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Mediation, conciliation and arbitration of labor disputes on the federal, state, and local level.

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UNIVERSITY OF LOUISVILLE

MEDIATION, CONCILIATION AND ARBITRATION OF LABOR DISPUTES
ON THE FEDERAL, STATE, AND LOCAL LEVEL

A DISSERTATION

Submitted to the Faculty
Of the Graduate School of the University of Louisville

In Partial Fulfillment of the
Requirements for the Degree
Of Master of Arts

Department of History and Political Science

by

Benjamin F. Browning

1948

NAME OF STUDENT: B. F. Browning

TITLE OF THESIS: MEDIATION, CONCILIATION AND ARBITRATION
OF LABOR DISPUTES ON THE FEDERAL, STATE,
AND LOCAL LEVEL

APPROVED BY READING COMMITTEE COMPOSED OF THE FOLLOWING
MEMBERS:

Reuel G. Hemdahl

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NAME OF DIRECTOR: Reuel G. Hemdahl

DATE: April 9, 1948

INTRODUCTION

A. STATEMENT OF PROBLEM

The major reasons for the present low per centage of time lost due to strike action are the Federal, State, and local mediation,, conciliation and arbitration services.

There are at present more than 50,000 separate written contracts in force and several times that many oral ones¹ yet the largest amount of time lost due to strike action in any one year was 1.4 per cent (1946). Since the United States Mediation and Conciliation Service handled 18,840 cases in 1946- 95.6 per cent of which were settled successfully without a strike, and the States' mediation and conciliation services handled about 8,340 cases² 91.3 per cent of which were settled without a strike being called, it is reasonable to assume that had it not been for the conciliation effort the amount of time lost due to strike action would have been many times as great.³

The purpose of this thesis was to obtain information on governmental machinery engaged in mediation, conciliation, and arbitration service.

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1. Bulletin No. 918 United States Department of Labor Washington, 1947
 2. Questionnaires from the States who have functioning mediation, conciliation, and arbitration services, Dated February and March, 1948.

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The Federal Mediation, Conciliation, and Arbitration Service¹ has much published material, however in the study of the states' mediation, conciliation, and arbitration service, it was found there was an extremely limited amount of material available. The most useful secondary materials were, State Authorities Engaged in Mediation and Conciliation Activities² and Labor Arbitration Under State Statutes, by David Ziskind.

Due to the inadequacy of available material the author relied almost wholly on questionnaires for information on state services. Wherever possible, interviews were also included. Questionnaires were³ sent to these States:

Arizona	Michigan	Rhode Island
Alabama	Minnesota	South Carolina
California	Montana	South Dakota
Connecticut	Nevada	Utah
Georgia	New Hampshire	Vermont
Illinois	New Jersey	Virginia
Indiana	New York	Washington
Iowa	North Carolina	West Virginia
Kentucky	North Dakota	Wisconsin
Louisiana	Ohio	Alaska
Maine	Oklahoma	Hawaii
Maryland	Oregon	Puerto Rico
Massachusetts	Pennsylvania	

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1. The United States Mediation, Conciliation, and Arbitration Service was changed to an independent agency August 22, 1947, and its name changed to the Federal Mediation, Conciliation, and Arbitration Service.
 2. Bulletin no. 91, United States Department of Labor Washington, 1947.
 3. Annual and Semi-Annual Reports were received from the 28 States which have functioning conciliation service. Many States replied with letters explaining specific characteristics of their service.

Of these thirty-five states and three territories, three states—Alabama, Iowa, and Louisiana—failed to reply. Of the territories Alaska failed to reply..

The lack of comprehensive coverage in the field and the lack of similarity of material available was an important reason for making this study. Much of the material in its original form was of doubtful value. It is the hope of the author that this study will give a fair picture of what is now being done in labor relations by governmental agencies at the Federal, State, and Local level. The comparison is made for easier evaluation of the different services.

B. BACKGROUND

Mediation, conciliation, and arbitration in other countries and by non-governmental agencies in the United States are briefly surveyed in this section as a background for the Federal, State, and local governmental agencies and their activities in the United States.

The history of mediation, conciliation, and arbitration in labor management began with the Conseil de prud' hommes of Lyons, France. This "Conseil" was established in 1806, representing only management until 1848 when an equal number of employees and employers constituted the "conseil". By this date the organization had spread over France, the Low Countries, and part of Germany.

The repeal of the British Combination Laws in 1824-25 gave workers the right to combine and withhold labor by concerted action. The craftsmen were first to organize. After the Dock strike of 1889 the movement extended among other classes. Trade unionism's growth was shown after 1910 by strikes and other signs of labor unrest. During the First World War compulsory arbitration and state control of profits were instituted. After the war, unionization spread rapidly until the post war depression which caused the Trade Union Congress to call a general strike in 1926.¹ This strike lasted for ten days neither side winning a complete victory. Thereafter a movement of co-operation between employers and unions developed, resulting in

1. Encyclopedia Britannica, Vol. II p. 258

the wide spread use of mediation, conciliation and arbitration machinery in the solution of industrial difficulties. Few stoppages of work have occurred since.

The outstanding contribution of the British labor-management controversies was the organization of committees known as Whitley Councils which were composed of representatives of employers and employees. The Whitley Council plan was intended to maintain a constant and live connection between individual members and individual establishments and to furnish the machinery by which any controversy could be settled.

The amount of intervention in labor-management relations by the different governments has depended on the amount of control the government has desired to exercise over the workers. In Great Britain conciliation and arbitration action can be taken only with the consent of the parties. In Germany, Denmark, Sweden, Finland, Norway, Austria, Holland, Australia, New Zealand, South Africa (Public Utilities) and in some South American countries, conciliation procedure can be forced on the parties. In Belgium unless conciliation procedure is utilized, the parties are penalized in respect of payments from the unemployment insurance fund. In Australia the Presidents of the arbitration boards or conciliation committees have power to intervene on their own initiative before the compulsory arbitration procedure, which follows failure to settle, is put into operation.

In countries such as Russia, Italy, Spain and Germany the Government has taken a much firmer hand. In these countries under the totalitarian regime, labor has had no voice in the conditions under which they work.

Although sporadic union activity has occurred in the United States since the first one in 1792 there was no wide spread unionization until after the process of industrialization was well under way. Many of the early unions in the United States were outstanding in their mediation and conciliation activities, especially those among the glass and ceramic workers, the clothing, the iron, and the typographical employees and many others. The larger proportion of this work has come since the turn of the century; however previous to this there were instances of successful mediation, conciliation and arbitration, one example of this was the settling of the dispute between the iron puddlers and their employers in 1865.

As early as 1874 the National Trades Unions called an international congress at Rochester which passed a resolution advocating voluntary arbitration between employers and employees. After the turn of the century when labor and management met on more equal terms, mediation, conciliation and arbitration became more prevalent.

The International Typographical Union and the American Newspaper Publishers' Association made an arbitration agreement in 1901, the essential provisions of which are still in effect. About this time the International Pressmans

Union and the Publishers' Association entered a similar contract which has kept peace in this industry for more than forty years. The agreement was renewed in 1937 for an additional five years.

Among the more famous dates of peaceful labor relations is 1905 when, through the intervention of President Theodore Roosevelt, an arbitration board was established in the Pennsylvania anthracite coal industry, an organization which still functions. Another interesting case was that of the establishment of the impartial chairmanship between the garment workers and Hart, Schaffner, and Marx, of Chicago in 1908.¹

After the enactment of the National Labor Relations Act, and several state labor relations acts which required collective bargaining, voluntary agreements for arbitration, mediation and conciliation, without recourse to governmental agencies became more widespread.

One of the more encouraging events in the labor-management relations was the formation of a tripartite board in the trucking industry. In January, 1946, the Local Cartage National Conference and the International Brotherhood of Teamsters established a voluntary tripartite organization to settle disputes within the industry. The disputes are settled through mediation conciliation or arbitration. All decisions are binding on both parties. A variety of cases have been mediated or arbitrated

1. Encyclopedia Britannica, Vol. II p. 254

by the commission since its inception covering various segments of the trucking field, local, over-the-road, contract carriers, dairy, coal and many others. The commission has had complete success thus far.¹

With the organization of the C.I.O. and its whirlwind membership campaign, not only unionization but arbitration as well, spread to many other industries. The National Industrial Conference Board made a study in 1939 in which it analyzed labor agreements. Of the 114 labor agreements analyzed in different industries and with different unions participating, the Board found that eighty-six of the 114 contained some provision for arbitration.²

An organization that has recently done much in the field of Industrial Arbitration is the American Arbitration Association, which was founded in 1926. In 1937 the organization established an Industrial Arbitration Tribunal. The case load of this organization has grown steadily since they entered the industrial relations field, however the major portion of the work in industrial arbitration, by this organization has been done since the beginning of the war.² It is thus, worthy of note that labor and management in the United States and in England have had substantial experience with voluntary mediation, conciliation, and arbitration without governmental intervention.

1. Annual Report of the Secretary of Labor 1946, p.110.
 2. Handbook 1939, National Industrial Conference Board New York, 1940, p.30.

CHAPTER I

THE FEDERAL MEDIATION CONCILIATION AND ARBITRATION SERVICE

A. HISTORY

The government was not active in the mediation, conciliation and arbitration until the creation of the Department of Labor in 1913. In this bill there was inserted a simple phrase saying:

"...the Secretary of Labor shall have the power to act as mediator and to appoint commissioners of conciliation in labor disputes whenever in his judgment the interest of industrial peace may require it to be done."

The simplicity of the wording of the act was no indication of the effectiveness in its dealings in labor relations. From an inauspicious beginning the mediation and conciliation department grew rapidly. The individuals who had responsibility for creating the service under the act saw immediately the great importance the act would have to the laboring class. With this realization the selection of personnel was done with great care. There was no appropriation for personnel in this new service at first. The first cases were solved by persons employed by the Labor Department.

The first commissioner of Conciliation was Mr. G.W.W. Hanger, Chief Statistician and Acting Commissioner of Labor. The first mediation case involved the New York,

1. H.R. 22913 March 4, 1913 Sec. 8, 37 Stat. 738

New Haven, and Hartford Railroad Company and the Brotherhood of Railway Clerks. This controversy was over a prior agreement as to rules governing wages, seniority rights and other conditions of employment, which had been made by the clerks organization with previous general manager of the Railroad in January, 1913. Mr. Hanger held conferences with the parties from May 24, until June 2, at which time an agreement was reached.¹ The second mediation effort was with the Erie Forge Company, the employees of which had struck before the president of the company knew that a dispute existed. The foremen were accused, by the workers, of being too aggressive. The assistant Secretary of Labor was appointed as commissioner of Conciliation for this case. A contract was signed which would prevent similar incidents occurring in the future.² Seven other cases were settled in 1913, one withdrawn and three rejected on the part of the employer.³

On October 22, 1913, in a deficiency bill for the fiscal year there was an appropriation for the expenses of commissioners of Conciliation to the amount of \$5000.00

1. Annual Report of the Secretary of Labor 1913, p.9.

2. Ibid p.10.

3. Other early conciliators were John A. Moffet of the immigration service, Elliot Stewart, Chief Statistician, Bureau of Labor Statistics, W. J. McConnel of the Immigration Service, John B. Densmore, Commissioner of Labor, and Walter B. Polmer of the Bureau of Labor Statistics.

according to the wording of the bill none of the appropriation could be used for any purpose in the District of Columbia. On April 6, 1914, there was an appropriation of \$20,000 for compensation and traveling expenses of Commissioners of Conciliation outside of the District of Columbia.

During the second year of operation for the Conciliation Service there were twenty-six cases peacefully settled.

In 1915 Congress finally allowed the mediation and Conciliation Service to become a full fledged bureau. This was done through an appropriation of \$50,000 for salary and expense of Commissioners of Conciliation, \$2,000 of which could be used for the salary and office expenses of a chief clerk in the District of Columbia. This year there were forty-two cases brought to the service, 61.9 percent of which were solved successfully.¹

Through the succeeding years the service has grown to meet an ever increasing case load. As the Unions grew in size and their effectiveness at collective bargaining became more efficient the demand for Commissioners of Conciliation grew. In 1933-34 at the bottom of the depression there were 1,140 cases affecting 916,720 employees.

With the advent of the National Labor Relation Act and the appearance of the C.I.O. and its rapid rise in membership, there was more trouble in the labor relations field, ~~As a partial result of these two factors~~ the case

1. Annual Report of the Secretary of Labor, 1915, p.8.

load in 1936-37 reached a total of 1,267 cases with 1,383,588 employees affected. This was the first year the number of workers affected reached the million mark. The increase was due to three factors: the unionization, the N.L.R.B. Act and its insistence on union recognition, and the fact that the depression had been receding and labor was clamoring for an increase in wages.¹

Vy 1944-45 the annual case load handled by the Mediation and Conciliation service had skyrocketed to 25,907 and the employees affected were 14,507,000.² Along with the case load increase, there has been an increase in the number of cases solved. The first year there were only sixty-nine per cent successfully solved, during the third year 61.9 per cent of the cases were solved successfully. As the years went by and more experience was gained the number of successful solutions gradually increased until in 1944-45, 95.1 per cent of the cases submitted were solved with success.² During the war labor and management became accustomed to engaging in perfunctory bargaining and calling the conciliation service in as a step toward referral of their dispute to the National War Labor. With the ending of the war and the removal of this final court of appeal the withdrawal of the no-strike pledge by the unions caused the case load of the conciliation service to rise rapidly. The disputes were more complex and took

1. Annual Report of the Secretary of Labor 1937, p.15.

2. Annual Report of the Secretary of Labor 1945, p.10.

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longer to settle. With all these difficulties to overcome the service was able to solve 88.9 per cent of the cases presented to it before a strike had been called.¹

There were a number of important changes made in the conciliation service in 1947. Under the direction of Mr. Edgar L. Warren the service was reorganized and strengthened. A decentralization program was carried out placing regional offices in seven key cities and sub-regional offices in thirty major cities throughout the United States.¹ A training program was instituted for all conciliators which would familiarize them with these items: 1. current problems, 2. the methods used by the more experienced commissioners, 3. all modern labor relations problems, and other governmental agencies connected with labor relations problems.² Furthermore a labor-management advisory committee composed of the leaders of the two major unions, the Railroad Brotherhoods, and independent unions and some outstanding business men, was appointed which meets periodically to advise the Director of the Conciliation Service. In addition ten fact-finding boards which were supplied all necessary information and service by the conciliation service were appointed in the last six months.

The arbitration division was completely changed. Now it consists of several hundred men scattered throughout the country. These men are chosen for their knowledge of modern

1. Annual Report of the Secretary of Labor 1946, p.105.

2. Final Report United States Conciliation Service, 1947

labor problems and their ability to solve labor-management difficulties. The board serves on a per diem basis and except in cases of hardship the contestants pay the fees. In contrast to 1946 the year of 1947 was characterized for the most part by peaceful negotiations of union contracts and avoidance of large or lengthy work stoppages. Measured in terms of available working time, days lost due to work stoppages, was well under one per cent.¹

The Conciliation Service played an important role in ~~the successful return to free collective bargaining where~~ the successful return to free collective bargaining where direct negotiations between representatives of workers and employers settled their problems at the conference table.² When conciliators were called to participate in a dispute before it became a strike nine out of ten controversies never became strikes.³ As a general rule contract negotiations during the year have been for two years duration instead of one, and in the majority of the cases, where union security was in the previous contract, it has been preserved.

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1. Bulletin 918 Bureau of Labor Statistics Washington 1947.
 2. Final Report of the U.S. Conciliation Service, Aug. 1947.
 3. Annual Report of the Secretary of Labor 1947, p.9.

B. PERSONNEL

The personnel of the Federal Mediation, Conciliation and Arbitration Service has in the past been chosen in various ways and for many different characteristics. From 1913 to 1915 it was necessary to use personnel already employed by the Labor Department. Although these men were of a high caliber, they were not trained in labor relations. After the conciliation service became a definite agency in 1915, the personnel was chosen for their experience in labor relations. Since the Department of Labor was established to protect the wage earner the same idea was carried over into the conciliation service. This idea resulted in the employment of personnel who had experience only in union labor relations.

Within a short time after the conciliation service began operations, it was obvious that conciliators with only union labor relations experience could not adequately solve all the problems confronting the service¹ as a result when employing new personnel other experiences were sought. It was thought at first the problem would be solved if personnel with business labor relations could be found; however it soon became apparent that other experiences were also desired. The third type of personnel sought was professional experience. In this category, the service secured largely lawyers. Tech-

1. Third Annual Report of Secretary of Labor 1915, p.8.

nical personnel was also added including time-study men, job analyzers, engineers and others with special technical training.

Because accusations were made that the service was staffed largely with personnel with labor union experience, a survey was conducted in 1946, which showed the personnel to consist of the following: twenty-two percent have management backgrounds, thirty-four percent have union labor backgrounds, and forty-four percent have professional backgrounds.¹ By this study we can see that the Conciliation Service is no longer staffed with personnel representing labor only.

The Conciliation Service also uses professional men such as lawyers, teachers, ministers and others in the capacity of arbitrators, who are appointed for only one case at a time while the conciliators are on twenty-four hour call. Ordinarily the arbitrators are paid by the disputants; however if the payment of the fee works a hardship on the disputants the conciliation service will pay the fee.

The supervisors and the plans-and-training officers of the conciliation service send out a weekly letter.

On July 1, 1947, the U.S. Mediation and Conciliation Service consisted of 438 employees, 318 of which were Commissioners of Conciliation.² These conciliators are placed throughout the United States relatively close to places

1. Business men were accusing the conciliation service of being partial to labor and of having personnel experienced only in union labor relations. As a result of this accusation, Mr. Warren, the Director made a survey of the personnel in 1946. The results are given in a pamphlet, "Settled peacefully," published by the Conciliation Service of the U.S. Dept. of Labor in 1947.
 2. Accumulated committee Report No. 2 July 1, 1947. Senate Committee on the Expenditures of the Executive Dept.

where industrial conflicts are likely to arise. They are kept in constant contact with the home office through the previously mentioned news letter, which keeps the conciliators informed as to the recent labor laws and court decisions and other news of interest to labor relations work.¹ Trips are also arranged to their respective regional offices and to the Washington headquarters for conferences. The Federal Service has been improved by a more careful selection of personnel from a wider segment of society and by the beginnings of a training program through the Conciliation Service supervisors and the plans-and-training officers who are responsible for the weekly news letter.

1. Annual Report of the Secretary of Labor 1947.

C. CASES HANDLED AND SERVICES RENDERED

"The Conciliation Service handles all types of cases; strikes, lockouts, threatened strikes, controversies, and sundry disputes."¹

Any representative of labor, of management or of the public can secure the service of a Commissioner of Conciliation by writing, wiring or phoning the regional or the Washington office of the Mediation and Conciliation Service.

The types of cases handled by the service ranked as follows in 1947: "Controversies" - 7,140; "Threatened Stoppages" - 4,088; "Strikes" - 3,206. This has been the trend from the beginning of the service.

In 1946 when the cases were submitted before the work stoppage began they were able to solve 88.9 percent of them and the service has a thirty-four year record of 90.3 percent of the cases solved when submitted before the strike began.²

Work stoppages have played an important role in our labor relations, however they have not been nearly so prevalent or time consuming as is generally believed. In 1916 there were 3,789 strikes with 1,600,000 man-days lost. In 1920 there were 3,411 strikes with a resultant loss of 1,463,000 man-days.³ In 1927 there were 707 strikes which lost 330,000 man-days. This year was the first year that the average length, (26.5 days) of the strikes was kept.

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1. Annual Report of the Secretary of Labor 1944, p.8.
 2. Annual report of the Secretary of Labor 1946, p.15.
 3. Annual Report of the Secretary of Labor 1947, p.63.

During this year the percentage of available time lost, due to strikes was only 0.37 percent.

Our best record thus far was that of 1930 when there were only 637 strikes, with a resulting loss of 183,000 man-days of work. During that same year we lost only 0.05 percent of our total time due to work stoppages.¹ In 1933, when we were at the bottom of the depression, we had 1,695 strikes, which averaged 16.9 days and lost 1,168,000 man-days. This took 0.36 percent of our total working time.² Through the remaining years of that decade the number of strikes increased; however the average number of days lost decreased. During the war the number of strikes was large, but the number of days lost per strike was very low. For the whole war period the average strike was only 6.3 days in duration. The total amount of time lost due to strike action was extremely low, averaging for the war period only 0.09 percent.³

The readjustment period at the end of the war brought quite a different picture. During the later part of 1945 there was some unrest, but the following year was one of turbulent action; management and labor were confronted with difficult problems of adjustment during this reconversion period. There were such problems as increased cost of living, reduced take home pay, transfer to other jobs and new

1. Monthly Labor Review October 1946, p.15.

2. Ibid p.18.

3. Bureau of Labor Statistics Bulletin No. 913, pl2.

production methods. Every strike in 1946 was an outcome of one or more of these problems.

Work Stoppages due to labor-management disputes reached an all time high early in 1946, when there were 7,718 strikes affecting 10,788,000 workers. This caused a loss of 116 million man-days.

For the first time the percentage of available working time lost amounted to more than one percent, the exact figure being 1.4 percent. This was our most difficult year of labor-management relations. Had it not been for the effort of the mediation and conciliation service the percentage of time lost due to work stoppage would have been much greater. The conciliation service handled a total of 18,840 cases this year. Approximately one-third of these cases became strikes. When the service was asked to participate before a strike was in progress, only one in ten became strikes.¹

During the year ~~the most of~~ the most of the major contracts were signed without work stoppages, including such industries as paper and pulp, automobiles, clothing, rubber, printing trades, farm equipment, and the electrical manufacturing industries. The Telephone strike in the spring of 1947 was the only major strike.

The records of Federal and State Conciliation and Mediation agencies show that the number of disputes settled

1. The Annual Report of the Secretary of Labor 1946, p.15.

without recourse to interruption of work far outnumbered those which resulted in work stoppages.

The conciliation service assisted in the adjustment of over 25,000 labor-management controversies in 1946.¹ About three out of four of these disputes were settled peacefully without any interruption of work. The report of the National Mediation Board, regarding Labor Relations on the nations railroads and airlines, and the experience of various state and local agencies reflect a similar picture. The major labor-management controversies that were settled without stoppages were the "Big Four" rubber companies, the nationwide telephone dispute, all but two railway unions, the maritime interest, the building-trades in many cities, and some of the major automobile makers. Thousands of workers and employers in many industries settle the differences as before without recourse to strikes or lockouts.

The Bureau of Labor Statistics says that there are well over 50,000 separate contracts in effect in 1946-47 yet less than one in eight were signed by a strike being called.¹

From this we can see that there is a wide variety of cases handled by the conciliation service. As stated at the beginning of this chapter the Mediation and Conciliation Service will assist in settling any dispute between labor and management regardless of the type or cause.

1. Annual Report of the Secretary of Labor 1946, p.15.

Prior to July 1947, the mediation and conciliation service employed a staff of sixty arbitrators; however under the new set up there are panels of arbitrators throughout the country. When a request is made for an arbitrator a list of five names is sent to the party requesting the action. All names are scratched out except the one desired and the one name returned to the Service. Both parties to a dispute do this until they have selected one arbitrator who is assigned the case.

The annual increase in arbitration cases has been phenominal. In 1938 there were only five cases; in 1941, 192 cases were handled, and in 1942 there were 453 arbitration cases handled. In 1943 the arbitration cases jumped to 1,009 and the cases handled have not been under 1000 since.¹

Except where hardship is shown a fee is charged for arbitration. If the parties are not able to pay the arbitration fee the service is given free of charge. The arbitrators take a case only after the parties agree to abide by any decision they render. Modern industrial relations are so advanced that the parties do all the bargaining possible submitting remaining points to an arbitrator rather than having a conciliator on the job from the beginning.

In addition to the services mentioned above the conciliation service renders such services as these; making investigations, providing technical service, conducting

1. Annual Report of the Secretary of La or 1946, p.15.

elections, verifying union membership, holding conferences and furnishing information.

In 1944 there were 476 requests for investigation.¹ Such requests may be initiated at the request of either party and may be over some apparent, fancied, or real wrong. After the investigations are made, the information obtained is turned over to the party requesting the service.

The Technical Service was established after the demise of the N.I.R.A. in 1934. Its purpose was to supply highly technical information on wages and worker/production to management or labor to be used in individual negotiations as a basis for reaching agreements.

The increase in the number of requests based on agreements to pay comparable wages for comparable work, has resulted in work-load wage surveys, made by the Technical Division. These studies are made for each mill condition and have proved to be of invaluable assistance in preventing strikes. The greater employee productivity desired during the war, was had by wage incentive plans and piece work. With the new emphasis it became necessary for the technical division to make detailed studies of operations in individual plants, to assist in adjustments of problems of job classification and evaluation, to study production quotas and to study relationships between quotas, piece rates and earnings.

1. Annual Report of the Secretary of Labor 1944, p.15.

An analysis of statistics reported by the service does not reflect the extent of the Technical Division's work, since the number of situations grouped as "Technical" refer only to cases wherein studies were made and formal written reports made to the parties. In situations where technical advice was given one or both parties, the type of situation was classified as special service or consultations and grouped for the service as a whole and not broken down between technical and general.

With the ending of the war and the beginning of reconversion, management began to tighten up loose standards that had developed during the war, began setting quotas and piece work rates on newly developed items, and initiated ratings of newly established jobs which caused labor to claim overloads and insufficient personal allowances. Any of the many technical problems which confront modern labor-management relations will be analyzed by the Technical service and the results turned over to the party requesting the study.

The Conciliation Service is called on to conduct elections and make the action legal for any other governmental agency before which the parties wish to take their disputes. Occasionally the service is asked to verify union membership so that some particular union will be the legal bargaining agent.

D. RECORDS

The records kept of the cases handled by the Conciliation Service have varied greatly since the beginning of the service. For the first three years the cases were written up as they were handled and reports kept as the record. Due to the ever increasing case load, this type of record became too bulky and was discontinued. The next step was to write up cases that were similar and list the number of such cases. This method soon became too bulky also.

Another method had to be developed. The cases were classified into twenty-two different types of cases and all cases listed under these types. This system was for the central office only, since the other offices kept more complete and descriptive records. Cases were also classified according to final disposition under such headings as these: signed agreements, verbal agreements, referred to other agencies and arbitrated. This system of listing was kept until 1945 when the statistical breakdown was greatly reduced as to the number of classifications of incidents reported. The last statistical breakdown listed only seven headings; signed agreements, unable to adjust, referred to N.L.R.B., decision in arbitration, technical service rendered, information furnished, and referred to War Labor Board.

In addition to the above information the records also give the place of occurrence, type of industry, cause of

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conflict, number of individuals directly and indirectly affected, number of man-days lost, and percentage of available time lost.

These statistical tables are prepared by the Bureau of Labor Statistics from material compiled by the Conciliation Service, which in turn secures the data from each conciliator's report to his regional office. These reports are processed and the records sent to the central office.

The Federal Mediation and Conciliation Service has more available material on the cases handled by the service than is found on the state level. The States would do well to imitate the Federal Service in the thorough way in which they compile their statistics.

E. FUNCTION IN THE PRESENT LABOR-MANAGEMENT ECONOMY

The psychological affect of making an independent agency of the Mediation and Conciliation Service was very favorable. Now management feels as if it is on equal terms with labor when the Mediation and Conciliation Service is handling a dispute.

Since August 22, 1947, the Conciliation Service has been an independent agency responsible to Congress. The act of Congress which created the Federal Mediation and Conciliation Service left it as Mr. Edgar L. Warren had established it while he was chief of the service. The program division and the policy advisory committee were both in the organization of the independent agency.¹ Now it consists of a chief, Mr. Cyrus W. Ching, the policy advisory committee, which serves on a per diem basis, and the Commissioners of Conciliation, who serve from seven regional offices. They are employed from a region in which they are most familiar. The program division keeps them informed as to recent labor laws, court decisions, and the structure and operation of both the company and the union. This information is sent out on every case taken by the service. The program division also sends out the weekly news letter which has news of interest to labor relations personnel.

Prior to the start of the service in August, 1947, the policy committee made the following statement:

1. Final report of the United States Conciliation Service
August 21, 1947

"We in the Conciliation Service operate upon the general promise that true industrial peace could be achieved only by agreement freely reached by the parties. We believe that the government should intervene only to assist the parties upon a voluntary basis when their bargaining process ~~begged~~ **begged** down."

In the present establishment of the Mediation and Conciliation Service, it is well equipped to handle all types of labor-management relations. It is their duty to see that the labor relations are not interrupted by strikes. The only limitation is that the controversy must threaten the disruption of interstate commerce or that there be no other mediation service to handle the dispute. Any time that the collective bargaining between employer and employee breaks down, either party to the controversy or the public may call the conciliation service or the service may enter the dispute on its own initiative.

The service has no power of compulsion. It simply tries to get the parties to settle their differences by negotiation.

After the war and following the experiences with the War Labor Board before which the parties to a dispute simply filed their claim and the Board handed down a decision, it was necessary to relearn the free collective bargaining rules and techniques. This period was a very trying one for the Conciliation Service. It was obviously the duty of the Service to obtain a settlement, yet the union and manage-

ment did not want to go through the process of collective bargaining. The habit of preparing their cases and having a decision handed to them had been much less effort than that of free collective bargaining.

The Taft-Hartley labor law made no basic changes in the conciliation service other than removing it from the Department of Labor and making it an independent agency. The Labor-Management Advisory Committee, which had been functioning prior to the passage of the Taft-Hartley law, is continued. It is composed of nationally known individuals, who have experience in labor, management and the public relations, who serve on a per diem basis. Their function is to advise the Chief of the Conciliation Service on policy. Emphasis has been given to the following policy, enacted Dec. 23, 1946:

"The post war Government policy of free collective bargaining places full responsibility for continuous production on management and on labor...this is as it should be...under this policy the government's role in collective bargaining is limited to one of voluntary mediation through the United States Conciliation Service."¹

There is a provision in the new law for cooperation with state and local labor-management agencies. This is to relieve, to some extent, the case load of the Federal agency, to encourage the formation of state and local agencies, and to prevent over-lapping and duplication of effort.

1. Press release December 23, 1946.

CHAPTER II

STATE MEDIATION, CONCILIATION AND ARBITRATION SERVICE

A. HISTORY

The beginning of industrial Mediation and Conciliation service antedates state industrial mediation and conciliation service by only eighty years. New York and Massachusetts passed laws affecting the peaceful settlement of labor disputes in 1886. These were the first two states to begin mediation and conciliation of labor disputes; however their work in that field has not been continuous. After the initial effort the services were allowed to lapse into the rough individualistic stage where a fight was the rule and negotiation the exception.

It was not until the United States Department of Labor with its Bureau of Mediation and Conciliation¹ was established that the States began a second time to try their persuasiveness at the collective bargaining table. Simultaneously with the establishment of the Federal mediation and conciliation service, two States set their mediation and conciliation services in motion. The first two states to establish this labor peace machinery were Massachusetts and Pennsylvania. Ohio followed these in 1914; however Ohio, has not to date actually put the service of mediation and conciliation into operation.²

1. March 4, 1913, Sec. 8, 37 Stat. 738.

operation. The fourth state to place the law for mediation and conciliation in its books was Washington which passed the law in 1921; however their service began operation in 1945. Vermont passed the necessary law for mediation and conciliation in 1923; however, like Ohio, Vermont has not to date placed the service in operation.

The depression of the 1930's made the problems of labor peace more urgent. For the laboring man there were four events in the 1930's that were outstanding. First there was the Norris-La-Guardia Act in 1932 known as the anti injunction law. This law also outlawed the contract between the employer and employee, known as the Yellow Dog Contract, whereby the employee agreed not to join or participate in any union activity as long as he was an employee of the company. In 1933 the passage of the National Industrial Recovery Act with its section seven, pertaining to unionization¹ was hailed by labor as a milestone in their fight for equal bargaining power. The Supreme Court's decision invalidating the N.I.R.A.¹ only temporarily denied labor the fruits of their long fight for equal bargaining power. In 1935 the passage of the National Labor Relations Act, known as the Wagner Act, gave labor the same privileges which the N.I.R.A.

1. 295 U.S. 495 *Schieter v. United States*, (Act Declared unconstitutional)

had granted.

The other event of major importance was the creation of the Committee for Industrial Organization. This latter movement spread unionization through industry so fast that in the short space of ten years the C.I.O. had more than six million members.

These and other events of the 1930's focused sufficient attention on labor relations so many of the more industrialized States saw the need for some labor relations machinery which would function on the state level. In 1935 Maryland and Connecticut created their mediation and conciliation services. Although the case load of the Federal Mediation Service was yearly growing, the states were slow in seeing the necessity of entering the mediation and conciliation field. The contest between labor and management became more wide spread and each dispute was more bitterly fought.

In 1937, New York and Indiana entered the field of mediation and conciliation. The receding depression, the increase in union membership, and the demand for higher wages made these states feel the need for an agency to aid in keeping the industrial peace.¹

After the recession of 1937 and 1938, labor began to clamor more loudly and earnestly for higher wages. As a result the need for a labor-management agency was felt by most states especially the more industrialized ones. In

1. State Statutes of New York and Indiana.

1938 Kentucky entered the list of States who were making an effort to maintain industrial peace through State Conciliation.

The growing list of states that were putting forth a constant and conscientious effort to maintain better labor relations saw the States of Michigan, Minnesota, and Wisconsin enter the field of mediation and conciliation in 1939. The early war years saw the activity of mediation and conciliation on the State level greatly increase. In 1940 West Virginia created a mediation and conciliation service.¹ A year later Rhode Island and North Carolina placed their mediation and conciliation service in operation.²

The shortage of man-power and the urgency of war caused other states, who saw the need for such service, to postpone their establishment until the cessation of hostilities, with the exception of North Dakota which placed its service in operation in 1944.

In 1945 Washington¹ (under the law of 1921) and New Hampshire³ added their conciliation services to the new long list of States that were making an effort to

1. West Virginia has no law authorizing mediation and conciliation but offers the service under the authority of its general service to labor.

2. Letters from Rhode Island and North Carolina dated March 22, 1948.

3. Letters from these States dated March 2 and 25, 1948.

maintain industrial peace within their borders. In 1946 Arkansas,¹ Illinois,² and Montana² placed their services in operation.¹

The last two states to be added to the list with mediation and conciliation services are California and Georgia who established their services in 1947.² The previously mentioned added their laws and service at approximately the same time. There are some States, however, in the same class as Vermont who put the law on the Statute books but did not put the service in operation until a later date.

Of the thirty-four States and three territories that have some form of mediation, conciliation and, or arbitration on their statute books, only twenty-eight actually have services which now operate. Georgia started its service in the latter part of 1947. Maine has only arbitration, Ohio, Oklahoma, South Dakota, Utah, Virginia and Vermont have no services of an official State agency capacity.

Vermont has a tripartite board which operates on the state level but is not an official State agency. This board is composed of members of the C.I.O. the A.F.ofL. and the public.³

1. Letter dated March 19, 1948.

2. Letters dated March 19, 1948.

3. Correspondence from each of the above mentioned States dated from February 28 to March 30, 1948.

Alaska, Hawaii,¹ and Puerto Rico¹ have mediation and conciliation services which are patterned on the Federal Service and have thus far been successful.

In 1944 New York² set a new trend in State Labor-relations by establishing a school of Industrial Relations at Cornell. The act creating this school stated:

"The purpose of the school is to teach the history of industrial practices of employer and employees, the history and principles of sound industrial relations, the rights and obligations of employers and employees, the development of labor laws, and all other phases of employer employee relations tending to promote the public interest."

This new trend in labor relations is being carried out by many State universities and other institutions of learning whether sponsored by the State or conducted as an independent enterprise.

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1. Letters dated February 26 and March 2, 1948.
 2. Annual Report of the Secretary of Labor, N.Y. 1946.

B. ADMINISTRATION

In thirty-seven states and three territories there is some authority for the promotion of voluntary mediation and conciliation of labor disputes.

The great variety of such laws makes it impossible to classify, in general terms, the types of service found in the different states. With reservations for those states who do not fit into the general pattern of the majority of the states the following classification is made.

The States who have mediation and conciliation services that are centered in the Department of Labor or some similarly named authority responsible for certain labor functions under the state government are;

Alabama	Maryland	South Carolina
Arizona	Massachusetts	*South Dakota
Arkansas	Minnesota	Utah
California	Montana	*Vermont
Colorado	New Hampshire	*Virginia
Connecticut	New York	Washington
Georgia	Nevada	West Virginia
Illinois	North Carolina	Wisconsin
Indiana	North Dakota	
Iowa	*Ohio	Alaska
Kentucky	*Oklahoma	Hawaii
Louisiana	Pennsylvania	Puerto Rico
Maine	Rhode Island	

*State mediation Service does not actually operate.
Letters dated ~~March 22~~, February, 16, March 4, 22, 30, 1948.

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In Nevada the Governor has the mediation authority and delegates it to the State Labor authorities. In Iowa, Montana, North Dakota, Virginia^{*} and West Virginia Mediation service is offered by the Department of Labor as a service by virtue of their general function with reference to labor matters and not because of any specific authority granted.

In most instances the Assistant Secretary or the Commissioner of Labor is in direct charge of mediation. In a few instances the Assistant Secretary of Labor is also the only mediator.

Seven states have independent boards within the Department of Labor which serve as mediation authority. These States are:¹

Connecticut--Board of Mediation and Arbitration
Maine --State Board of Conciliation & Arbitration
Massachusetts--Board of Conciliation and Arbitration
Minnesota --Division of Conciliation²
New Hampshire--State Board of Conciliation and Arbitration
New York --State Board of Mediation
Oklahoma --State Board of Arbitration and Conciliation³

There are three states who have special boards established outside of the Labor Departments. Those states having independent Boards for mediation and conciliation

1. Bulletin 91 U.S. Department of Labor. Division of Labor Standards 1947.

2. Not controlled by the department of Labor

3. Board does not function.

*. Service does not function. Letter dated March 30, 1948

outside the Department of Labor are:

Michigan--State Labor Mediation Board
New Jersey--State Board of Mediation, and
Oregon--State Board of Conciliation.¹

The eleven states that have not established mediation and conciliation authority for handling industrial relations are;

Delaware	Mississippi	Tennessee
Florida ²	Missouri ²	Texas ³
Idaho	New Mexico	Wyoming
Kansas	Nebraska ²	

There are ten states who have passed laws regulating disputes in Public Utilities. Of those ten, Nebraska has the most radically different law. Here a court of Industrial Relations is established and all disputes occurring in Public Utilities must have their cases arbitrated through this court. Others not in Public Utilities can apply for the use of this court and when so doing the decision of the court is binding. Other states who have compulsory mediation and arbitration for their Public Utilities are;⁴

Florida	Missouri	Pennsylvania
Indiana	New Nersey	Virginia, and
Massachusetts		Wisconsin
Michigan		

The services offered in Public Utility cases is of a more compelling nature than mediation and conciliation generally offered. In most cases the order of settlement

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1. Letter from W.E. Kimsey Comm. of Labor, dated March 31, 1948
 2. Have Arbitration for Public Utilities only.
 3. If the dispute is of public concern the Governor may appoint a five man board which investigates and reports to the Gov. and Legislature. The results are published in all local newspapers.
 4. Bulletin No. 91 U.S. Department of Labor, Div. of Labor Stds.

is mediation and conciliation; compulsory arbitration and seizure. The Governor has charge of all these operations until a settlement is made. The Governor may seize the plant and operate it until a settlement is made.

Ordinarily strikes and lockouts are prohibited during the negotiations or until negotiations have broken down. Typical of these laws is that of Indiana¹ where the Governor is required to appoint two boards one of conciliators and one of arbitrators. When a dispute is public utilities arise conciliators or arbitrators are chosen from these boards by the Governor and are required to report their findings to him.

In some states when public welfare is threatened the governor may direct the mediation authorities to intervene. The intervention into a controversy may come in several different ways, ⁹generally intervention is made on the request of either or both disputants or intervention at the discretion of the board; however in some instances intervention can be had at the request of the town officials or by citizens requesting intervention.

In Colorado, Michigan, and Minnesota the laws require that the state authority be given notice of intent to strike or lockout, as the case may be, for a

1. Indiana Statutes 40-502 Sec. 1-8.

certain number of days before such action is contemplated.¹ In these states immediate attempt to conciliate such labor disputes is obligatory.

Some states have so established their mediation and conciliation services as to have an overlapping of authorities. A labama, Mimmesota, and Oklahoma have such overlapping authorities.² In Alabama it is the duty of the Director of Labor to investigate the dispute and promote the peaceful and voluntary adjustment of the same. The Governor may also appoint a board of mediation in which case the Director of Labor must furnish it with all pertinent information and supply all other services necessary for the satisfactory functioning of the board. This power of the Governors is seldom used.³ Minnesota has its conciliation service in the Department of Labor but is in no way controlled by it. In Oklahoma, the Deputy Commissioner of Labor is the secretary of the State Board of Conciliation and Arbitration. The Commissioner of Labor recommends the Deputy Commissioner along with three of the six members of the board. The Commissioner is ex-officio chairman. In these states through the choice of personnel for these boards, the Commissioner of Labor can control the policy and the effectiveness of the states labor relations.

1. State statutes affecting Labor of, Colorado, Michigan and Minnesota.

2. Letters from these States dated Mar. 16, 26 and 30, 1948. Also state statutes pertaining to labor.

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There are six states who have their policy and effectiveness controlled by the Governor through his appointive power. These states are; Alabama, Iowa, Nevada, Oklahoma,¹ Oregon,² and Texas. In Oklahoma the Governor on his own motion, can appoint two farmers and one employer; the Commissioner of Labor recommends the appointment of an additional employer and two employees. In Oregon the Governor has the power of appointment limited by the fact that he must appoint one member from a list of five names submitted by the employers association of Portland and one from a list of five names submitted by the State Federation of Labor. The third member is appointed by the two or by the Governor in case they do not agree.

The Governor appoints the members of the board with the advice and consent of the Senate in Maine, Michigan, Minnesota, Montana, and Wisconsin; however in Minnesota the Governor may appoint special conciliators without reference to the Senate.

The activities of the mediation and conciliation department are guided by the interpretation of the law which is not the same in any of the states. There are six states which have a law that is very similar. The law for Arkansas,

1. No service which operates. Letter Oklahoma Dept. of Labor dated Mar. 25, 1948.

2. No service which operates Letter Oregon Bureau of Labor dated Mar. 31, 1948.

Georgia, Indiana, Louisiana, Maryland and Ohio says, "The Commissioner of Labor shall do all in his power to promote the voluntary mediation, conciliation and arbitration of disputes between employer and employee. It shall be his duty to, as far as possible, avoid such activities as strikes, picketing, lockouts, and boycotts. The Commissioner may designate a mediator and may detail employees or persons not in the department to act as his assistants for the purpose of executing such provisions."¹

Sub-sections in the department of Labor are charged with the task of mediation and conciliation in; Connecticut Massachusetts, New Jersey, New York, North Carolina, Pennsylvania and Rhode Island.

There is no uniformity to the powers and duties of the various state agencies charged with mediation and conciliation. Some of the powers and duties which have been specifically granted and the number of states granting them are:

Powers and Duties of State Agencies	No. of States granting such
1. Engage in conciliation or mediation	24
2. Make studies or reports	9
3. Require notice prior to strike, lockout, or changes desired	11
4. Provide penalties for violations	6

1. State statutes and Bulletin 91 U.S. Dept. of Labor.

5. Employ special mediators, conciliators, and/or investigators	14
6. Prohibit strikes or lockouts during mediation	4
7. Establish or change rules, procedures for settlement of industrial disputes	10
8. Hold hearings	14
9. Subpoena witnesses, books, records, documents and papers	13
10. Pay expenses of witnesses	3
11. Investigate labor disputes	18
12. Promote peaceful settlement of disputes	15
13. Make fact-findings and recommendations	15
14. Enter any place of employment or public building	4
15. Governor may act to settle disputes	6*

The eleven states who have established independent agencies for mediation and conciliation in an effort to maintain industrial peace within their respective borders are these: Alabama, Iowa, Maine, Michigan, Minnesota, Montana, Nevada, Oklahoma, Oregon, Texas and Wisconsin.

The eight states where mediation and conciliation is looked upon as largely promotional and educational are: Arizona, Arkansas, Georgia, Indiana, Louisiana, Ohio, Utah and West Virginia. Indiana is the only one of these states which has a very successful record as to the number of cases handled or the number of successful solutions obtained.

In contrast to those states who think mediation and conciliation should be largely educational is that group of eleven states who have provided legislation for a major effort to utilize mediation and conciliation in an effort

to settle labor disputes. These states are; Colorado, Connecticut, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, South Carolina and Wisconsin. Among these states are some with the longest records in mediation and the largest number of successful solutions. The patterns most used by these states are;

***Colorado:** Industrial Commission of Colorado;
Three members, independent agency;
appointed by the Governor by and with
the advice and consent of the senate;
not more than two members shall belong
to the same political party; only one
member to represent employers, and only
one member to represent employees.

***Connecticut:** Board of Mediation and Arbitration;
Three members, appointed by the Governor
one representing employers, one represent-
ing employees, and one representing the
public; the public representative is
chairman.

***Kentucky:** Mediation Board;
Single head agency; commissioner ap-
pointed by the Governor, on the basis
of merit and fitness to perform duties
of the office.

***Massachusetts:** Board of Conciliation and Arbitration;
Three members, namely the three
associate commissioners of the Dept. of
Labor and Industry, one shall represent
labor and one shall represent employers.

These laws and regulations are largely of a general nature except where the state is specifically mentioned. Other than minor cases the laws and regulations apply to all states mentioned.

***Statutes of these States and Bulletin 91 of the U.S. Dept. of Labor.**

C. PERSONNEL

Of the twenty-eight states who have regularly constituted mediation and conciliation services, nineteen choose conciliators with varying degrees of labor relations experience. The states who give weight to labor relations experience either union or business are:¹

Arkansas	Kentucky	New Jersey
California	Maryland	New York
Connecticut	Massachusetts	North Carolina
Georgia	Michigan	Pennsylvania
Illinois	Minnesota	Rhode Island
Indiana	Nevada	Washington, and
		Wisconsin

Ten of these states prefer union labor relations experience, five prefer employer labor relations experience, while four are primarily interested in the experience regardless of whether or not it is union or business experience. Typical of the requirements is that of Massachusetts which states:

"Applicants must have at least one year of responsible full-time, paid employment as A. an employer, administrative official, personnel officer, or recognized employee's representative actively participating in the improvement of working conditions through the development of employer-employee relationship, or B. as an officer or employee administering labor laws in a state or federal agency or other agency or organization concerned with the promotion of labor standards, or C. as an officer or employee engaged in the investigation of employee-employer relationship."

1. Letters from these states dated Feb. - March 1948.

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or engaged in economic investigations relative to wage earners in a state or federal agency, or d. in any time equivalent combination of a., b., or c.¹

With minor changes the same statement is true of the other states in this classification.

In the training of the personnel for labor relations, after employment by the state agencies, there is great differences and in some cases no training is offered after employment. There are seven states who have a form of pre-service training. This training is not the same in all cases however; for the most part it consist of familiarizing the personnel with the latest labor laws,^{and} court decisions affecting labor. Frequently this training is for the new personnel to be assigned to a more experienced conciliators to observe the proceedings in many different cases. The seven states who have this pre-service training are: Connecticut, Georgia, Maryland, Nevada, Pennsylvania, South Carolina and Washington. When the states employ personnel to take this training it usually is with the understanding that if they fail to prove they are adapted to this service ~~and~~ they will not be employed as a regular conciliator.

In addition to the pre-service training, some states have in-service training which varies greatly with the different states. Some states use this as their major training for conciliators and give them a thorough working

1. Massachusetts Civil Service Examination statement May 3, 1947.

knowledge of the laws, procedures, and practices of labor in their particular state. There are only four states who have both the pre-service and the in-service training they are: Georgia, Maryland, South Carolina, and Washington. There are twelve states who have in-service training for their conciliators before they are assigned to a case. The states having the in-service training are: California, Georgia, Indiana, Kentucky, Maryland, Minnesota, New Jersey, New York, North Carolina, Rhode Island, South Carolina and Washington.¹

Although some of the states assign a new conciliator to observe a more experienced conciliator conduct many different types of cases before the new employee is assigned the task himself, not all feel the need for this service. The nineteen states who use this type of training are: Arkansas, Connecticut, Illinois, Kentucky, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Washington, and Wisconsin. When this training is used the period ranges from one week to several weeks.¹

In an effort to find out just how thoroughly the states kept their conciliators informed the question was asked: "Does the department keep the conciliators supplied

1. Letters from these states dated Feb. & Mar. 1948

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with the latest information on the structure and technique of unions; structure and operation of companies, recent labor laws and court decisions affecting labor?" The twenty-one states who do keep their conciliators informed on the question are;¹

Arkansas	Maryland	New York
California	Massachusetts	North Carolina
Connecticut	Michigan	Pennsylvania
Georgia	Minnesota	Rhode Island
Illinois	Montana	South Carolina
Indiana	Nevada	Washington, and
Kentucky	New Jersey	Wisconsin

The states who are not here listed are those few who have only one conciliator and he is an official of the Department of Labor.

Arizona has no regularly employed conciliators. When asked to participate in labor disputes Arizona allows the disputants to choose their conciliators or mediators from the public or from the Department of Labor, after which the state conducts the case and pays the fee.² Maine has no regular conciliators but has a panel from which she chooses conciliators or arbitrators and pays them per diem.³ Vermont has no conciliation service that is an official state agency.⁴ The service that is on the state level is a tripartite board which consist of members from the A.F. of L. the C.I.O. and the public. The public member would be the only one who might not have training in

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1. Letters from these states dated Feb. & Mar. 1948
 2. Letter dated March 28, 1948
 3. " " " 27, 1948
 4. " " Feb. 26, 1948.

labor relations.¹

Some states do not require experience while others require from one to two years of some kind of labor relations experience.²

The mediation and conciliation personnel of the states labor departments do not have the amount of experience which the Federal Service require of their conciliators; however on the whole they are well trained and are kept fairly well informed as the most recent developments in labor relations.

1. Letter dated Feb. 26, 1948.

2. February 6, March 2, 25, 1948.

2. Letters dated February 6, March 2, 25, 1948.

D. CASES HANDLED AND SERVICE RENDERED

Twenty-eight States offer mediation, conciliation and arbitration either of four ways; 1. action when the board sees fit to intervene, 2. action taken at the request of either or both of the disputants, 3. a combination of the two above mentioned, and 4. action at the request of a town or city official.

Some States have seen fit to limit their action to firms employing a specified number of employees. Louisiana and Oregon are the most exclusive in this particular cases. For a firm or the employees of a firm to use the mediation and conciliation machinery of these states the firm must employ at least fifty persons. In Illinois and Oklahoma there must be at least twenty-five employees for either the company or the employees to avail themselves of the mediation machinery of the State. In Montana-twenty. In Iowa,¹ Maine, Maryland, and New Hampshire there must be at least ten employees to be eligible to use the mediation and conciliation service of the State. The smallest number required is five-Virginia.³

Washington will not allow its services to be used during a strike or a lockout, while Maine, Connecticut,

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1. In Iowa the power to mediate and conciliate is held by the Gov. and is delegated to the Dept. of Labor.
 2. Bulletin 91 U.S. Department of Labor.
 3. Letter dated March 30, 1948.

and Illinois will allow their services to be used only when a serious strike or lock-out is threatened or in progress.

In practically all cases, ^{states} the/mediation and conciliation service is for disputes which are intra-state in character; however some states will handle ~~any~~ case which affects or threatens to affect their citizens regardless of whether or not it is inter-state or intra-state commerce effected. Some states have expressed the belief that the 1947 Labor Relations act would make it necessary to establish a better mediation or conciliation service.¹

The Federal mediation service has endeavoured in the past to encourage the states to handle their own cases if they had any service; however the Federal Service would participate in the controversy if the disputants insisted.

Some state agencies have participated in disputes located within their borders; regardless of the type of commerce effected. The only state to offer a labor relations aid other than conciliation is California who offers factual data on wages and contracts existing within her borders.

Ten States--Florida, Indiana, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, Pennsylvania, Virginia, and Wisconsin--have enacted laws or amendments to existing laws

1. Virginia, Georgia, Oregon, Oklahoma letters March 1948.

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in 1947 which established machinery, or in some cases expanded existing machinery, for aiding in settling controversies in Public Utilities.

These states provide for mediation, conciliation and, or arbitration of labor disputes in public utilities with the exception of Nebraska which provides for compulsory arbitration of such disputes through a court of industrial relations.¹

The use of mediation service provided by these laws is of a more compelling nature than services offered for labor disputes in general. In most cases the order of settlement procedure leads to compulsory arbitration or seizure by the State for continued operation. Some states allow the use of voluntary mediation and conciliation machinery before the compulsory aspect begins. Ordinarily strikes and lock-outs are prohibited while the controversy is in the process of being settled or until all efforts have been exhausted.

Characteristic of state laws regulating disputes in Public Utilities is the role played by the Governor. In the majority of the cases the Governor is given wide discretionary powers to act as he sees fit so as to avoid any disruption of service of Public Utilities. Several States

1. Any dispute will be placed in the court on the request of the parties when such a request is made the decision of the court is binding.

authorize the Governor to seize and operate the Public Utilities if necessary to avoid such interruptions of service. On the whole the services offered are very similar to those of the Federal Service except that they are not nearly so extensive.

E. ARBITRATION

Due to the fact that arbitration is considered an adjunct to mediation and conciliation and has in many instances become an integral part of the labor relations machinery it is not discussed as a separate entity in this work. On the other hand since there are no less than 116 separate methods of labor arbitration authorized by state statutes it is here discussed under separate heading. ¹

There are statutes relating to arbitration of labor disputes in every state except Delaware, Michigan, Rhode Island, and South Dakota. ¹ There are two or more arbitration statutes in most states and some states have several distinct methods. It is surprising to find some of these statutes strikingly different. There is one common characteristic among these arbitration statutes; that is, government authorization for the process.

There are two systems of arbitration common-law and statutory law. The most common system is the common-law

¹, Ziskind, David Labor Arbitration under state statutes, p.2.

yet statutes suppliment and modify the common-law in many instances.

There are four spheres where state arbitration does not necessarily enter; 1. the field of the National Railway Labor Act, 2. the Federal Mediation and Conciliation's Arbitration Field, 3. the National Labor Relations Board's prescribed cases, and 4. the private system of arbitration. This latter group of cases is largely handled by the American Arbitration Association and the tripartite boards created by collective bargaining agreements. Through these agreements the parties may elect to come under the state arbitration statutes or not. Many industries have elected to follow the terms of the state statutes.

State arbitration is; almost always available, very frequently employed, and cuts across all fields and forms of labor arbitration.

Not all state arbitration forms are frequently employed. Massachusetts averaged about four hundred cases a year from 1938 to 1941 and the number steadily was increasing while New York averaged around 800 cases per year for the same period and the number had increased to 1074 in 1941.¹ In contrast to the two states mentioned above, Maryland has eight statutory methods of arbitration none of which had been extensively used and Pennsylvania has

1. Siskind, David Labor Arbitration under State Stat. p.2.

seven statutory methods which ~~has~~^{have} had no use. This statement does not include all the private forms of arbitration they may have been used extensively and not have released the information.

In arbitration as in mediation and conciliation many states have placed the necessary laws on the statute books but have not placed the service in operation. During 1940 to 1942 the following states had effective arbitration:¹

California	Massachusetts	Oklahoma
Connecticut	Mississippi	Oregon
Indiana	Nevada	Pennsylvania
Iowa	New Hampshire	Utah
Kansas	New Jersey	Washington
Kentucky	New York	Wisconsin
Louisiana	Ohio	

In most instances, the number of cases reported were very few and the number of privately handled cases not reported at all. The trend in arbitration use is definitely rising. Many unions and businesses will bargain all points except a very few of the most difficult ones then ask for arbitration on those remaining rather than go through the longer conciliation process.

State arbitration statutes are usually sketchy and not intended to prescribe all the rules of arbitration but rather they are promotional and are a general directive to the public officials. It is the duty of the public

1. Ziskind, David Labor Arbitration Under State Statutes, P.3.

officials to appoint, compensate and assist temporary tribunals. Most statutes fail to mention such things as the qualification of the arbitrators, the need for notices of hearing, the requirement for arbitrators to attend hearings and consider the award together, the rules, evidence, and procedure to be followed, and the methods of enforcing an award. The general statutes are more thorough than the special labor statutes however they do not cover all or most of the points mentioned above. Hardly a single statute is common to every state. For a thorough understanding of state arbitration statutes, it is necessary to bear in mind the principles of common-law arbitration.

The salient features of common-law arbitration are:

1. the voluntary agreement of the parties to the dispute to submit their grievances to an outsider, 2. the submission agreement may be oral and may be revoked any time before rendering the award, 3. the tribunal, permanent or temporary, may be composed of any number of arbitrators, 4. the tribunal must be free from bias or interest in the subject matter and not related by affinity or consanguinity to either party, 5. the arbitrators need not be sworn, 6. only existing disputes may be submitted, 7. the parties must be given notice of hearing and are entitled to be present when all the evidence is received, 8. the arbitrators have no power to subpoena^a witnesses, records, or other data, and need not

conform to all legal rules but should give the parties an opportunity to present all competent evidence, 9. all arbitrators must attend the hearing, consider the evidence jointly, and arrive at a unanimous decision, 10. the award may be oral, or if written all arbitrators must sign it, 11. the award must dispose of all issues, 12. an award may be set aside for fraud, misconduct or substantial breach of common law rule, and, 13. the method of enforcing the common-law award is to file suit for a judgement. The judgement obtained can be enforced as any other.¹

Washington is the only state to abrogate the common-law by a state statute.² In Louisiana, where the common-law has never been accepted as the basic law, there is some doubt concerning the existence of the common-law principle of arbitration.³

1. Ziskind, David Labor Arbitration Under State Statutes
2. 144 Wash. 592, 258 Pac. 426. Gord v. F.S. Harmon Co., 188 Wash 134, 61p (2nd) 1294.

In the Gord case, however, the court upheld an award in a proceeding which did not comply with the Washington statute as an appraisement. An employer and a union sought to arbitrate a future wage scale. Said the court, "Even though the arbitration here would not, and could not, have conformed to the statute, and there is no common-law arbitration in this state, it does not follow that there is no way by which employers and employees may settle their differences by mutually agreeing upon certain persons to make the adjustment." It is an appraisement, and not an arbitration, where the arbitrators or the appraisers, whichever they may be called, act in the two-fold capacity of arbitrators and experts.

3. Roquet v. Carmache, 5 La. Ann. 133. McClenden v. Kemp, 18 La. Ann. 162.

There are only a few statutory provisions, in other states, which appear to apply to common law as well as statutory provisions for arbitration. Generally the rule is that arbitration may be conducted either under common-law or the state arbitration statutes. When the latter is chosen it is usually supplimented by commin-law principles.¹

The pattern of arbitration does not change greatly from state to state. The description here given is general and applies to many states but not necessarily in detail to all. First there is an agreement to arbitrate which is made in advance either in writing or oral as part of a contract or agreement and may be made after a dispute exists. The specific issues or issue to be submitted are decided upon. Then the arbitrators are chosen and the arbitration tribunal is prepared to function by selecting a chairman, a secretary or an assistant. The next process is the hearing where all concerned are allowed to present their evidence and arguments, witnesses and documentary evidence is presented, causes for continuances, adjournment or other terminations are provided for, and the payments and assessments are made. When all arguments are made and evidence are submitted the arbitrators weigh the evidence and submit the award. Some agreements specify the time for the award; the required vote, the form and substance of the award outline the disposition of the

1. Ziskind, David, Labor Arbitration Under States Statutes p. 3

award may have been pre-determined; The effect of the award ~~as~~ ^{must be} to time and review/stated. Enforcement is by summary court action or by motion to confirm, vacate, or modify the award; or special proceedings may follow, or a rehearing or an appellate review may be had. Once settled, officials may make public the records or may reserve them.

Once the case is terminated, the matter of official signatures is something on which there is no agreement. The following states do not require signatures other than that of the arbitrators:¹

Alabama	Massachusetts	Ohio
Alaska	Minnesota	Texas
Florida	Montana	Pennsylvania
Georgia	Nevada	Washington
Kansas	New Jersey	Iowa
Illinois	New Mexico	New York
Maine		

The following states require signatures of "competent" persons which, of course, could have a wide interpretation.¹

Nevada	Hawaii	Louisiana
Idaho	Mississippi	New York
Illinois	Missouri	North Dakota
Iowa	Montana	Tennessee

The following states permit agents or majority of the employees to sign.¹

Alaska	Massachusetts	Ohio
Georgia	Montana	Pennsylvania
Illinois	Nevada	Texas
Maine	New York	

The most required of all is the formal acknowledgement.

1. Statutes affecting labor and Ziskind, David Labor Arbitration Under State Statutes, 1941.

There are however eight states which do require formal acknowledgement, They are:

Alaska	Minnesota	North Dakota
Iowa	Nebraska	Pennsylvania
Massachusetts	Nevada	

Some states have more specific statutes which cover practically all points. There are fourteen states which require the parties to abide by the award. They are:¹

Alabama	Kansas	South Carolina
Alaska	Nevada	Texas
Arkansas	New Mexico	Vermont
Colorado	Oregon	Washington
Indiana	Pennsylvania	

Neither the general statutes nor the common-law have any agreement "not to strike" while this arbitration process is in operation; however there are a number of states who do have special labor laws requiring such promise. Such states are:¹

Alaska	Maine	Ohio
Connecticut	Massachusetts	Nevada
Illinois	Montana	Texas

From the foregoing it is obvious that the state arbitration statutes are not intended to be exhaustive in their treatment of arbitration agreements. Even those most detailed allow a wide variation in the form and nature of agreements.

The general statutes contain several provisions designed to assure compliance with a arbitration agreement. These agreements are not found in special labor statutes.

1. Eiskind, David, Labor Arbitration Under State Statutes, p.51

One half the states make the arbitration agreements irrevocable. States having such statutes are;¹

California	Massachusetts	North Carolina
Connecticut	Minnesota	Pennsylvania
Georgia	Missouri	Tennessee
Hawaii	Montana	Utah
Idaho	Nebraska	Virginia
Illinois	New Jersey	West Virginia
Iowa	New York	Wyoming
Louisiana	Nevada	Florida

The general provision of these statutes is that conciliation shall be tried first. If this fails to adjust the dispute satisfactorily, ~~then~~ arbitration is used. Today by far the greater part of states use arbitration as an adjunct to conciliation. This emphasis upon the use of arbitration and the offer of facilities through agencies particularly concerned with labor relations is characteristic of many of the state labor arbitration statutes.

Generally speaking, any dispute may be arbitrated if a strike or a lock-out is threatened, or may result in a strike, lock-out, boycott, blacklist, discrimination, or legal proceedings. Some states require a specified number of workers which ranges from five to fifty. The following is a list of states which required specific number of workers;¹

STATES	No. of WORKERS REQUIRED
Louisiana	50
Oregon	50
Illinois	25

1. State Statutes and Bulletin 91 U. S. Dept. of Labor.

Oklahoma	25
Montana	20
Iowa	10
Maine	10
New Hampshire	10
Maryland	10
Virginia	5

Some states restrict their service of arbitration to certain industries, largely such industries as street, railway, public utilities, transportation, food, coal, iron, steel and others. In only two states, Michigan and Rhode Island, is arbitration specifically excluded from labor disputes.

The appointive power is usually distributed so as to prohibit any one individual from naming all the personnel on the board or panel. Alabama, Iowa, and Vermont are the only states which allow the Governor to appoint all the arbitration board. There are four states, Louisiana, New York, Texas and Maryland, which have given the court the power to appoint all the personnel of the arbitration panel. The majority of the general arbitration panel. The majority of the general arbitration statutes specify that the arbitrators be appointed by the arbitration agreement or some method selected therein. In case of failure to serve or to appoint usually the Governor or the court is granted the appointive power.

There are nine states—Connecticut, Kansas, Maine, Montana, New Hampshire, Ohio, Oklahoma, Pennsylvania, and South Carolina—have set forth their qualifications

in such a way as to insure a representative selection of employers, employees, and the public on their tripartite boards. Other than the specification of a disinterested group, few other requirements are set forth; however, Maine, Montana, and New Hampshire do require that you have membership in a labor group to be labor's representative. For the public member--Alaska, Maryland, South Carolina and Wisconsin require that you be absolutely disinterested, to serve. Three states--Colorado, Pennsylvania, Washington--require citizenship to be eligible for arbitration panel membership. Lack of personal interest is required for eligibility on the arbitration panel in Mississippi, and Texas. These are the most of the requirements for membership on arbitration panels.¹

When the arbitrators are deemed to be at a complete impasse, an umpire must be appointed to cast the untieing vote, but there are no qualifications specified.

The proceedings of the arbitration board are varied and none of the statutes purports to be complete on the subject. Some states require a hearing promptly, while others allow one any time within a certain number of days. The following named states require notices of hearings to be sent to the parties:¹

Alabama	Maine	Ohio
Alaska	Massachusetts	Pennsylvania
Arkansas	Mississippi	South Carolina

1. Ziskind, David, Labor Arbitration under State Statute, and Bulletin 91 U.S. Dept. of Labor.

Connecticut	Montana	Tennessee
Illinois	Nebraska	Texas
Indiana	Nevada	Utah
Kentucky	New York	Wyoming
Louisiana	North Dakota	Vermont
Kansas	New Jersey	

The rules for conducting the hearings are a miscellaneous assortment. In some states there are guides for meeting, receiving testimony, fixing sessions, adjournments, preserving order, punishing for contempt, and conducting hearings in the absence of one party. Some states have given the arbitration board power to pass on all questions of evidence and law. Rules of arbitration hearing procedure are found only in the statutes supplemented by constitutional and common-law. When there are express terms of a statute, it ordinarily prevails, but when there is no conflict between statute and common-law, the latter prevails.

Many of the state statutes require full and complete hearings and have given such supplementary powers as to visit the locality of the dispute, enter places of employment, examine records, conduct inquiries, require answers to questionnaires, to advise what ought to be done, and to obtain subpoenas of documents, persons and records.

All arbitration is expected to result in an award; however statutory law prescribes very few rules for making such awards. Most statutes require an award to be rendered, signed by a majority of the arbitrators, served on the participants, and filed in a court or some public office.

Colorado and Kansas grant unusual powers to their arbitration tribunals. These may grant a rehearing upon

the charge that an award is unreasonable; however few statutes permit rehearings until the time set for the award to run has expired.

The principle of voluntary action, although not specifically mentioned, is implicit in all but a few state statutes. The complete absence of any form of compulsion gives complete freedom in the initiation of arbitration proceedings. State statutes for the arbitration of labor disputes has assumed special significance in recent years. The normal process of collective bargaining disposes of most grievances. The more stubborn disputes must be submitted to outsiders for settlement.

F. STATISTICAL RECORDS

Thirty-two of the thirty-seven states who have some form of mediation, conciliation or arbitration replied to a letter and a questionnaire sent them recently. There are many types of records kept by the different states varying from the scantily kept temporary ones to the elaborate permnant ones.¹ Of the states replying to the questionnaire seventeen kept permnant records;² while eight kept only temporary records of the cases³ handled by their respective mediation services. The remainder failed to state what type of records they kept. The records vary greatly as to content; however generally they consisted of a written report covering the case handled. The state services are different from the Federal service, in that, in the majority of the state service cases, each conciliator personally writes his report and turns it into the central office.

The statistical releases of the states vary greatly from the simple statements that are found in the annual or biannual reports to the very elaborate releases handed

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1. Replies to questionnaires dated February 2, to March 30, 1948
 2. Arizona, Arkansas, California, Connecticut, Georgia, Indiana, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, North Dakota, Rhode Island, South Carolina, Vermont, and Washington
 3. Illinois, Maine, Maryland, Montana, Nevada, Ohio, Pennsylvania, Wisconsin.

out by some of the states for press releases.¹ The more elaborate records have a complete description of the company, union, place, personnel, time of year, number of persons affected and almost any other characteristic on which one could desire information.

The ordinary statistical release, as evidence of work done by the service, for the majority of the states is like that of Michigan which is:

Fiscal/period
 Number of strikes
 Number of persons involved
 Number of man-hours lost
 Number of cases solved

This simple form of statistical release is for the press and the annual or biannual report. Washington is one of the states which has a more elaborate release which is:

Fiscal period
 Cases carried over from the previous period
 New cases received
 Number of workers involved directly
 Number of workers involved indirectly
 Cases on strike when mediation requested
 Cases went on strike after mediation requested
 Number of strike days
 Number of cases settled through mediation
 Number of cases settled by arbitration
 Number of cases referred to N.L.R.B.
 Number of cases Unsettled.

New York has the most elaborate statistical release in which hardly a characteristic of labor relations is not given. Some States have deviations from the above mentioned types of press and record releases but the difference is very minor.

1. Letters dated Feb. & March 1948.

The States keeping only temporary records have much the same statistical releases as the ones keeping permanent records. The temporary records consist of notes and evidence to support the argument of each party. The records are kept for about four years, after which they are destroyed.

Statistical releases as press releases or other propaganda are viewed by some states as publicity for the service. There is a general feeling in labor relations that publicity in any form is undesirable as far as the conciliation is concerned. It is widely held that the more quiet and unpublicised the conciliation service is kept the greater will be the degree of success. It is for this reason that most States issue as little as is required to inform the public that there is a service of this particular nature and it is doing enough to justify its existence. Justification of the service is common when the service is trying to obtain an appropriation from an unfriendly legislature.

The one exception to the above rule is that of Texas who tries to force mediation and conciliation on the employer and employee through publicity.¹

1. Bulletin 91 United States Department of Labor, Washington 1947.

G. FUNCTION IN THE PRESENT LABOR MANAGEMENT ECONOMY

The Labor-Management Relations Act of 1947 gave new emphasis to the role of State or Territorial mediation and conciliation service established to aid in the settlement of labor disputes. The Federal act provides that state or territorial agencies must be notified simultaneously with the Federal Mediation and Conciliation Service of the existence of certain kinds of labor disputes.

Under the 1947 Labor Relations Act, the participants to any dispute which involves the termination or modification of an existing collective bargaining contract covering employees in any industry affecting commerce (either party to such a contract) must notify the other party sixty days prior to the time the proposal would take effect. If a dispute arises over such a proposal and is not settled within thirty days, the Federal Act requires that the State Mediation agency must be notified simultaneously with the Federal Mediation Service. Strikes and lockouts are forbidden during the entire sixty day period.

The notice requirements of the Federal Act, as it relates to State Mediation Services, has given rise to more activity on the part of State Mediation Services.¹ In letters from State agencies who have not thus far actively

1. Letters dated February 19, March 10, 1948.

participated in mediation and conciliation work, many have stated it would be necessary to establish services now that the Federal Services is limited to those disputes affecting interstate commerce. The Act further provides that the Director of the Federal Mediation and Conciliation Service "may establish procedures for ¹ cooperating with State and local mediation agencies."

In the future it will be necessary for those States who wish to have industrial peace within their borders to establish some form of mediation and conciliation for those cases affecting only intra-state commerce. As the Federal Service is now established it is supposed to handle only those cases which would materially affect interstate commerce, if there is any other form of mediation and conciliation to handle the other cases. Some States have in the past simply ignored any dispute notification which they received and allowed the Federal Service to do all the labor relations work.

The more industrialized States, with the possible exception of Illinois, and Ohio, have done ^{more} toward Mediation and Conciliation than those less industrialized. As the services are now established the States will have little difficulty in complying with the new law.

There is a general trend today for the unions and companies to write mediation and arbitration clauses in

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1. H.R. 2030 Public law 101; 80th Congress Chapter 120 Sec. 1.
 2. Letters dated March 24, 30, 1948.

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their contracts.¹ When the disputants are willing to talk over their troubles voluntarily it seems all the more probable that they will be more inclined to call the State services in the event their service breaks down.

The feeling that the States should have some form of mediation and conciliation service has grown very rapidly since the Supreme Court confirmation of the National Labor Relations Act in 1937.²

Indications are that the Southern States are becoming increasingly industrialized. If these States wish to attract industries of importance, they will have to have machinery to prevent disruption of production.³ Modern industrial methods enable industry to produce goods in competition with other industry only so long as they are able to maintain continuous production. The States, ^{which} who do not have the necessary machinery for the prevention of such disruptions as strikes and lock-outs, will find it all the more difficult to attract new industries to their particular geographical location.

The keener the competition gets in the business field, the more difficult it will to be for labor to continually obtain concessions in the form of raises or retirement

1. Tripartite boards and The American Arbitration Association handle such cases.

2. 59 S.ct. 206, 350 U.S. 197 L3F Supp. 877 Aff 85 F2d 15

3. The recent flare up between Massachusetts and Mississippi is an example. Massachusetts said Miss. workers were raw and undisciplined.

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benefits. When this situation develops, the States can expect their case load of labor-management controversies to increase. Each concession made when the economic situation is closely balanced is made at the expense of the party making it. As a result fewer concessions will be made and those made will be more bitterly contested.

Some of the States have expressed the belief that in the future it would be necessary for them to more closely align their services with that of the Federal Service. The criticism of the participants support the desirability of that idea. Industry wide bargaining by the unions with corporations which have components in various places throughout the nation lends credence to the desirability of States aligning their services more closely to the Federal pattern.

The lack of similarity between the Federal Mediation and Conciliation Service and the Mediation Service of the States causes some confusion and in some cases hesitancy on the part of the participants in asking for State intervention in labor disputes.

Evidence to support the argument that the Mediators should be supplied with all pertinent information as to companies and unions, as well as Federal, State and local regulation of both is amply given by those States supplying their Mediators with this information.

The continued increase in union membership among the skilled, unskilled and white collar workers show the increasing importance of all states having a workable mediation and conciliation service.

H. LOCAL LABOR-MANAGEMENT COMMITTEES

Through the efforts of Mr. Michael V. Disalle of Toledo there was established in that city on June 15, 1946 a labor relations committee, known as the Toledo Labor-management Citizens Committee. This committee is composed of six union officials, six business men, and six men of the public. In selecting the personnel for this committee an effort is made to get men who have achieved success in their own field and who have a keen awareness of the problems of the community especially as relates to industrial relations.

This Committee is supplied with a permanent full time secretary who handles all the preliminaries and calls the committee together when there is a case for them to discuss. Minor disputes are settled by the secretary where possible. If the secretary is unable to settle the case one representative from each group is called together to make a panel to hear the case. Quite often the case is settled in this way however when this is not possible the whole committee is called together and the case is presented to them for solution.¹

The arbitration cases are conducted by an impartial representative who gives a written decision in the case. The Toledo plan seldom gives a written decision in the

1. Annual Report of the Toledo Labor Management Citizens Committee and Letter dated December 3, 1947.

cases they handle, except where special circumstances indicate it to be the best policy. The notes kept on the cases are not printed but are sufficiently clear for reference in case of any later disagreement as to terms.

Another labor management committee established along similar lines is the Louisville Labor Management Committee established in July 1946.¹ Detroit also has a local L.M.C. however due to the dominance of the U.M.W.A. it has not been very effective.

These local labor management committees work in similar fashion. The permanent secretary keeps in constant contact with the negotiating personnel of both the company and the unions when a controversy develops they are quick to begin discussion of possible solutions. Many of the cases are solved in this initial discussion. This constant contact is believed by some labor relations people to be a big factor in the large number of successful solutions obtained by the local labor management committees.²

This handling of Labor disputes is very similar to the Whitley Council plan established by the British in 1916. They used the system of keeping in constant touch with the negotiating personnel.

The success of these local labor-management committees has been remarkable thus far. Toledo has been able to solve

1. Constitution of the Louisville Labor-Management committee.
2. Letter dated Dec. 3, 1947 from Jerome Gross, Secy. of the Toledo Labor-Management Citizens Committee.

all of its 108 cases.¹ Louisville has been able to solve all except two of its thirty-six cases.² Cincinnati has made an effort to establish a labor-management committee but has thus far not been able to do so. Detroit established a labor-management committee but due to the peculiar union management relations of that city they have not had the success that has attended the efforts of the Toledo and Louisville Labor-Management Committees.

These committees are a part of the city government but have no power to force compliance and seek none, they are purely voluntary and seek the industrial peace by their method of friendly, voluntary negotiation of industrial disputes. The committees are self-perpetuating which makes it impossible for some politician to pack the committee with his friends.

The difference between these local committees and the State or Federal Mediation Service is that the local committees do not have the prescribed limitations that hedge in the State and Federal Services. These local committees can deal with any dispute that arises in their vicinity regardless of the type of commerce which it affects. The State services are largely confined to those cases affecting only intra-state commerce while the Federal Service

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1. Letter dated December 3, 1947 from Jerome Gross, Sec. of the Toledo Labor-Management Citizens Committee. Interview with the Louisville Labor-Management Committee's Secretary, January 22, 1948.
 2. Unpublished report of the Louisville Labor-Management Committee and an interview with the Committee's Secretary January 23, 1948.

is largely restricted to those cases affecting interstate commerce. These local committees are at the source of the difficulty and can begin exploratory discussion before the dispute becomes serious.

There is a beginning trend toward local governments taking more of a hand in labor-management affairs than was previously the case. From the interest other cities are showing in this new form of mediation and conciliation machinery it is highly probable that in the near future there will be many other cities with this type of mediation and conciliation.

The trend in labor-management relations today is toward peaceful negotiations either through tripartite boards of their own creation or through the mediation and conciliation efforts of the Federal, State, or Local governmental agency.

SUMMARY AND SUGGESTIONS

Every State should establish some mediation and conciliation machinery regardless of the number of labor disputes which occur within their boundaries. Since the establishment of the United States Mediation and Conciliation Service¹ in 1913 there has been a growing number of controversies and an ever increasing number of them have been submitted to the service for solution. The case load has annually increased from fifteen in 1915 to 18,840 in 1947. The per cent of successful solutions has risen from 68 per cent in 1915 to 95.6 successfully solved in 1947. The service has a thirty four year record of 90.5 per cent of successful solutions when the case is submitted before a strike begins.

The Federal Mediation and Conciliation Service¹ attempts to select personnel with the following characteristics: tact, insight, ingenuity, ability to inspire confidence, impartiality, a knowledge of the trade, and tenacity. The Service selects, trains and keeps the personnel informed on modern labor problems and collective bargaining principles. The selection and training of the personnel is done according to the standards set by the policy advisory committee composed of leaders from the A.F. of L. the C.I.O. and industry. From the evidence submitted by the service it would be desirable that the conciliators have a thorough knowledge of the industry with which they are dealing. It seems desirable to have adequate personnel so as to be able to supply

1. The 1947 Labor Relations Act changed the name to the Federal Mediation and Conciliation Service.

each case with a conciliator who is thoroughly familiar with the industry in which the dispute is located.

State agencies engaged in mediation and conciliation activities operate under almost as many different kinds of laws as there are states. States have not had the success with labor relations that has accompanied the Federal venture. The lack of success on the state level cannot be entirely attributed to the irregularities of the administration alone since there are other factors which contribute to the states inability to solve all the cases submitted to them. Some would attribute the lack of success to the absence of training and information on the part of the conciliators. The failure to select personnel suited to the task of a conciliator is another reason for a poor record. Some have attributed the poor record to the willingness of some state services to get the Federal Service to take the case.

The States have generally followed three patterns in the formation of their services. The patterns most frequently found are:

1. Special section of the labor department.¹
2. Independent Boards in the department of labor.²

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1. Service in the department of labor or some similarly named organization; Arizona, Alabama, Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New York, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin.
 2. Connecticut, Massachusetts, Minnesota, New Hampshire, New York, Oklahoma.

3. Special boards outside the labor department, and in no way responsible to it.¹ From the evidence thus far gathered, it seems highly desirable that the conciliation service in states having a substantial number of labor disputes should be an independent agency with personnel selected by the Governor. However in non-industrial states having only a few cases per year the conciliation service can be adequately administered by a division within the state department of labor. This has been demonstrated by experience in North Dakota and Arkansas.

Both the Federal and the State services use the informal, conversational, no record type of procedure. There is unanimous agreement that this type of procedure has definitely contributed to the success of the conciliation service, and there has been little or no deviation from this procedure.

The States choose their personnel in different ways and for different characteristics. The States with the longest record of service and the largest number of personnel have followed rather closely the model set by the Federal Service. Much of the success of the Federal Commissioners of Conciliation is

1. Michigan, New Jersey, Oregon

attributed to their selection, training, and the information they receive while in the field. It is important that states be more discriminating in selecting, more thorough in training, and more generous with the information dispatched to the conciliators. Generally speaking the States handle those cases which the Federal Service asks them to handle. Some of the State Services confined their activity to commerce cases, other States will handle any case which affects the people within their borders; and if they fail to settle the case, they turn it over to the Federal Service.

There are a few States who limit their service to ~~elaborate~~ specified periods in labor-management difficulties. This practically eliminates the usefulness of the service.

California is the only state to supplement its mediation and conciliation service with the dissemination of usable formation to employers and employees. In the case of California, the information service covers the State.

All the States should furnish extra services in accordance with need. The records of the Federal Service and experience in California indicate that these extra services greatly aid in solving cases.

The records kept by the States vary greatly, from the elaborate ones in New York, Washington,

and Michigan to the very meagre records which simply show the service exists and is operating. There is no unanimity of opinion on the type of records which should be kept. From the available material, it seems that statistical records should show clearly the complete history and characteristics of each case handled and that these records should be available to labor relations personnel. The statistical releases should be sufficiently similar to give a good comparison of the records of the individual States. Due to the absence of uniformity in state records the material available is difficult to use and of doubtful value. The Federal Bureau of Labor Statistics should increase its efforts to secure a standard form for statistical reporting by the states mediation and conciliation service. This system would encourage uniform reports and render the material available in a usable form. This could be done on a comparative basis as the Federal Bureau of Investigation and the state and local police. ~~These crime reports are all alike.~~

Many states keep their records for only a short time. The length of time a record is kept should depend on the amount of use it receives. If these records are frequently referred to by state officials or labor relations personnel for guidance or other use, they should be kept until such use is made of them before they are disposed. If the statistical records are complete and

clearly show all the characteristics of the cases, the more detailed records need not be kept as long since the statistical records are kept permanently.

Since the personnel of the Local Labor-Management committees consists of one full time employee in the person of the Secretary it is an easy matter to choose an individual with a successful labor-management record. The records kept by these local committees are usually the notes taken while the discussion is in progress and are not thorough in any phase. Since these committees have had such remarkable success it seems that the records of the cases should be kept for study by the personnel of other labor-management agencies; however to be of value they would have to give a complete picture of the case.

Measuring success of the conciliation service by the proportion of cases solved successfully, the local labor-management committees have the best record of handling labor disputes to obtain the maximum results of labor peace insofar as dealing with local bargaining units are concerned. On the other hand the Federal service has had more and a wider variety of experience, has developed a more complete service and has had a commendable record. The state services have not had the success that has attended the Federal Service. The states have not developed any aids to collective bargaining other than mediation and conciliation. It seems that the development of technical and special

services would greatly aid the number of cases solved on the state level.

Mediation and conciliation service is needed at each governmental level, national, state, and local. Experience indicates, however that negotiation should be attempted at the local level whenever possible and the burden should not be moved up to higher levels unless absolutely necessary. In the past the states have been inclined to leave major responsibility for settlement of disputes to the Federal Service. The new Federal Mediation and Conciliation Service attempts to reverse this trend which means that the states must prepare themselves to meet this responsibility. In turn the states should encourage the development of local labor management committees so as to settle as many disputes locally as possible. This means that with the exception of half a dozen states,¹ immediate action is necessary in order to have a mediation and conciliation service adequate for the purpose. It is hoped that this thesis provides usable information and points the way for such action.

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5. Annual Report and Letter from Toledo Labor-Management Citizens Committee December, 1947.
6. Conference with the Secretary of the Louisville Labor-Management Committee, December 20, 1947, February 27, 1948.
7. Conference with Mr. S.W.Duncan, Commissioner of Conciliation, March 15, 26, 1948.
8. Interview with Mr. L.C.Willis, former Commissioner of Industrial Relations of Kentucky. October, 17, November 3, 1947, February 10, 1948.
9. Interview with Mr. Keen Johnson, former Under Secretary of Labor, December 30, 1947.
10. Public Law 101-80th Congress, Chapter 120-1st. Session. Taft-Hartley Labor Law, 1947.
11. Pamphlets of the Department of Labor:
"Legislation Affecting Labor Relations 1939"
"The Job of Conciliation in Labor Disputes" 1940.
"Settled Peacefully"
"Arbitration of Grievances"
Bulletin No. 60 "Settling Plant Grievances" 1943.
Bulletin No. 91 "State Authorities Engaged in Mediation and Conciliation Activities".
Speeches of Dr. J.R.Steelman
New York, July 25, 1940
New Orleans, November 14, 1940
New York, January 1, 1941.

Press release of Secretary of Labor Lewis B.Schwellenbach, February 16, 1948.

WORK STOPPAGES

Year	Stoppages	Days dur.	Employees (000,omitted)	Per cent of all employees	per cent time lost
1947	4, 785		6,795		
46	4,985	9.9	10,789	14.5	1.43
45	4,750	9.9	3,470	12.3.	.47
44	4,958	5.6.	1,264	7.0	.09
43	3,752	5.0	1,392	6.9	.15
42	2,968	11.7	769	2.8	.05
41	4,288	18.3	1,339	8.4	.32
40	2,508	20.9	577	2.3	.10
39	2,613	23.4	1,171	4.7	.28
38	2,772	23.6	888	2.8	.15
37	4,740	20.3	1,861	7.2	.43
36	3,172	23.3.	789	3.1	.21
35	2,014	23.8	1,117	5.2.	.29
34	1,856	19.5	1,467	7.2	.38
33	1,695	16.9	1,168	3.3	.30
32	841	19.6	324	1.8	.23
31	810	18.8	342	1.6	.11
1930	637	22.3	183	.8	.05
29	921	22.6	889	1.2	.07
28	604	27.6	314	1.3	.17
27	707	26.5	330	1.4	.37
26	1,035		330	1.5	
25	1,301		428	2.0	
24	1,249		655	3.1	
23	1,553		757	3.5	
22	1,112		1,613	8.7	
21	2,385		1,099	6.4	
1920	3,114		1,468	7.2	
19	3,630		4,160	20.8	
18	3,353		1,240	6.2	
17	4,450		1,230	3.3	
16	3,789		1,600	8.8	

UNIVERSITY OF LOUISVILLE
LOUISVILLE, KENTUCKY

DEPARTMENT OF HISTORY
AND POLITICAL SCIENCE

[illegible]

UNIVERSITY OF LOUISVILLE
Louisville, Kentucky

A study of state mediation and conciliation agencies, organizations, procedures, and accomplishments is in progress at the University of Louisville. We will appreciate receiving the data requested below. (please check the answer applicable-- If you care to clarify any question please do so on the reverse side).

1. Do you employ conciliators with labor relations experience?
Yes _____ No _____.
2. In employing personnel do you emphasize union experience?
Yes _____ No _____. Business experience? Yes _____ No _____.
3. Do you have pre-service training? Yes _____ No _____.
4. Do your new mediators observe more experienced handling of cases before they go out on cases? Yes _____ No _____.
5. Do you have in-service training? Yes _____ No _____.
6. Does the department keep the conciliators supplied with the latest information on structure and technique of Unions?
Yes _____ No _____. Structure and operation of individual companies? Yes _____ No _____. Recent labor laws and court decisions? Yes _____ No _____.
7. Are the records that you keep permanent _____. temporary_____.

Yours very truly,

B. F. Browning