian view, initiated by the Department of Labour. We now accepted that is was constitutionally possible for the Federal Government to ratify Conventions even though our compliance with these Conventions depended on the necessary legislation being enacted by the provinces. We also accepted that is was even desirable for us to press towards such ratifications. We recognized that it would be necessary to intensify federal-provincial cooperation on ILO matters, and we began to take steps to this end. This meant getting the provinces more interested in ILO. One way to stimulate this interest, we thought, was to ensure provincial participation in our delegations to ILO meetings, particularly when matters under provincial jurisdiction were to be discussed. For the last several years, therefore, we have tried to include on our delegations to the ILO Annual Conference two provincial members. It is mutually understood that these provincial members of the delegation do not « represent » their provinces; on the contrary, they represent Canada. They work from briefing which is prepared by the Department of Labour on the basis of consultations with the provinces. So far this system has worked out very well and personally I am not aware of any but the most minor of difficulties.

We also include on our delegation, and have done for many years, so-called « observers » from the provinces who go at the expense of their provincial governments and may be said to « represent » their governments. Such observers obviously do not have a right to participate actively in the work of the Conference, in a separate capacity from the Canadian delegation, but they do have the opportunity to follow the proceedings. Our policy has been to encourage them to work closely with the official Canadian delegation, to attend the early morning briefing sessions of our government group, to give us their views and advice, and to accompany us to meetings.

Every Canadian province has now been represented at least one ILO meeting. The consequences have been beneficial, in the sense that every provincial government now has first-hand understanding of how the ILO works and an interest in doing what is possible in Canada to conform not only to our specific constitutional obligations with respect to ILO Conventions, but also to the strengthening of our international image as a country which cooperates actively in the work of the ILO.

Three ILO Conventions whose subject matter falls partly within provincial jurisdiction have been ratified in recent years, following consultation with the provincial governments. This consultation has taken the form of a letter from the Prime Minister to the Premiers of the Provinces. Such letters have been proceeded however by less formal consultations at the level of the deputy minister to pave the way for the formal official consultations.

The three Conventions we have ratified on this basis are Convention No. 111 on Discrimination in Employment, ratified in 1964, the Employment Policy Convention No. 122 and the Convention prohibiting underground work in mines by women, both ratified in 1966. We were particularly gratified to ratify the Convention on Discrimination in Employment since, when this Convention had been dealt with by the ILO a few years earlier, the Chairman of the ILO Conference Committee had been a Canadian, Arthur Brown, the Chairman of the employers group was Allen Campbell of Canadian Westinghouse, and the Chairman of the workers group was Kalmen Kaplansky. Thus Canada had put a lot of effort into the development of this international instrument and it was a real source of satisfaction to be able to ratify it.

It is worth adding that the adoption by the ILO Conference of this Convention was no doubt a strong factor in the adoption in several of the Canadian jurisdictions of Fair Employment Practices legislation. Our attitude towards such matters in Canada tends to be pragmatic and we are not usually prepared to admit when we enact legislation that we have been influenced by some remote international agency. We prefer to regard it as our own idea. Nevertheless, the ILO influence has been significant. I know of at least one province which delayed a long time in replying to the Prime Minister's letter on the subject of ratifying a particular Convention, in the meanwhile introduced a Bill in its legislature, which brought it into compliance, and then informed the Prime Minister of its agreement to Canadian ratification.

Our total number of ratifications of ILO Conventions now stands at 24. Most of these of course are of Conventions whose subject matter falls exclusively within federal jurisdiction. What of the future ?

The Canadian Labour Congress has several times asked us to undertake studies of the extent to which Canadian legislation conforms with ILO Conventions. This is a formidable task, the more so since with respect to most of the remaining ILO Conventions, Canadian legislation in its totality does not completely conform. However, a good deal of work has been done. There are several ILO Conventions dealing with the employment of young workers and setting out a minimum age for various different industries. We did an analysis of federal and provincial legislation with respect to these Conventions more than a year ago, and sent the resulting study out to the provinces for their observations. Observations were received in due course. Unfortunately, staff difficulties prevented us from completing the study. I now have a highly competent man on this particular assignment and hope to have it completed within a very short time. The study will then be published. It will not be printed in glossy or expensive form since we regard a study of this kind as essentially a working document of interest to a rather limited number of people. The study is intended to show what changes in legislation would be required to bring all jurisdictions completely into conformity with the Conventions. It will of course be available to provincial governments and we think it will be of interest to provincial labour federations as well as to employer organizations. We would hope that the publication of this study would serve as an encouragement to improvements in legislation. No less than six of the provinces, in submitting observations on our first draft of the study, have said that they would contemplate introducing improvements in their legislation, and one has already done so.

We have also undertaken studies of two basic ILO Human Rights Conventions, number 87 dealing with freedom of association, and number 98 dealing with protection of the right to organize and bargain collectively. With respect to Convention No. 87, there are important problems of interpretation of the Convention. After a good deal of consideration, we took the view that Canadian legislation is in very substantial conformity with the requirements of the Convention, and that it would be in Canada's interest to ratify. As one of his last acts of office, the former Prime Minister, Lester B. Pearson, wrote to the provincial Premiers consulting them on this particular Convention and enquiring whether they considered their legislative position to be in accordance with its provisions. A number of affirmative replies have been received and follow-up work is now in process with the other provinces.

Concerning Convention No. 98, which deals with protection of the right to organize and bargain collectively, we are not so sure of our ground. The basic problem is coverage. Labour relations legislation in Canada usually excludes agricultural workers and in some cases professional workers and some other groups. The Convention, on the other hand, applies to all workers with the exception of public servants.

The following are some of the Conventions on which we intend to undertake studies, such studies to be published following consultations with the provinces. Equal Pay for Equal Work for Men and Women Workers;

Labour Inspection;

Minimum Standards of Social Security;

Protection of Wages;

Guarding of Machinery;

Workmen's Compensation;

Minimum Standards of Social Security;

Maternity Protection;

Protection against being required to carry too heavy loads;

Radiation Protection.

Next year's ILO Conference to be held in June 1969 will give first reading to a proposed convention on vacations with pay, setting out a minimum standard of at least two weeks. Canadian legislation in its totality does not meet this standard, nor does it meet some of the coverage or other requirements. We have been consulting the provinces on the stand which Canada should take at next year's Conference during the debates on this proposed instrument.

Our present objective then, in our work with the provinces, is to make our consultative procedures more productive, while maintaining respect for provincial jurisdiction. What we are doing is to institute discussions with the provinces on basic labour standards legislation, calling the attention of the provinces to the international standards that have been developed by the ILO, and leaving it up to them whether they feel they can conform with these standards. As our studies are completed and made available, labour organizations and other interested groups will have access to them, and we will have met the request of the Canadian Labour Congress to have this information available. To the extent that more ratifications prove possible in future, I am sure we will all feel a sense of satisfaction and united effort and achievement - and surely this is the spirit we want to foster in relation to Canadian legislation where jurisdiction is divided.

One of the projects in connection with the ILO 50th anniversary that we hope to carry forward in 1969 is a federal-provincial conference on outstanding ILO matters. This will follow the ILO tradition by including labour and employer representatives. One Convention which would certainly be discussed by such a conference would be the old Convention No. 1 dating from the first ILO Conference in Washington in 1919 and dealing with the eight-hour-day, forty-eight hour week, with which we are not yet in full conformity. Our difficulty stems partly from incomplete coverage and partly also from the fact that the Convention is rather more rigid than is most Canadian legislation with respect to provisions for temporary exemptions from coverage. This matter should probably be brought to a head. Do we really desire that this Convention should be fully implemented in all respects in Canadian legislation ? If not, perhaps we should consider denouncing the Convention, on the grounds that we have finally decided that we disagree with some of its provisions.

I think you will agree with me that we are entering a very interesting period in Canada's use of ILO Conventions. We have got past the despairing stage of not too many years ago when we considered it inexpedient to seek to do anything very much about ILO Conventions which fell partly within provincial jurisdiction. We are undertaking the studies which will provide us all with the basic information for the first time as to how Canada actually stands with respect to the more important ILO Conventions. The way in which we follow up on these Conventions, and also of course on Conventions currently being developed by the ILO, could make its contribution to a more dynamic form of federalism in Canada. There are dangers and pitfalls of course. If we move wisely however we can hope to develop an active form of federal-provincial cooperation, offsetting some of the frustrations we have experienced in the past. There is also scope here for a more active form of labour-management-government relations with respect to social and economic policy at the combined federal-provincial level.

It is a curious fact that a rise in Canada's interest in ILO Conventions is taking place at a time when Conventions are becoming relatively less important elsewhere as a means of fulfilling ILO objectives. These objectives were listed in the Constitution back in 1919 as including regulation of hours of work; prevention of unemployment; provision of an adequate living wage; protection of the worker against sickness, disease and injury arising out of his employment; protection of children, young persons and women; and provision for old age and injury.

The founding fathers of the ILO envisaged that these objectives could be obtained most readily by one technique; the adoption of labour legislation in the various member countries. If one were starting all over again today to establish an international organization in the labour field, it seems to me unlikely that one would put quite so much emphasis on labour legislation. The objectives might be much the same, but I think they would be put more positively. There would I imagine be greater emphasis on human resources development, strengthening of departments of labour, support for free trade unionism, management training programs and so on. There would be less concern perhaps with the establishment of formal international treaty obligations and more concern with exploration of problems, study of difficulties, and positive activities by the ILO in cooperation with member countries - including the industrialized as well as the developing countries. In recent years, the ILO has come to devote much the greater part of its resources to programs of technical assistance. These are of course expensive programs in comparison that with what the ILO used to need when it was primarily a standard-setting organization. Twenty years ago, the ILO had an annual budget of 4 1/2 million dollars and a staff of about 500. This appeared more than adequate to do the research, prepare for the meetings, and carry out a program of international labour standards. Today, the staff of the ILO is charged with operational responsibilities, and it has grown from 500 to over 1,500 and on top of that, there are about 900 experts scattered about the world working on various ILO technical assistance projects. The budget has grown from 4 1/2 million dollars to 26 million dollars with an extra 17 million or so being provided under the United Nations Development Program and in other ways. These technical assistance activities are expensive and very difficult to appraise.

The ILO began to move into the technical assistance field on a significant scale in the early 1950's at a time when President Truman's so-called « point four » program had stimulated general concern with the problem of the underdeveloped countries.

In the early 1950's, it was not generally thought that the ILO had much to offer in the way of action programs to stimulate economic and social development. This attitude has changed. It is now much better appreciated that human resources development is an essential part of economic development, and it is in the field of human resources development that the ILO does the greater part of its technical assistance work.

Quite a significant turning point came interestingly enough at the time of the ILO American Regional Conference which was held in Ottawa in September 1966. A so-called « Ottawa Plan » for human resources development was adopted, setting forth a unified approach to the problem involving surveys, target setting, and integration of human resources projects with national development plans and more systematic review and evaluation of projects and programs that had heretofore been contemplated.

The Ottawa Plan is a regional plan. A similar plan was agreed for the Asian region at a Conference in Tokyo last month, and another such plan will be set up shortly for the African region. Taken together, these three regional plans form what the ILO describes as its World Employment Program.

Up to now there is not too much that can be said about Canadian participation in the ILO's field programs. In the 16 years since ILO moved into the technical assistance field, fewer than a hundred Canadians have been appointed by the ILO to serve on projects. The reasons for this are not easy to understand. Canadian experts are available and are recruited in significant numbers for the bilateral projects sponsored by our External Aid Office, now known as the Canadian International Development Agency. The ILO appears to draw much more heavily on Europeans, particularly those who may have been formerly employed by colonial administrations. Our distance from Geneva may be a factor, and may add to the inevitable delays and technical problems which sometimes militate against a Canadian recruit being still available when the time comes for a project actually to start. There is also the problem that Canadians expect somewhat higher salaries than do Europeans although the importance of this point has, I think, been exaggerated.

A new trend which we find encouraging is that a number of discussions have taken place recently between ILO officials and officials of our CIDA, aimed at finding projects in which Canada can cooperate with the ILO. The first such project will officially commence on January 1, next year, in Tanzania, where Canada has bitten off a particular chunk of a larger project financed under the United Nations' Development Program and executed by the ILO. The overall project is to set up a comprehensive National Apprenticeship Scheme. Canada has undertaken to run the Scheme's pilot Training Centre. She will bear the cost of the Canadian teachers involved and supply machinery and other necessary equipment. If this cooperative arrangement works out well, it may be anticipated that Canada will devote more of its funds in the future to projects developed under ILO auspices.

For example, there will be a meeting in Geneva early next month between senior officers of the Manpower Department and the CIDA to try to acquire a better understanding of what the ILO is really seeking to accomplish through its World Employment Program, how technically sound the concepts are, and what attitude Canada should take towards this ambitious undertaking. Negotiations are also under way for a senior Canadian official to undertake a short term project in Santiago, Chile. Although this ILO project is primarily for the benefit of Chile, the fact that Santiago is also the headquarters for the Ottawa Plan will give us an excellent opportunity to get a clearer idea of how this American regional segment of the World Employment Program is coming along.

I should add, of course, that the ILO also has assistance programs in its other fields of interest, with scope for labour participation, for example, in the Workers Education Program, and employer participation in the Management Development Program.

I feel that perhaps I have skimmed over the surface of a number of aspects of Canada's relationship with the ILO. There are three points I would want to make in summing up. The first is that as regards our own Canadian situation, we are at a moment in history when the ILO standard-setting system can be a useful instrument to us in improving labour legislation both federally and provincially and at the same time strengthening national unity. The second is that provided our technical people can satisfy themselves with the validity of the ILO's programs, in particular instances, there are advantages in making use of the ILO's experience and regional administrative strength in making the kind of contribution that Canadians want to make towards economic and social development throughout the world.

My third and final point is that it is open to us to appraise and review the ILO's objectives and its working methods. The ILO will be with us for many years to come. Its budget and its influence can hope to expand manifold. This is our organization. Is it trying to do the things we would want it to try to do? Where do we want it to put its emphasis over the next ten or twenty years ? What should we really be thinking about the ILO ?

Le Canada en tant que membre de l'O.I.T.: réalisations et possibilités

John Mainwaring

Après une brève présentation de l'O.I.T., l'auteur fait un inventaire de la participation canadienne à cette organisation internationale pour ensuite aboutir aux perspectives d'avenir.

Introduction

Cette année, 1969, est le cinquantenaire de la fondation de l'OIT. Des activités furent prévues au Canada pour célébrer cet anniversaire et faire mieux connaître l'OIT. Ces activités furent organisées par les travailleurs, les employeurs et les gouvernements, l'OIT étant un sujet d'intérêt commun pour tous.

Comme exemple des activités canadiennes mentionnons, en autres l'émission d'un timbre commémorant cet anniversaire, une exposition aux Archives nationales, des déclarations à la Chambre des communes, au Sénat et dans les législatures provinciales, la remise d'un doctorat par l'université Laval à David A. Morse, directeur général de l'OIT, la tenue d'une Conférence Nationale Tripartie à Ottawa, et enfin des publications patronales, syndicales et gouvernementales ont publié des articles en commémoration de cet anniversaire. C'est sans doute parce que le Canada a été intimement lié à la survie de l'OIT durant les années de guerre qu'il a tenu à commémorer ainsi cet événement rare dans la famille des Nations-Unies.

MAINWARING, John, directeur, Direction des affaires internationales du travail, Ministère du travail du Canada, OTTAWA.

Pourquoi l'OIT est-elle si importante pour nous ? Lorsque l'OIT fut fondée en 1919, ses objectifs furent établis dans sa Constitution, et ils comprennent notamment l'amélioration des conditions du travail, la lutte contre le chômage, la protection des enfants, des adolescents et des femmes, l'affirmation des principes « à travail égal, salaire égal », et la liberté syndicale, et autres mesures analogues.

L'établissement d'un organisme intergouvernemental avec de tels objectifs était un pas en avant jusque là jamais vu dans l'histoire de l'humanité. Toutefois, le nouvel organisme était plus qu'intergouvernemental. Des dispositions nécessaires furent prises pour assurer aux représentants des employeurs, des travailleurs et des gouvernements une part égale de responsabilités dans le fonctionnement effectif de l'organisme.

Les Nations-Unies cherchent à promouvoir la paix dans le monde. L'idée de base de l'OIT est que si vous voulez travailler à l'établissement d'une paix durable, vous devez aussi travailler à l'établissement d'une justice sociale. Évidemment, ceci est un grand idéal. L'OIT, tout en poursuivant son idéal, a eu ses échecs et ses succès. Toutefois, la question importante à se poser au sujet de l'OIT n'est pas « Qu'est-ce que l'OIT a accompli durant les 50 dernières années ? » Mais bien « Qu'avons-nous accompli au Canada, — syndicats, employeurs et gouvernements — pour aider l'OIT à atteindre cet idéal ? » Il ne faut pas oublier que l'OIT ne peut rien sans notre aide.

Un peu d'historique

L'OIT a été créée dans le cadre du Traité de Versailles à la fin de la Première Guerre mondiale, en 1919. Le Canada n'avait aucune représentation nationale à la Conférence de la Paix, ayant simplement fait partie de ce que l'on appelait la délégation de l'Empire britannique. À la tête du groupe canadien se trouvait Sir Robert Borden, premier ministre. Un de ses conseillers était P.-M. (Paddy) Draper, secrétaire du Congrès des Métiers et du Travail. Une des principales préoccupations de Sir Robert Borden était de protéger et d'élargir le statut du Canada. Une de ses luttes a porté sur la composition du Conseil d'administration du Bureau international du Travail. On avait décidé que le Canada et les autres dominions ne seraient pas pris en considération pour élection au Conseil d'administration, étant donné que la Grande-Bretagne en faisait déjà partie. Borden engagea la bataille et la gagna : cette décision fut ren-

versée, ce qui établissait le droit du Canada d'être représenté distinctement.

La première conférence générale de l'OIT eut lieu à Washington en octobre 1919. Le point le plus important à l'ordre du jour était le projet d'une convention portant sur la durée du travail. L'objectif était la mise au point d'une norme internationale prévoyant la journée de huit heures et la semaine de quarante-huit heures. L'on espérait que tous les pays accepteraient de donner leur adhésion à cette norme. Ainsi, si tous les pays modifiaient leur législation en conséquence, aucun ne pourrait se servir de l'excuse de la concurrence internationale pour ne pas réduire les heures de travail.

Une semaine de quarante-huit heures peut ne pas paraître un objectif trop ambitieux et, de fait, même en 1919, Paddy Draper, en tant que délégué des travailleurs canadiens, présenta une contre-proposition demandant que la journée de travail de huit heures aille de pair avec une semaine de travail de quarante-quatre heures au lieu de quarante-huit. Il fut déclaré qu'il était hors d'ordre. Mais le plus curieux c'est que, même à l'heure actuelle, le Canada (et nous ne différons pas de bien d'autres pays) ne respecte pas entièrement les dispositions de cette première convention de l'OIT. Il y a encore des travailleurs pour qui cette norme ne s'applique pas.

Il est bon ici de rappeler en quelques paragraphes l'histoire de la Convention n° 1 régissant les heures de travail.

À cette époque, c'est-à-dire en 1919, l'adoption par le Canada de la journée de huit heures et la semaine de quarante-huit heures eut effectivement été une réforme de tout premier plan. Il ne m'a pas été possible, en me fondant sur la documentation que j'ai pu consulter, de déterminer ce qui avait pu se passer dans l'esprit des fonctionnaires et des hommes politiques à cette époque de notre histoire. C'était évidemment une époque où l'on aurait pu espérer beaucoup de choses, à la suite de cette première Conférence internationale du Travail dont l'objectif était d'équilibrer la concurrence internationale grâce à l'établissement de normes du travail. Nous étions sur le point d'entrer dans une période de déception.

Nous trouvons dans nos dossiers la correspondance échangée entre l'honorable J.W. de B. Ferris, ministre du Travail de la Colombie-Britannique, et le ministre du Travail du Canada, l'honorable Gideon Ro-

bertson. Le ministre provincial voulait connaître les initiatives que le Canada comptait prendre pour appliquer la norme de l'OIT sur la semaine de travail de quarante-huit heures. On trouve dans ce dossier un intéressant télégramme dans lequel le ministre du Travail du Canada exprime l'opinion que l'article 132 de la Loi de l'Amérique du Nord Britannique confère au Parlement canadien le pouvoir de légiférer pour mettre en pratique cette convention particulière de l'OIT sur la durée du travail, tout en admettant que les provinces sont également compétentes dans ce domaine et peuvent, si elles le désirent, établir des normes supérieures à celle de la semaine de quarante-huit heures.

Les mois passèrent et la question fut soumise au ministère de la Justice. Le ministre de la Justice fit savoir qu'il estimait que ce domaine était de la compétence des gouvernements provinciaux, et non du gouvernement fédéral. Cela étant, la convention ne pouvait être appliquée qu'à la suite de mesures législatives prises dans chacune des neuf provinces, ainsi que dans les industries relevant de l'autorité fédérale. Comment cela pourrait-il se faire ? Personne ne pouvait répondre clairement à cette question. Le Congrès des Métiers et du Travail du Canada insistait auprès du gouvernement pour qu'il prenne des mesures, bien que le type d'action possible apparût de moins en moins clairement. Il suggéra même qu'au besoin la Loi de l'Amérique du Nord Britannique fût amendée pour permettre une telle législation. Le Congrès communiqua également avec les divers gouvernements provinciaux, leur demandant de légiférer sur la durée du travail. C'est le gouvernement de la Colombie-Britannique qui réagit de la façon la plus satisfaisante en promulgant une série de lois visant à se conformer à la convention sur la durée du travail, ainsi qu'à diverses autres conventions de l'OIT. Toutefois, la proclamation de ces lois ne devait se faire que lorsqu'une loi similaire serait adoptée dans les autres provinces, ce qui n'était guère probable.

Le Congrès revint alors au gouvernement fédéral, cette fois avec une double suggestion ; à savoir, mettre en vigueur la journée de huit heures dans les entreprises relevant de l'autorité fédérale, et réunir les représentants des gouvernements provinciaux afin de faciliter une action commune ayant pour but l'application de la convention à chacun des paliers.

Au cours des années 20, on assista effectivement à toute une série de rencontres fédérales-provinciales de ce type. À l'une d'entre elles, en 1923, on vit assister des représentants des travailleurs et des employeurs ainsi que des gouvernements du Dominion et des provinces, et l'on y étudia

les diverses conventions de l'OIT qui avaient été adoptées jusqu'à ce jour. L'Association des manufacturiers canadiens déclara, après la Conférence, que le concensus d'opinion des délégués semblait être que l'application de la convention sur la durée du travail n'était pas une politique pratique. L'AMC prétendait également qu'il serait « absolument impossible pour le Canada de songer à adopter une telle loi tant qu'une loi similaire n'aurait pas été adoptée aux États-Unis ». Les États-Unis n'étaient pas membre de l'OIT à cette époque et, de toute façon, l'opinion qui prévalait au sein de la Fédération américaine du Travail n'était pas très favorable à une législation du travail.

En 1932, la Chambre des communes du Canada adoptait une motion qui attira l'attention sur la convention concernant la durée du travail, et qui demandait son application sur tout le territoire canadien. La réaction n'a pas été particulièrement notable. En 1935, monsieur R.-B. Bennett fit savoir qu'il avait l'intention de ratifier la convention de l'OIT sur la durée du travail, dans le cadre de son propre programme de législation « New Deal ». Monsieur Bennett s'appuyait pour ce faire sur le fameux article 132 de la Loi sur l'Amérique du Nord Britannique, qui portait sur les traités internationaux. Son raisonnement était que si le Canada ratifiait une convention de l'OIT, cette convention le lierait alors exactement comme s'il se fût agi d'un traité. Se trouvant lié de la sorte par une obligation découlant d'un traité, le Canada pourrait ensuite trouver dans l'article 132 l'autorité voulue pour s'acquitter de cette obligation en adoptant la législation nécessaire. En conséquence, le gouvernement de monsieur Bennett ratifia la convention sur la durée du travail ainsi que deux autres conventions de l'OIT portant sur des normes de travail [1]. Le Parlement adopta alors des lois pour l'application des conventions, qui allaient au-delà de la compétence fédérale normale et étaient applicables à l'industrie canadienne dans son ensemble.

C'était là une mesure hardie. Néanmoins, peu de temps après le gouvernement de monsieur Bennett fût défait à une élection fédérale. Les mesures « New Deal » ne furent pas proclamées, mais renvoyées à la Cour suprême du Canada qui s'est prononcée sur la validité de l'initiative de monsieur Bennett, par trois voix contre trois. Les mesures en question furent alors soumises à l'appréciation du Comité judiciaire du Conseil privé, qui déclara que cette loi outrepassait les pouvoirs du Parlement

1. No 14, (Le repos hebdomadaire dans l'industrie) et No 26, Méthodes de fixation des salaires minima.

du Canada. La raison invoquée par les juges était que le recours à l'article 132 pour étendre le domaine de compétence du gouvernement fédéral risquait fort, s'il se généralisait, de miner l'autonomie que la constitution reconnaît aux provinces. Néanmoins, ils conclurent également que le Canada n'était nullement dépourvu de l'autorité de légiférer pour s'acquitter d'obligations découlant d'un traité. « Dans la totalité des pouvoirs législatifs tant du Dominion que des provinces, il a toute l'autorité voulue ». Mais, pour que cette totalité des pouvoirs soit effective, il faut une entière coopération entre le Dominion et les provinces.

Ce jugement du Conseil Privé est évidemment devenu un fait important de l'histoire constitutionnelle du Canada, et ce que l'on a par la suite appelé l'affaire des conventions du travail est connu et cité par des gens qui n'ont aucune autre connaissance de l'OIT, ainsi que par des gens pour qui la législation du travail ne présente aucun intérêt particulier.

Les péripéties de la ratification de la Convention numéro 1 sont un exemple des problèmes qu'occasionne la ratification d'une convention internationale.

La Conférence de Washington fut un succès. Elle atteignit son but : l'adoption de la convention ci-haut mentionnée. De fait, six conventions furent adoptées, y compris celle sur le chômage et les autres sur la protection des femmes et des enfants — un problème social important à cette époque.

En 1920, l'OIT se transporta à Genève, qui devait devenir son quartier général. Les conférences se succédaient maintenant d'une année à l'autre et un flot continu de conventions et de recommendations exprimaient les décisions des travailleurs, des employeurs et des gouvernements du monde entier sur les normes ouvrières. L'indemnisation des accidentés du travail ; un jour de repos sur sept ; l'inspection des émigrants ; l'assurance-maladie ; l'établissement de salaire minimum, ce ne furent là que quelques-unes des questions sur lesquelles l'OIT adopta des règlements internationaux lors des premières conférences tenues à Genève.

Ce travail se continue et l'OIT a maintenant à son crédit un total de 129 conventions et 134 recommandations. Les plus récentes conventions traitent de plusieurs aspects des droits humains, y compris la liberté d'association, la protection du droit syndical, l'égalité de rémunération,

et la protection contre la discrémination dans l'emploi. Les autres conventions traitent de la protection contre les radiations, la sécurité dans l'utilisation des machines, la politique de l'emploi, différents aspects de la sécurité sociale, et plusieurs autres sujets. Tout ceci mis ensemble constitue le Code international de travail. Les états membres de l'OIT qui se conforment dans leur législation aux normes de ces conventions, peuvent les ratifier. S'ils le font, ils assument une obligation en vertu de la loi internationale de maintenir les provisions imposées.

À ce jour, les états membres de l'OIT avaient ratifié près de 3500 conventions. Chacune de ces ratifications est un engagement accepté par un gouvernement à la cause du progrès social par l'entremise de la coopération internationale. Même si les normes de certains pays ne leur permettent pas de ratifier certaines conventions, le fait que l'OIT a établi ces normes internationales a une grande importance comme stimulant vers le progrès. Les conventions de l'OIT en sont venues à représenter un consensus d'opinions sur ce qui constitue une norme internationale souhaitable. Certains gouvernements peuvent déjà avoir atteint le niveau de cette norme, et peuvent ratifier la convention. D'autres progresseront vers cet objectif au rythme qu'ils estimeront opportun. On considère généralement que le système des conventions a une influence sur les normes nationales, beaucoup plus qu'on peut mesurer par la liste de ratifications. Albert Thomas, le premier directeur du Bureau international du Travail, dit un jour : « Nous avons enseigné au monde à parler à peu près la même langue sur les questions du Travail ». Cette remarque, très réaliste, laisse entendre que la recherche effectuée par l'OIT, et les échanges d'expérience lors des conférences internationales peuvent avoir une signification bien plus étendue que la liste pure et simple des ratifications.

Quelle a été l'expérience du Canada en ce qui concerne l'établissement de normes par l'OIT ? Il doit être admis que le Canada a rencontré plusieurs difficultés, la plupart résultant du fait de notre constitution fédérale. Au Canada, il est difficile d'obtenir la conformité des onze gouvernements aux normes de l'OIT en ce qui concerne une convention particulière. Ceci fut particulièrement vrai au cours des premières années de l'adhésion du Canada à l'OIT.

Durant ces premières années, le mouvement syndical s'efforça de persuader les gouvernements de modifier leur législation pour se conformer aux normes de l'OIT, et de fait un certain progrès a été accompli. Toutefois, à date, le Canada n'a ratifié que 24 conventions.

Jusqu'à récemment, l'opinion qui prévalait dans les milieux gouvernementaux canadiens était que le Canada ne devrait chercher à ratifier des conventions portant sur des domaines à juridiction mixte. On estimait que c'était tout simplement aller au devant des complications. On estimait également que le gouvernement fédéral prendrait un risque inutile si, même avec le consentement total des provinces, il assumait une obligation internationale qu'une des provinces pourrait ensuite, du fait d'un changement de gouvernement par exemple, nous faire violer.

Au début des années 60, une évolution se produisit dans l'opinion qui prévalait au Canada, et ce fut le ministère du Travail qui en pris l'initiative. Nous avons reconnu qu'il serait nécessaire d'intensifier la coopération fédérale-provinciale pour les affaires concernant l'OIT, et nous avons commencé à prendre des mesures à cette fin. Pour accomplir cela, il fallait intéresser davantage les provinces à l'OIT. Nous avons pensé qu'une façon de stimuler cet intérêt était d'assurer une participation des provinces à nos délégations aux réunions de l'OIT. C'est pourquoi au cours des dernières années, nous nous sommes efforcés d'inclure dans nos délégations à la Conférence annuelle de l'OIT deux membres provinciaux. Il est mutuellement entendu que ces membres provinciaux de la délégation ne « représentent » pas leur province ; au contraire, ils représentent le Canada. Ils travaillent à partir de documents préparés par le ministère du Travail après consultation avec les provinces. Tel que prévu au Règlement 3 (d) [2] de la Conférence internationale du travail, nous incluons également dans notre délégation, depuis de nombreuses années déjà, des représentants, délégués par les provinces, lesquels viennent aux frais de leurs gouvernements. Chaque province du Canada a maintenant été représentée à une au moins des réunions de l'OIT. Les conséquences ont été bénéfiques, en ce sens que chaque gouvernement provincial a maintenant une connaissance de première main sur le fonctionnement de l'OIT.

Le printemps prochain nous avons même l'intention d'organiser à titre d'essai une réunion préparatoire à la 54e session de la Conférence internationale du travail qui se tiendra à Genève en juin.

Trois conventions de l'OIT portant sur des sujets qui sont partiellement du ressort des provinces ont été ratifiées au cours des dernières

2. « Les représentants d'un Etat ou d'une province faisant partie d'un Etat fédératif qui ont été désignés par le gouvernement d'un Membre de l'Organisation pour accompagner une délégation ».

années, après consultation avec les gouvernements provinciaux. Une de ces conventions est la convention numéro 111, sur la discrimination dans l'emploi, ratifiée en 1964. Nous avons été particulièrement satisfaits de pouvoir ratifier cette convention étant donné que lorsque l'OIT l'avait discutée quelques années auparavant, le président du comité de Conférence de l'OIT était un Canadien, Arthur Brown, tandis que le président du groupe des employeurs était Allen Campbell de la Canadian Westinghouse ,et le président du groupe des travailleurs était, Kalmen Kaplansky, qui était à cette époque représentant du Congrès du Travail du Canada.

Perspectives d'avenir

Notre pays a donc largement participé aux efforts qui ont abouti à la mise au point de cet instrument international, et cela nous a été une véritable source de satisfaction que de pouvoir par la suite le ratifier. Il y a lieu d'ajouter que l'adoption de cette convention par la Conférence de l'OIT a sans doute été un facteur important dans l'adoption d'une loi sur les justes méthodes d'emploi par plusieurs gouvernements du Canada.

Notre attitude à l'égard de ces questions au Canada a tendance à être pragmatique, et nous ne sommes généralement pas disposés à admettre, lorsque nous adoptons certaines lois, que nous avons été influencés par un quelconque et lointain organisme international. Nous préférons considérer cette mesure comme étant notre propre initiative. Néanmoins, l'influence de l'OIT a été importante. Par exemple, une au moins de nos provinces a tardé bien longtemps à répondre à la lettre du premier ministre fédéral à propos de la ratification d'une convention donnée ; pendant ce temps, elle présentait à sa législature un projet de loi qui lui permettait de se conformer aux exigences de la convention, après quoi elle a informé le premier ministre qu'elle donnait son accord à la ratification par le Canada. Des 24 conventions de l'OIT que nous avons ratifiées jusqu'à présent, la plupart d'entre elles sont, bien entendu, des conventions portant sur des questions relevant exclusivement de l'autorité fédérale.

Que se passera-t-il à l'avenir ? Le Congrès du travail du Canada nous a demandé, à plusieurs reprises, d'étudier jusqu'à quel point la législation canadienne est conforme aux conventions de l'OIT. C'est là une tâche énorme. Néanmoins, un travail considérable a déjà été accompli. Ces études montreront quelles modifications il serait nécessaire d'apporter à nos lois pour conformer entièrement toutes les compétences législatives

aux exigences de certaines conventions. Ces études seront évidemment mises à la disposition des gouvernements provinciaux, et nous pensons qu'elles intéresseront les fédérations provinciales du travail de même que les organisations patronales. Nous espérons que leur publication constituera un stimulant pour l'amélioration de notre législation. Par exemple, non moins de six provinces, en nous faisant connaître les observations que leur suggérait le texte de notre première étude, nous ont fait savoir qu'elles se proposaient d'introduire certaines améliorations dans leur propre législation, et deux l'ont déjà fait. Voici quelques-unes des conventions dont nous avons entrepris l'étude ; ces études seront publiées après consultation des provinces.

La liberté syndicale et la protection du droit syndical ;
L'égalité de rémunération entre la main-d'oeuvre masculine et la main-d'oeuvre féminine ;
L'inspection du travail ;
Les normes minima de la sécurité sociale ;
La protection de la maternité ;
La protection contre les radiations.

À la Conférence Nationale Tripartite tenue à Ottawa nous avons distribué la première de ces études « L'âge minimum d'admission aux travaux ».

Par conséquent, notre objectif actuel, dans notre travail avec les provinces, est de rendre notre procédure de consultation plus efficace, tout en maintenant le respect de l'autorité provinciale. Ce que nous faisons, c'est engager des discussions avec les provinces sur les lois essentielles en matière de normes du travail, en attirant l'attention des provinces sur les normes internationales qui ont été mises au point par l'OIT, et en leur laissant le soin de décider si elles croient pouvoir s'y conformer. Si toutes les provinces décident de se conformer aux exigences d'une convention, le gouvernement fédéral peut la ratifier et informer le BIT que le Canada accepte, comme obligation internationale, de continuer de l'appliquer. Si d'autres ratifications s'avéraient possibles à l'avenir, nous en éprouverions tous un sentiment de satisfaction, d'unité dans l'effort et de réussite, — et tel est bien l'esprit que nous voulons susciter dans ce qui a trait à la législation canadienne, où l'autorité est partagée.

Nous entrons dans une période très intéressante de l'utilisation faite par le Canada des conventions de l'OIT. Notre travail avec les provinces

au plan des conventions et aux réunions de l'OIT peuvent contribuer à une forme plus dynamique de fédéralisme au Canada. Il y a également place ici pour une forme plus active de relations tripartites, travailleurs-patronat-gouvernement, au sujet des conventions de l'OIT au niveau mixte fédéral-provincial. La Conférence tripartite nationale fut un premier pas dans cette direction.

Les membres fondateurs de l'OIT avaient estimé qu'on atteindrait ses objectifs très aisément en recourant à une seule technique: l'adoption d'une législation en matière de travail par tous les pays membres. Si l'on recommençait de fond en comble, et si l'on avait à créer aujourd'hui une organisation internationale dans le domaine du travail, il semble peu probable que l'on mettrait à ce point l'accent sur la législation du travail. Les objectifs pourraient être à peu près les mêmes, mais ils seraient proposés d'une façon plus positive. On insisterait davantage, sur le développement des ressources humaines, sur le renforcement des ministères du Travail, sur l'appui du syndicalisme libre, sur les programmes de formation à la gestion, et ainsi de suite.

En effet, au cours des dernières années, l'OIT en est venue à consacrer la plus grande part de ses ressources à des programmes d'assistance technique aux pays en voie de développement. Il s'agit évidemment de programmes très coûteux comparés à ceux dont se préoccupait l'OIT à l'origine, alors qu'elle n'était encore qu'une organisation travaillant à l'établissement de normes.

Il y a vingt ans, l'OIT disposait d'un budget annuel de 4½ millions de dollars, et son personnel comptait environ 500 personnes. Cela paraissait suffisant pour accomplir les travaux de recherche, préparer les conférences, et exécuter un programme de normes internationales du travail. A l'heure actuelle, le personnel de l'OIT est passé de 500 à plus de 1,500 personnes; en outre, elle a à sa disposition quelque 900 experts dissiminés dans le monde et qui travaillent à différents programmes d'assistance technique de l'OIT, en Afrique, en Asie et en Amérique latine. Le budget de l'organisation est passé de 4½ millions de dollars à 30 millions de dollars, avec en outre quelque 20 millions qui lui sont fournis dans le cadre du programme de développement des Nations-Unies et par d'autres canaux.

Il est intéressant de noter qu'un tournant très significatif de son histoire se situe à l'époque de la conférence régionale américaine de l'OIT, qui

s'est tenue à Ottawa en septembre 1966. On y a adopté ce qu'on a appelé le « plan d'Ottawa » pour le développement des ressources humaines. Le plan d'Ottawa est un plan régional qui s'applique aux Amériques. Un plan similaire a été adopté pour les régions asiatiques lors de la conférence qui s'est tenue à Tokyo en septembre 1968, et un autre plan semblable sera mis au point prochainement pour les régions africaines. A eux trois, ces plans régionaux forment ce que l'OIT décrit comme son programme mondial de l'emploi.

Jusqu'à maintenant, on ne peut pas dire grand-chose de la participation du Canada aux programmes d'assistance technique de l'OIT. Durant les années d'après-guerre pendant lesquelles l'OIT a déployé des activités dans ce domaine, le nombre des Canadiens nommés par le BIT pour participer à l'exécution de ses projets est inférieur à la centaine. Il n'est pas facile d'en comprendre les raisons. Il existe des experts canadiens et ils sont recrutés en nombre considérable aux fins des projets bilatéraux réalisés sous les auspices de notre Bureau de l'aide extérieure, connu maintenant sous le nom d'Agence canadienne de développement international.

Le BIT semble faire appel de préférence à des Européens, particulièrement à ceux qui ont été précédemment au service des administrations coloniales. La distance qui nous sépare de Genève est peut-être un facteur, et complique peut-être encore les délais inévitables et les problèmes techniques qui font parfois qu'une recrue canadienne n'est plus disponible lorsque vient le moment où un projet démarre réellement. Un autre problème réside également dans le fait que les Canadiens s'attendent parfois à toucher des salaires plus élevés que n'en attendent les Européens, bien que l'importance de ce point ait été exagérée.

Une tendance nouvelle et qui nous paraît encourageante est le fait qu'une certaine coopération a commencé entre l'OIT et notre Agence canadienne de développement international, dans l'intention de découvrir des projets à l'exécution desquels le Canada peut travailler avec l'OIT.

En ce moment, le Canada et l'OIT collaborent à la réalisation de deux projets. Le premier consiste en l'établissement d'un centre pilote de formation du programme national d'apprentissage industriel en Tanzanie. Le second consiste à organiser des cours de stagiaires en administration du travail dans les Caraïbes.

J'ai l'impression de n'avoir qu'effleuré un certain nombre des aspects des rapports du Canada avec l'OIT. Il y a trois points sur lesquels j'aimerais insister en conclusion. Le premier est que, en ce qui concerne notre situation au Canada, nous nous trouvons à un moment de notre histoire où le système de fixation de normes de l'OIT pourrait être pour nous un instrument utile pour l'amélioration de la législation du travail, tant sur le plan fédéral que sur le plan provincial, tout en renforçant l'unité nationale. Le deuxième est que, dans certains cas particuliers, il y aurait avantage à profiter de l'expérience de l'OIT et de ses forces administratives régionales lorsque nous apporterons le type de contribution que les Canadiens désirent contribuer au développement économique et social dans le monde. Mon troisième point, est qu'il appartient à nous tous, travailleurs, employeurs et gouvernements, d'évaluer et d'examiner les objectifs et les méthodes de travail de l'OIT.

Les maux dont souffre la société en 1969 ne sont plus les mêmes qu'en 1919; ils n'en sont pas moins graves. Les activités de l'OIT doivent changer afin de rencontrer ces nouveaux défis. Le rôle potentiel de l'OIT est fort important; sa structure tripartite a survécu l'épreuve du temps, mais, elle doit compter sur la vigueur de l'apport des délégations tripartites de pays tels que le nôtre qui à la fois bénéficient de ces contacts internationaux et doivent contribuer à ses activités futures.

CANADA AS AN ILO MEMBER : PERFORMANCE AND POTENTIAL

Most Canadians – and indeed most union members – know relatively little about the ILO. Knowledge may pick up somewhat next year. 1969 will be the fiftieth year since the founding of the ILO. The Department of Labour – along with the Canadian Labour Congress, the CNTU, the Canadian Manufacturers Association, some other private organizations, and the provincial departments of labour – is planning commemorative activities. These activities will have two main purposes: to make the ILO better known in Canada; and to accomplish certain specific objectives relating to the ILO's work.

Why is the ILO not better known in Canada ? This is a difficult question. I have known people go to ILO meetings and return to Canada full of enthusiasm to rouse public interest in the ILO. From time to time, public relations experts decide they will make the same attempt. Success does not crown their efforts.

One reason seems to be that most people get bogged down trying to describe the technical aspects of how the ILO works – its tripartite structure; the composition af the delegations to the Conference; the voting system; the relationship between the Governing Body and the Conference; how the convention system works; the difference between a convention and a recommendation; and all this is made even more complicated as far as Canada is concerned when one tries to explain the federal-provincial relationship.

Probably another reason for the difficulty in making the work of the ILO better known in Canada is that few Canadians, even including those who have actually been delegates to the Conference or to industrial committees for example, manage to develop any real sense of involvement in the ILO's work after their return to Canada.

Finally, there may be a faint air of unreality about the ILO convention system, ingenious as it is, in view of the technical and political difficulties in the way of getting ILO Conventions implemented in Canada, let alone ratified. People tend to feel, consciously or unconsciously, that the exercise is not related too closely to basic objectives of social and economic policy in this country.

The ILO, as I said, is fifty years old. It has a history, and perhaps to some extent it is saddled with its history. There is an intriguing question that I ask myself now and then – supposing one were to start all over again in 1968 to set up an international organization, as part of the United Nations family, and devote it to problems affecting labour, how much of what is presently in the ILO Constitution would one retain, and how many new ideas would one want to introduce? The ILO today has an annual budget of over 25 million dollars. It has access also to additional funds coming from the United Nations Development Program, the Special Fund and the Expanded Program of Technical Assistance which give it another 10 to 15 million dollars. Suppose one had the opportunity to start all over again today to set up an organization which would have forty million dollars a year at its disposal, what would one do with the money?

We may be too prone to take as given the activities that the ILO new performs. I would like to see more basic thinking about the ILO and its role and its potential, by labour and employer organizations and by university research people – as well as by governments.

My own views concerning ways in which the ILO might evolve as regards its programs are set forth in the booklet « The ILO Today » of which a few copies are available for those of you who can find the time and patience to read them. This is not really what I want to discuss today however. Whether or not the ILO's role and purpose could be improved, it is my belief that in its present form and with its present structure and objectives, the ILO has a good deal to offer Canada, and that this is particularly so at the present moment in our history. So what I want to talk about essentially is the way in which the ILO has affected Canada in the past, the extent to which we have taken advantage of the opportunities it offers, and the potential for the future.

The ILO – as I think most Canadians probably *do* know – was set up under the Treaty of Versailles following the First World War in 1919. During the Peace Conference, a nine-country labour commission was established to deal with a British

proposal for the establishment of an international labour organization as part of the League of Nations apparatus. The conference of this organization would be composed, not merely of government delegates, but also of delegates representing employers and workers in each member country. And this, of course, was the unique idea, this tripartism, which has had so many implications for the ILO and its work and which sets it off today so sharply from other UN bodies.

Samuel Gompers was named by the United States Government as one of its delegates on the nine-country labour commission. Canada was not a member. In fact, Canada did not have national representation at the Peace Conference being merely a part of the so-called British Empire Delegation. The Canadian group was headed by Sir Robert Borden, the Prime Minister. One of his advisers was P.M. (Paddy) Draper, the Secretary of the Trades and Labour Congress. It is a matter of history that Sir Robert Borden engaged in various struggles to protect the status of Canada. One struggle related to the composition of the Governing Body of the ILO, which was to be the executive of the organization. Canada had a good claim to be represented on the Governing Body in the capacity of one of the eight states of chief industrial importance. However, the Labour Commission decided that Canada and the other Dominions should be excluded from consideration for membership on the Governing Body in view of Britain's membership. Borden fought and won the battle for recognition of Canada's right to be independently represented.

The first general Conference of the ILO was held in Washington. There was some uncertainty as to whether this Conference would actually take place since following the Peace Conference, the United States had turned towards isolationism and, in fact, did not become a member of the ILO until the Franklin Roosevelt regime many years later. The invitation for Canada to participate in this first ILO Conference was transmitted to the Governor-General of Canada by Britain's Colonial Secretary. Canada was not yet very far removed from colonialism ! Another struggle was necessary to ensure our right to participate as a full independent ILO member.

All this may have strengthened our interest in the ILO and our determination to put up a good front at our first independent participation in an international conference.

In planning for the Conference, everything was new to us, and everything had to be worked out from scratch. The Canadian Manufacturers Association was invited to name the employer delegate, which they have done ever since. The Trades and Labour Congress of Canada was invited to name the workers delegate, and Paddy Draper was named as delegate with Tom Moore as his principal adviser.

Then came the question of Government representation; and a decision had to be made as to the Position of Canada's nine provinces. At the Peace Conference, the Canadians had taken the view that section 132 of the British North America Act, which sets forth the treaty powers of the Federal Government, conferred on the Parliament of Canada power to deal with any obligations that might arise out of its membership in the ILO. Nevertheless, the fact remained that the Washington Conference was to deal with certain matters that were normally within provincial jurisdiction, including for example hours of work and various

aspects of the protection of women and children. It was decided that the Dominion Government should name the two principal delegates to the Conference, and that the Provinces should be invited to name advisers. All of them did so. Never since in fact have the Provinces been so fully represented at any subsequent ILO Conference.

Probably the most important item on the agenda was the project for a convention on hours of work. The object was to develop an international standard calling for an eight-hour day and a forty-eight-hour week. This may not seem much of an objective and, in fact, even in 1919 Paddy Draper, as Canadian workers delegate, urged as a counter-proposal that the eight-hour-day should be coupled with a forty-four instead of a forty-eight-hour week. He got ruled out of order. But the curious fact is that even today Canada – and probably we are no different from a good many other countries – does not comply fully with the provisions of this first ILO Convention – even though it is one of the Conventions that Canada has ratified.

Back in 1919, the adoption by Canada of an eight-hour day and a forty-eight-hour week would indeed have been a major reform. I have not found it possible from available records to piece out what was going on in the minds of civil servants and politicians at that period in our history. It was obviously a time when much might have been expected following on this first International Labour Conference whose aim had been to equalize international competition based on labour standards. A period of frustration was to set in.

We find on our files correspondence between the Honourable J.W. de B. Harris, Minister of Labour for British Columbia, and the Minister of Labour for Canada, Honourable Gideon Robertson. The Provincial Minister demanded to know what sort of action Canada was going to take to implement the ILO forty-eight hour week standard. There is an interesting telegram on file in which the Minister of Labour for Canada sets forth his view that Section 132 of the BNA Act conferred on the Canadian Parliament the power to legislate to implement this particular ILO Hours of Work Convention, while agreeing that the provinces also had jurisdiction in this field and could, if they wished, enact standards which would be in advance of the forty-eight-hour week standard.

Months went by and the issue was referred to the Department of Justice. The Minister of Justice gave it as his opinion that it was the provincial governments that had jurisdiction in this field and not the federal. This being the case, it would require legislation in each of the nine provinces as well as in the industries coming within federal jurisdiction in order to secure compliance with the Convention. How could this be accomplished? Nobody had any clear answer. The Trades and Labour Congress of Canada was urging the Government to take action, though what kind of action was possible seemed less and less clear. It suggested that if necessary the BNA Act be amended to make such legislation possible. The Congress also approached the various provincial governments asking that they enact legislation on hours of work. The most satisfactory response came from the Government of British Columbia which passed a series of Acts to conform with the Hours of Work Convention and various other ILO Conventions. The proclamation of these Acts, however, was made contingent upon the passing of similar legislation in other provinces, and this was not forthcoming.

Back came the Congress to the Federal Government, this time with a two-fold suggestion, that it introduce the eight-hour day on works coming within federal scope, and that it call a meeting of provincial government representatives to facilitate joint action to implement the Convention within each jurisdiction.

During the 1920's a series of such federal-provincial meetings did in fact take place. One such meeting in 1923 was attended by representatives of workers and employers as well as the Dominion and provincial governments, and it gave consideration to the various ILO Conventions which had been adopted up to that time. The CNA commented after the Conference that it seemed to be consensus of opinion of delegates that implementation of the Hours of Work Convention was not practical politics. The CMA also argued that it would be « absolutely impossible for Canada to think of passing such legislation unless and until similar legislation was passed in the United States ». The United States at that time was not a member of the ILO, and the prevailing opinion of the American Federation of Labour in any event was not very much in favour of labour legislation.

As time went by, Canada was able to ratify a few ILO Conventions dealing with matters coming exclusively within federal juridiction and covered by the Canada Shipping Act. With respect to other ILO Conventions, Canada took no action to ratify during the 1920's. This was somewhat embarrassing with respect to Canada's international posture since Canada had now been recognized as one of the states of chief industrial importance of the ILO and hence it might be expected that Canada would set a better example in dealing with ILO standards.

There was a feeling that the legislative position in Canada was better than shown by our record of ratifications. The ILO published – and still publishes – regularly a chart showing for each member country whether or not it had ratified the various ILO Conventions. Canada complained that this chart did not give recognition to the fact that many provinces were well up in their legislation even though ratification of a Convention by Canada was not possible. The ILO agreed to amend its chart so as to show the position in the various Canadian provinces. This idea was subsequently dropped. But the basic notion – of maintaining a scoreboard of the provincial performance with respect to ILO Conventions – is an interesting one.

In all fairness, it must be stated that the position of some of the other indutriallized countries with unitary and not federal forms of government was not all that much in advance of Canada. During its first few years of life, the ILO did not attain the quantity of ratifications of Conventions that might have been hoped for. The concept of the ILO as a body which could eliminate international competition based on labour standards was a difficult concept to achieve. The Convention system has been effective in other ways. ILO Conventions have come to represent a consensus of opinion on what constitutes a desirable international standard. Some governments may have already reached the standard and can ratify the Convention. Others will move towards it at their own pace. By and large, the more successful ILO Conventions have dealth with subjects whose economic significance is not too conspicuous. This would include Conventions on technical matters such as safety standards, protection of women and young workers, labour inspection, and so on. It would also include the very important ILO Conventions on human rights.

It is generally felt that the Convention system has an influence on national standards apart from anything that can be measured by the record of ratifications. I am fond of quoting an observation from Albert Thomas, the first head of the International Labour Office, who once said « We have taught the world to speak something like the same language on labour questions. » This very realistic remark suggests that the research carried out by the ILO and the exchange of experience at International Conferences may mean more than the actual record of ratifications.

Ratification, however, remains the goal, at least as long as one is dealing with a Convention which has been soundly constructed, which is not always the case. And this leads us to the next episode in Canada's relationship with the ILO standard-setting system. During the early 1930's and the depression years, the ILO was much concerned with the problem of unemployment which, according to ILO figures, affected as many as 25 million workers throughout the world. The ILO pioneered in the concept of public works as a means of sustaining employment. It advocated such measures as the abolition of overtime and the adoption of social security programs including in particular unemployment insurance. It must be remembered that these were the days when social security legislation was rare among the nations of the world. Also, the ILO emphasized the desirability of a shorter standard work week as a means of distributing available work over a larger number of persons.

In 1932, the Canadian House of Commons adopted a motion calling attention to the Hours of Work Convention and urging its implementation throughout Canada. The response was not particularly noticeable. In 1935, R.B. Bennett announced his intention as part of his program of « New Deal » legislation to ratify the ILO Hours of Work Convention. Mr. Bennett took as his authority the famous Section 132 of the BNA Act dealing with international treaties. He reasoned that if Canada ratified an ILO Convention, it would then be bound by the Convention as though it were a treaty. Having become subject to treaty obligation in this manner, Canada would then find power in Section 132 to carry out its obligation by adopting the necessary legislation. Accordingly, Mr. Bennett's government ratified the Hours of Work Convention as well as two other labour standards Conventions. Parliament then enacted legislation to implement the Conventions, going beyond the normal federal jurisdiction and applying to Canadian industry generally.

This was indeed a bold step. Shortly afterwards, however, Mr. Bennett's government lost a federal election. The New Deal measures were not proclaimed, but were referred to the Canadian Supreme Court, which divided three to three on the validity of Mr. Bennett's initiative. They were then referred to The Judicial Committee of the Privy Council, which declared the legislation ultra vires of the Parliament of Canada. Their lordship reasoned that the use of Section 132 to expand the area of federal jurisdiction might very well be carried to an extreme so as to undermine provincial constitutional autonomy. However, they also concluded that Canada was by no means incompetent to legislate in performance of treaty obligations. « In totality of legislative powers Dominion and provincial together she is fully equipped ». Totality of powers however meant cooperation between the Dominion and the provinces.

This ruling by the Privy Council has of course become an important part of Canada's constitutional history and the so-called Labour Conventions case is known and cited by people without other knowledge of the ILO and by people without any particular interest in labour legislation.

Canada's position with respect to ILO Conventions was next examined by the Rowell-Sirois Commission on Dominion-Provincial Relations and was declared to be unsatisfactory. The Commission recommended « that the Dominion and the provinces together should decide how international labour conventions should be implemented ».

Meanwhile World War II had started and the various Canadian Government and the Canadian people had other things on their minds. Our interest in ILO Conventions lapsed. However, Canada's history with the ILO took a new turn in 1940, when following the Nazi invasion of France we invited the ILO to set up headquarters in Montreal and on the campus of McGill University. Here the ILO spent the war and early post-war years.

When things came back to normal and the ILO returned to its Geneva headquarters, Canada as an ILO member had to re-examine its obligation with respect to the Conventions that had been ratified by the Bennett Government. Obviously, we had defaulted on our international obligation with respect to these Conventions. We had ratified them, but we had not implemented them. Thus began a somewhat embarrassing period for Canadian delegates to ILO Conferences, since the ILO Committee which has the responsibility each year of scrutinizing the way in which member governments are applying the Conventions they have ratified had some rather awkward questions to ask. Theoretically Canada might very well have taken advantage of its right to denounce the Conventions, and thus escape its obligations. Canadian authorities, however, took the view that this would be a retrograde step. It would be preferable to call the attention of the provinces to the situation and rely on them to improve their legislation to the point where we would achieve full compliance. In fact, this point has been pretty well reached with respect to two of the Bennett ratifications. With regard to the third, however, the Hours of Work Convention, our legislative position has indeed improved but there are many gaps in our compliance with the ILO standard. The ILO calls attention to these gaps from time to time. But by and large, it has shown good understanding of our difficulty, and has accepted our decision to try to move towards complete conformity rather than denounce the Convention. The ILO maintains a « black list » of countries seriously in default on their ILO obligations, but we have not been included in this list.

One result of our embarrassment with respect to the Bennett ratifications was negative. Once bitten, twice shy. The prevailing opinion in Canadian Government circles during the first ten or fifteen years after the war was that Canada should not again seek to ratify Conventions where the jurisdiction to legislate in Canada was divided between the Federal Government and the provinces. It was simply felt to be too much trouble. It was also felt that the Federal Government would be in taking an unnecessary chance if, even with the full agreement of the provinces, it assumed an international obligation which one of the provinces might later, possibly as a result of a change in government, cause us to violate.

By the early 1960's, a change had come about in the prevailing Canadian view, initiated by the Department of Labour. We now accepted that is was constitutionally possible for the Federal Government to ratify Conventions even though our compliance with these Conventions depended on the necessary legislation being enacted by the provinces. We also accepted that is was even desirable for us to press towards such ratifications. We recognized that it would be necessary to intensify federal-provincial cooperation on ILO matters, and we began to take steps to this end. This meant getting the provinces more interested in ILO. One way to stimulate this interest, we thought, was to ensure provincial participation in our delegations to ILO meetings, particularly when matters under provincial jurisdiction were to be discussed. For the last several years, therefore, we have tried to include on our delegations to the ILO Annual Conference two provincial members. It is mutually understood that these provincial members of the delegation do not « represent » their provinces; on the contrary, they represent Canada. They work from briefing which is prepared by the Department of Labour on the basis of consultations with the provinces. So far this system has worked out very well and personally I am not aware of any but the most minor of difficulties.

We also include on our delegation, and have done for many years, so-called « observers » from the provinces who go at the expense of their provincial governments and may be said to « represent » their governments. Such observers obviously do not have a right to participate actively in the work of the Conference, in a separate capacity from the Canadian delegation, but they do have the opportunity to follow the proceedings. Our policy has been to encourage them to work closely with the official Canadian delegation, to attend the early morning briefing sessions of our government group, to give us their views and advice, and to accompany us to meetings.

Every Canadian province has now been represented at at least one ILO meeting. The consequences have been beneficial, in the sense that every provincial government now has first-hand understanding of how the ILO works and an interest in doing what is possible in Canada to conform not only to our specific constitutional obligations with respect to ILO Conventions, but also to the strengthening of our international image as a country which cooperates actively in the work of the ILO.

Three ILO Conventions whose subject matter falls partly within provincial jurisdiction have been ratified in recent years, following consultation with the provincial governments. This consultation has taken the form of a letter from the Prime Minister to the Premiers of the Provinces. Such letters have been preceeded however by less formal consultations at the level of the deputy minister to pave the way for the formal official consultations.

The three Conventions we have ratified on this basis are Convention No. 111 on Discrimination in Employment, ratified in 1964, the Employment Policy Convention No. 122 and the Convention prohibiting underground work in mines by women, both ratified in 1966. We were particularly gratified to ratify the Convention on Discrimination in Employment since, when this Convention had been dealt with by the ILO a few years earlier, the Chairman of the ILO Conference Committee had been a Canadian, Arthur Brown, the Chairman of the employers group was Allen Campbell of Canadian Westinghouse, and the Chairman of the

workers group was Kalmen Kaplansky. Thus Canada had put a lot of effort into the development of this international instrument and it was a real source of satisfaction to be able to ratify it.

It is worth adding that the adoption by the ILO Conference of this Convention was no doubt a strong factor in the adoption in several of the Canadian jurisdictions of Fair Employment Practices legislation. Our attitude towards such matters in Canada tends to be pragmatic and we are not usually prepared to admit when we enact legislation that we have been influenced by some remote international agency. We prefer to regard it as our own idea. Nevertheless, the ILO influence has been significant. I know of at least one province which delayed a long time in replying to the Prime Minister's letter on the subject of ratifying a particular Convention, in the meanwhile introduced a Bill in its legislature, which brought it into compliance, and then informed the Prime Minister of its agreement to Canadian ratification.

Our total number of ratifications of ILO Conventions now stands at 24. Most of these of course are of Conventions whose subject matter falls exclusively within federal jurisdiction. What of the future?

The Canadian Labour Congress has several times asked us to undertake studies of the extent to which Canadian legislation conforms with ILO Conventions. This is a formidable task, the more so since with respect to most of the remaining ILO Conventions, Canadian legislation in its totality does not completely conform. However, a good deal of work has been done. There are several ILO Conventions dealing with the employment of young workers and setting out a minimum age for various different industries. We did an analysis of federal and provincial legislation with respect to these Conventions more than a year ago, and sent the resulting study out to the provinces for their observations. Observations were received in due course. Unfortunately, staff difficulties prevented us from completing the study. I now have a highly competent man on this particular assignment and hope to have it completed within a very short time. The study will then be published. It will not be printed in glossy or expensive form since we regard a study of this kind as essentially a working document of interest to a rather limited number of people. The study is intented to show what changes in legislation would be required to bring all jurisdictions completely into conformity with the Conventions. It will of course be available to provincial governments and we think it will be of interest to provincial labour federations as well as to employer organizations. We would hope that the publication of this study would serve as an encouragement to improvements in legislation. No less than six of the provinces, in submitting observations on our first draft of the study, have said that they would contemplate introducing improvements in their legislation, and one has already done so.

We have also undertaken studies of two basic ILO Human Rights Conventions, number 87 dealing with freedom of association, and number 98 dealing with protection of the right to organize and bargain collectively. With respect to Convention No. 87, there are important problems of interpretation of the Convention. After a good deal of consideration, we took the view that Canadian legislation is in very substantial conformity with the requirements of the Convention, and that it would be in Canada's interest to ratify. As one of his last acts of office, the

former Prime Minister, Lester B. Pearson, wrote to the provincial Premiers consulting them on this particular Convention and enquiring wether they considered their legislative position to be in accordance with its provisions. A number of affirmative replies have been received and follow-up work is now in process with the other provinces.

Concerning Convention No. 98, which deals with protection of the right to organize and bargain collectively, we are not so sure of our ground. The basic problem is coverage. Labour relations legislation in Canada usually excludes agricultural workers and in some cases professional workers and some other groups. The Convention, on the other hand, applies to all workers with the exception of public servants.

The following are some of the Conventions on which we intend to undertake studies, such studies to be published following consultations with the provinces.

Equal Pay for Equal Work for Men and Women Workers;

Labour Inspection;

Minimum Standards of Social Security;

Protection of Wages;

Guarding of Machinery;

Workmen's Compensation;

Minimum Standards of Social Security;

Maternity Protection;

Protection against being required to carry too heavy loads;

Radiation Protection.

Next year's ILO Conference to be held in June 1969 will give first reading to a proposed convention on vacations with pay, setting out a minimum standard of at least two weeks. Canadian legislation in its totality does not meet this standard, nor does it meet some of the coverage or other requirements. We have been consulting the provinces on the stand which Canada should take at next year's Conferece during the debates on this proposed instrument.

Our present objective then, in our work with the provinces, is to make our consultative procedures more productive, while maintaining respect for provincial jurisdiction. What we are doing is to institute discussions with the provinces on basic labour standards legislation, calling the attention of the provinces to the international standards that have been developed by the ILO, and leaving it up to them whether they feel they can conform with these standards. As our studies are completed and made available, labour organizations and other interested groups will have access to them, and we will have met the request of the Canadian Labour Congress to have this information available. To the extent that more ratifications prove possible in future, I am sure we will all feel a sense of satisfaction and united effort and achievement – and surely this is the spirit we want to foster in relation to Canadian legislation where jurisdiction is divided.

One of the projects in connection with the ILO 50th anniversary that we hope to carry forward in 1969 is a federal-provincial conference on outstanding ILO

matters. This will follow the ILO tradition by including labour and employer representatives. One Convention which would certainly be discussed by such a conference would be the old Convention No. 1 dating from the first ILO Conference in Washington in 1919 and dealing with the eight-hour-day, forty-eight hour week, with which we are not yet in full conformity. Our difficulty stems partly from incomplete coverage and partly also from the fact that the Convention is rather more rigid than is most Canadian legislation with respect to provisions for temporary exemptions from coverage. This matter should probably be brought to a head. Do we really desire that this Convention should be fully implemented in all respects in Canadian legislation? If not, perhaps we should consider denouncing the Convention, on the grounds that we have finally decided that we disagree with some of its provisions.

In think you will agree with me that we are entering a very interesting period in Canada's use of ILO Conventions. We have got past the despairing stage of not too many years ago when we considered it inexpedient to seek to do anything very much about ILO Conventions which fell partly within provincial jurisdiction. We are undertaking the studies which will provide us all with the basic information for the first time as to how Canada actually stands with respect to the more important ILO Conventions. The way in which we follow up on these Conventions, and also of course on Conventions currently being developed by the ILO, could make its contribution to a more dynamic form of federalism in Canada. There are dangers and pitfalls of course. If we move wisely however we can hope to develop an active form of federal-provincial cooperation, offsetting some of the frustrations we have experienced in the past. There is also scope here for a more active form of labour-management-government relations with respect to social and economic policy at the combined federal-provincial level.

It is a curious fact that a rise in Canada's interest in ILO Conventions is taking place at a time when Conventions are becoming relatively less important elsewhere as a means of fulfilling ILO objectives. These objectives were listed in the Constitution back in 1919 as including regulation of hours of work; prevention of unemployment; provision of an adequate living wage; protection of the worker against sickness, disease and injury arising out of his employment; protection of children, young persons and women; and provision for old age and injury.

The founding fathers of the ILO envisaged that these objectives could be obtained most readily by one technique; the adoption of labour legislation in the various member countries. If one were starting all over again today to establish an international organization in the labour field, it seems to me unlikely that one would put quite so much emphasis on labour legislation. The objectives might be much the same, but I think they would be put more positively. There would I imagine be greater emphasis on human resources development, strengthening of departments of labour, support for free trade unionism, management training programs and so on. There would be less concern perhaps with the establishment of formal international treaty obligations and more concern with exploration of problems, study of difficulties, and positive activities by the ILO in cooperation with member countries – including the industrialized as well as the developing countries. In recent years, the ILO has come to devote much the greater part of its resources to programs of technical assistance. These are of course expensive pro-

grams in comparison that with what the ILO used to need when it was primarily a standard-setting organization. Twenty years ago, the ILO had an annual budget of 4½ million dollars and a staff of about 500. This appeared more than adequate to do the research, prepare for the meetings, and carry out a program of international labour standards. Today, the staff of the ILO is charged with operational responsibilities, and it has grown from 500 to over 1,500 and on top of that, there are about 900 experts scattered about the world working on various ILO technical assistance projects. The budget has grown from 4½ million dollars to 26 million dollars with an extra 17 million or so being provided under the United Nations Development Program and in other ways. These technical assistance activities are expensive and very difficult to appraise.

The ILO began to move into the technical assistance field on a significant scale in the early 1950's at a time when President Truman's so-called « point four » program had stimulated general concern with the problem of the underdeveloped countries.

In the early 1950's, it was not generally thought that the ILO had much to offer in the way of action programs to stimulate economic and social development. This attitude has changed. It is now much better appreciated that human resources development is an essential part of economic development, and it is in the field of human resources development that the ILO does the greater part of its technical assistance work.

Quite a significant turning point came interestingly enough at the time of the ILO American Regional Conference which was held in Ottawa in September 1966. A so-called « Ottawa Plan » for human resources development was adopted, setting forth a unified approach to the problem involving surveys, target setting, and integration of human resources projects with national development plans and more systematic review and evaluation of projects and programs that had heretofore been contemplated.

The Ottawa Plan is a regional plan. A similar plan was agreed for the Asian region at a Conference in Tokyo last month, and another such plan will be set up shortly for the African region. Taken together, these three regional plans form what the ILO describes as its World Employment Program.

Up to now there is not too much that can be said about Canadian participation in the ILO's field programs. In the 16 years since ILO moved into the technical assistance field, fewer than a hundred Canadians have been appointed by the ILO to serve on projects. The reasons for this are not easy to understand. Canadian experts are available and are recruited in significant numbers for the bilateral projects sponsored by our External Aid Office, now known as the Canadian International Development Agency. The ILO appears to draw much more heavily on Europeans, particularly those who may have been formerly employed by colonial administrations. Our distance from Geneva may be a factor, and may add to the inevitable delays and technical problems which sometimes militate against a Canadian recruit being still available when the time comes for a project actually to start. There is also the problem that Canadians expect somewhat higher salaries than do Europeans although the importance of this point has, I think, been exaggerated.

A new trend which we find encouraging is that a number of discussions have taken place recently between ILO officials and officials of our CIDA, aimed at finding projects in which Canada can cooperate with the ILO. The first such project will officially commence on January 1, next year, in Tanzania, where Canada has bitten off a particular chunk of a larger project financed under the United Nations' Development Program and executed by the ILO. The overall project is to set up a comprehensive National Apprenticeship Scheme. Canada has undertaken to run the Scheme's pilot Training Centre. She will bear the cost of the Canadian teachers involved and supply machinery and other necessary equipment. If this cooperative arrangement works out well, it may be anticipated that Canada will devote more of its funds in the future to projects developed under ILO auspices.

For example, there will be a meeting in Geneva early next month between senior officers of the Manpower Department and the CIDA to try to acquire a better understanding of what the ILO is really seeking to accomplish through its World Employment Program, how technically sound the concepts are, and what attitude Canada should take towards this ambitious undertaking. Negotiations are also under way for a senior Canadian official to undertake a short term project in Santiago, Chile. Although this ILO project is primarily for the benefit of Chile, the fact that Santiago is also the headquarters for the Ottawa Plan will give us an excellent opportunity to get a clearer idea of how this American regional segment of the World Employment Program is coming along.

I should add, of course, that the ILO also has assistance programs in its other fields of interest, with scope for labour participation, for example, in the Workers Education Program, and employer participation in the Management Development Program.

I feel that perhaps I have skimmed over the surface of a number of aspects of Canada's relationship with the ILO. There are three points I would want to make in summing up. The first is that as regards our own Canadian situation, we are at a moment in history when the ILO standard-setting system can be a useful instrument to us in improving labour legislation both federally and provincially and at the same time strengthening national unity. The second is that provided our technical people can satisfy themselves with the validity of the ILO's programs, in particular instances, there are advantages in making use of the ILO's experience and regional administrative strength in making the kind of contribution that Canadians want to make towards economic and social development throughout the world.

My third and final point is that it is open to us to appraise and review the ILO's objectives and its working methods. The ILO will be with us for many years to come. Its budget and its influence can hope to expand manifold. This is our organization. Is it trying to do the things we would want it to try to do? Where do we want it to put its emphasis over the next ten or twenty years? What should we really be thinking about the ILO?