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## International Labour Legislation in the Light of Economic Theory

by

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*The subject of Professor Feis's article is given an especial interest by its close connection with the question whether the regulation of labour conditions by international action is either legitimate or desirable. In recent years comment has often turned on the apparent contradiction between the object of such regulation and the conclusions of the "classical" economic theory. If, as the current economic doctrine teaches, the standard of living in any country depends upon a series of influences which are essentially national in origin, is there in fact any reason to suppose that the conditions of life and labour of the working classes can be improved by some form of joint international action? Is there any possible way of reconciling the two conflicting points of view — the one holding that international competition is the essential lever for raising each country to its highest level of prosperity, the other that international competition depresses labour conditions and creates hardships which can only be remedied by international action?*

*In trying to answer these questions the author examines, in the light of the classical theory, the intrinsic value and possible effects of the principles laid down in Part XIII of the Treaty of Versailles. The analysis is marked by freedom from preconceived ideas and dogmatism in any form; the comparison of the two seemingly contradictory opinions provides an opportunity for a kind of stock-taking of the whole question, covering all its aspects and its nearer and remoter forms. The result is neither a defence nor a criticism, and still less a system; it is simply the outcome of the reflections of an impartial economist on the numerous questions which have presented themselves for solution. The aim of the article is not so much to reach a clear and decisive conclusion as to show the complexity of the problem and stimulate the reader to devote further thought to it himself.*

## I

THE economic theories presented in the "classical" texts explain that the workers of different countries receive very different wage returns in some countries from those in others, and that the conditions in which they work and live also vary greatly. The existence of these differences of income and condition emphasised in these texts is undisputed. It is also a part of the generally accepted body of economic theory that the conditions of the work and life of the wage earners in any country depend primarily upon the real income of the country; that even making allowances for possible variations in the sharing out of the product within any country, hours of work will be long, wages low, and the conditions burdensome if the total real income of the country is low in relation to the number of inhabitants, and that the opposite conditions will prevail when the economic effort of the country is more effective. In short, economic theory presents and strives to account for a great contrast in the economic lot of the workers of different countries, and regards this contrast as in the main ineradicable.

The movement to improve conditions of labour on an international scale by international action appears in some respects to run counter to these conclusions. That movement, as represented by the work of the International Labour Organisation, is engaged in an effort to stimulate national action, in accord with international agreements, towards the achievement of a universal minimum standard of satisfactory labour conditions. Or, as stated differently by the Director of the International Labour Office:

The new feature introduced by the Peace Treaties consists in the fact that equitable labour conditions established by national law or adopted by means of International Conventions are henceforward to constitute an inevitable condition and a natural necessity with which industrial employers must reckon in the same way as they reckon with geographical factors.

This purpose of creating a minimum world-wide standard of satisfactory labour conditions inspires the work of the Organisation. It is implied in the Preamble to the constitution of the Organisation, and certainly both employers and trade unionists in the countries where labour conditions are better than elsewhere customarily hold the view that substantial uniformity or equality of conditions forms the only just terms of international competition, and seek to create that uniformity by international action.

## II

This paper is written to examine a set of closely connected questions : (1) whether this difference of doctrine between widely accepted economic theory and the effort to regulate labour conditions by international action is a real or only superficial difference ; (2) to explain how such difference as may be real has arisen ; (3) to examine in the light of both sets of doctrines the possible economic gains and losses which may result from such action ; (4) to indicate the problem by which countries possessing different conditions of labour are faced by projects of international labour regulation, and the benefits and losses they must calculate ; (5) to analyse briefly the efforts of the International Labour Organisation to take into account the possible losses and difficulties that might arise from its action, and still to carry out its main purposes.

These purposes require first of all a brief restatement and reconsideration of certain relevant economic doctrines which bear upon the problem raised by international action for the purpose of improving labour conditions. The restatement will be brief, and run in accordance with the system of assumptions and ideas as presented, say, in the books of Alfred Marshall (and to be understood, therefore, as presented by him, as only an introduction to the complex actuality of contemporary society). It is limited to those points of economic theory which present themselves only when international action is under consideration, as apart from those which present themselves when the contemplated action is only on a national scale. Thus, for example, it does not touch the controversies bearing upon the value of legislation as a means of regulating labour conditions ; for these arise whether action is on a national or an international scale.

The established economic doctrine holds that the productive activities of the people of each country are, under conditions of economic freedom, devoted to those industries and occupations which will yield the largest volume of valuable goods and services. This conclusion is expounded by its authors only as a rough approximation to the truth, and should not be taken as a defence of complete *laissez faire*. A grave modification arising out of the inequality of wealth and income in each country is always admitted, as well as many other qualifications arising out of special circumstances. But the main argument remains, and is, for one thing, the centre of the free trade position ; advocates of economic regulation have to prove that regulation is necessary to overcome some

obstacle to effective production, or that some important non-economic end must be served, as, for example, when a country subsidises its merchant marine.

This economic theory can be explained simply. There is a strong tendency for those who direct industry, who have land and capital, and employ labour, to use them in the ways which promise the greatest return. Further, in any particular use of these means of production two forms of competition must be met — internal and external. The internal competition is that of different industries and enterprises seeking the use of the limited supplies of land, labour, and capital. The highest bid for each tends generally to prevail, and the highest bid, the doctrine runs, comes from those who can employ the desired means of production in directions yielding the largest volume of valuable goods and services. External competition tends to extend the same effect further. As a result of this competition, in the absence of tariffs and other obstacles, the economic energies of each country are used in those industries which are carried on with the "greatest comparative advantage" as compared with the same industries in other countries. Such goods (and, to a much lesser extent, services) as can be procured more cheaply abroad than at home are imported, and paid for by exports requiring smaller outlay than the goods procured. Hence it is concluded that international competition, by leading to international specialisation, increases the real income of all peoples. This is the result indicated by general economic analysis; it will therefore have to be enquired at a later point why the opposite opinion is so strongly held — the opinion that international competition is injurious to the economic life of a country and depresses labour conditions, and therefore creates a need for international regulation of these conditions.

How great the total volume of valuable goods and services secured by the inhabitants of any country may be in relation to the number of inhabitants, the same body of economic doctrine goes on to explain, depends on many things. Chief among these are the natural resources of the country, its supply of capital, and the human energies, talents, organisation, and technique possessed and used in production. The volume of production and standard of living in any country depend upon the mingled effects of all these influences. The part played by any one cause or circumstance is always impossible to measure. Who can tell, for example, whether the high level of production and real incomes in the United States arises most from its varied, rich, and accessible

natural resources, its immense domestic market, the mastery of machine technique, or the hopefulness, boldness, and energy common among American workmen and business men, to mention only a few of the contributory causes? Since this is so, any explanation and judgement of the causes of the actual difference of productive effectiveness between different countries must be tentative and incomplete, and vary from instance to instance. Among these causes of difference a line is commonly drawn between those arising out of natural and physical conditions and those connected with human character, habits, and abilities. The significance of this line of division has been changed by the constant increase in human knowledge and changes in industrial technique. It is natural to believe that differences of productive effectiveness traceable to variations in human qualities, habits, and knowledge can be modified more easily and quickly than those due to variations in natural resources. Yet that has become by no means certain in many cases and instances. Both sets of causes are complex and infinite in variety. Some are immutable, some may be modified with relative ease. Correct and confident judgement in any case requires more knowledge and acumen than most men have; hence the constant conflict of opinion and prescription. Efforts to improve industrial conditions in any country are always at work. In view of the constant growth of population the struggle is one of life and death.

The difference in the productive effectiveness attained in different countries (I am still summarising the "classical" economic doctrines) is the primary cause of the contrasts in the conditions of life and labour of the wage earners in these countries, and is indeed, ordinarily measured by these contrasts. The relation between production and standards of living and work is evident and important. But it is not fixed or automatic; it is impossible to tell, within limits which may differ from time to time and from country to country, just what standard of working-class living can be attained under any given state of productive effectiveness. The question of what set of labour conditions may be maintained within any country is therefore always a matter of some difficulty to determine, and can only be settled by a course of bargaining and experiment. The process of sharing out the product of industry in every country always involves such bargaining and experiment, and sometimes industrial conflicts. The custom and morality of our industrial system leaves it open to each individual or group to secure as great a return in the form of conditions

or income as their position in the work of production and their bargaining strength make possible. In each country, whether economic effort results in the making of many goods or few, whether the goods be rice grains or electrical refrigerators, all groups carry on a continuous effort to maintain or improve their income and conditions. The assertions and demands which are the most highly organised and dramatic are those of the industrial workers, whose effort in most countries has developed into broad political and economic programmes designed to modify economic institutions and practices. The state, when it intervenes to regulate labour conditions, thus steps into an involved situation in which it is impossible to tell just what conditions may be supported by its industry, and can only hope to make a roughly correct judgement of the possibilities.

So much by way of restatement of the general conclusions of economic theory concerning the use and distribution of the economic energies of each country, and of the matters which determine existing conditions and standards. It is, of course, incomplete, and gives no attention to the numberless shades of difference of opinion on many of the points considered. Still it may serve as a restatement of "classical" economic doctrine upon the salient points of the economic situation in the midst of which the effort is being made to improve conditions of labour throughout the world by international action.

### III

Joint international action for the improvement of labour conditions is being carried on by the International Labour Organisation. This institution was created by the Treaty of Versailles and its constitution is contained in Part XIII of that Treaty. The first section of the Preamble indicates the reasons for its creation :

Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice ;

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled ; and an improvement of these conditions is urgently required : as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury

arising out of his employment, the protection of children, young persons and women, provisions for old age and injury, protection of the interests of the workers when employed in countries other than their own, recognition of the principle of freedom of association, the organisation of vocational and technical education and other measures ;

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries ;

The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to the following : . . .

In pursuance of these purposes the International Labour Organisation has in the nine Sessions of the Conference of its Members brought into being 23 international Conventions and 28 Recommendations. They deal with such subjects as the following : hours of labour, workmen's compensation insurance, weekly rest in industry, minimum age of employment, etc. The process of ratification has been tardy but continuous : up to the present (1 March 1927) there have been 217 acts of ratification of the various Conventions by States Members, and wherever ratification has taken place national law has been brought into substantial conformity with the terms of the Convention ratified. In addition, even when ratification has not been given, conditions and laws have been changed in many countries in the direction of the terms of the Conventions through voluntary action or national legislation. International consciousness and activity have grown up about these Conventions ; once the Conference comes to an agreement there arises pressure in each country, sometimes strong, sometimes weak, to meet its terms.

In any one article it is wholly impossible to deal with all the economic questions raised by these Conventions. In fact, the terms of each single Convention bring up problems connected with its own subject. In addition there exists the basic question of the circumstances and the extent to which it is sound economic policy to deal with the matters mentioned in Part XIII of the Peace Treaty by means of legislation, as is intended in the Conventions. Leaving this basic question out of consideration, as well as the many particular ones suggested by the terms of each Convention, there is one connected set of questions of broad and general significance to which I wish to turn, to try and examine them in the light of the body of economic doctrine summarised in the preceding section.

It may be observed in passing that the creation of a permanent institution to concern itself with labour conditions on an inter-

national scale was the product of experience which seemed to indicate its need, and not the product of theory. Those interested in the improvement of industrial conditions in various countries had more than once found that a desired change in labour conditions was hindered by the possibility that the same industry in some other country might secure a competitive advantage as a result of the change. This possibility is always present when the contemplated improvement involves a possible increase in production costs. The idea of resorting to joint international action is, therefore, natural in such contingencies. That is the train of thought which led to the creation of the International Labour Organisation. Its connection with the League of Nations lies in the fact that differences in conditions of labour have been in the past a source of international antagonism. We are familiar, for example, with the mingled fear and dislike invoked among the workmen of the United States and Europe by the bugaboo of the competition of the work of the Far East carried on under much poorer conditions. How often still, for further example, are the workmen of French, British, Italian, and German export industries confronted with each other's conditions as the chief reason why some desired improvement could not be attained. Such is the competitive experience which went to the making of Part XIII of the Peace Treaty. By the workman and often by the employer international competition is usually regarded as a force depressing his conditions.

But the preceding economic reasoning indicates that this view cannot be accepted as an accurate and complete statement of the effects of international competition. The general analysis, on the contrary, tended to indicate that international competition and exchange was an important means of increasing the real income of the nations engaged in it; it emphasised the fact that international competition tended to bring it about that the economic energies of each country were turned in the directions that would yield the greatest volume of valuable goods and services. The difficulties encountered by countries arising out of changes in the international competitive situation are regarded as only transitional, and incidental to the attainment of a new position of equilibrium by which all countries will benefit. That doctrine, when rigidly stated in the classical texts, further implies that the more advanced standards of the more productive countries cannot in the long run be affected deleteriously by the competition of



countries having lower standards — the standard of each resting upon the productive effectiveness of each competing country.

Can these opinions be reconciled? I believe so. The first view is that naturally entertained by particular groups of workers and employers as producers; they see their jobs or their economic power often menaced by foreign competition. The second view is the natural one when thinking of the people of a country as consumers, to whom international competition and exchange bring goods and resources on better terms than if no such competition occurred, and thus increase their real income. In the classical doctrine it is this viewpoint which is maintained and put in the forefront. That classical analysis assumed, for the purposes of its enquiry, that the workmen and capital within a country could quickly change their occupation, quit an industry where foreign competitors were proving able to undersell, and enter another industry which possessed a greater comparative advantage — the whole benefiting by the change. The opposition to international competition, the desire to regulate by international action the labour conditions in which it takes place, arises from facts and tendencies contrary to that assumption. It is dominated by the fact that within highly industrial countries the mobility of labour and capital — their capacity to shift themselves about from one industry to others under the pressure of competition — is slow, painful, and incomplete. Whole masses of men seem either unwilling or unable to shift their occupations in the older industrial countries in which few valuable natural resources remain unexploited. Only in countries undergoing rapid industrial expansion does a great shift in the employment of the means of production occur without serious difficulty. Despite all obstacles those influences which are recognised and summarised in the “principle of greatest comparative advantages” tend to assert themselves, but only slowly, overcoming the inertia of human beings, and bringing direct suffering in their courses. An example of all these difficulties, exceptional in intensity, is to be found in the coal industry in recent years. That vital industry has been characterised by overproduction since 1921; and the situation, instead of remedying itself in accordance with the main anticipations of classical doctrine, has grown worse. There has been little shift of men or resources into other industries, but instead an intense international combat in which each nation has tried to hold its place by special means.

The British tried a subvention. The Dutch, who were losing a florin a ton, immediately exacted a subsidy from their Government. . . . In Germany, Belgium, Yugoslavia, and Czechoslovakia the Governments lowered their freight rates or applied discriminating tariffs to foreign coal. Holland, Poland, and Spain have tried tax exemptions, export bounties, and state purchase at high figures<sup>1</sup>.

Under these conditions, somewhat different from those contemplated by the main body of economic theory, and viewing the matter from the point of view of the workers as producers and receivers of pay for production, international competition — and particularly shifts in the terms of international competition — may be and often is a force which tends to lower real wages and depress the conditions of labour in particular industries over considerable periods of time. This result ultimately ceases. A shifting of men and resources from the depressed industries to other industries ultimately results. And all the while this international competition may be of benefit to all consumers not affected by the depression. But under existing circumstances, with organised working men slow to move, with huge quantities of capital fixed in form, these international adjustments are slow and carry serious consequences, amounting at times to industrial disorganisation, as in Great Britain in 1926. To those directly affected it appears, and with considerable truth, that their wages and conditions are governed not so much by the level of industrial effectiveness within the country, as by the fluctuations in the terms of international competition to which they are subject. Their loss — in its direct and indirect effects — seems to, and sometimes may actually, outweigh the consumer's gain.

The effects that may be produced in a period of unusual tension and fluctuation in industrial competition are exemplified by the course of wages in different British industries between 1914 and the end of 1925. An extract from the Report of the Committee on Industry and Trade<sup>2</sup> gives the rate of percentage increase of weekly time wages in two groups of industries — the first group directly subject to international competition, the second group largely protected from it.

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<sup>1</sup> "A Survey of Coal Crisis Literature", by Mack EASTMAN, in *International Labour Review*, Vol. XIII, No. 5, May 1926, pp. 623-624.

<sup>2</sup> *Survey of Industrial Relations*, pp. 88-91. London, H.M. Stationery Office, 1926.

PERCENTAGE INCREASE OF WEEKLY TIME WAGE RATES ON  
31 DECEMBER 1920 AND 30 JUNE 1925, AS COMPARED  
WITH AUGUST 1914

Industry or occupation	Time wages per cent. of wages in August 1914	
	31 December 1920	30 June 1925
<b>Exporting Industries</b>		
Coal mining :		
Yorkshire	175	65
South Wales	190	58
Iron mining :		
Cleveland	200	30-40
Cumberland	200-300	35-43
Iron and steel smelting, rolling, etc.:		
North of England	241	62
Scotland	242	55
South Wales	Varied	21
Pig iron manufacture :		
Cumberland	300-350	50-85
Cleveland and Durham	225-300	40-85
Engineering :		
Ironmoulders	123	44
Labourers	210	76
Shipbuilding :		
Platers	123	35
Labourers	208	68
Cotton industry	160	61
Wool textile industry :		
Time workers	216	90
Chemical manufacture :		
Labourers	224	115
Boot and shoe manufacture :		
Men (heel building, etc.)	127	111
<b>Sheltered Industries</b>		
Building :		
Carpenters	152	84
Labourers	225	106
Railway Service :		
Engine drivers	126-130	85-95
Goods porters	215-247	126-153
Tramways :		
Drivers	140	94
Conductors	157	106
Printing :		
Hand compositors	162	107
Baking :		
Fore hands	135	88

The incidence of international competition since 1920 is apparent. The comment of the Committee on this question<sup>1</sup> is pertinent to our subject and in accordance with the general trend of the preceding analysis :

The figures quoted tend to show not only that money rates of wages in the so-called " sheltered " employments exhibit a greater percentage increase since 1914 than in the exposed trades, but that the average levels of wages in many of those employments, both for skilled and for unskilled workers, are now materially higher than those generally prevailing in occupations which most nearly correspond to them in the more exposed trades. . . . Broadly speaking, it may be said that no industrial occupation is wholly " sheltered " in the sense that the remuneration appropriate to such occupation is in the long run independent of the world forces of supply and demand. Even if its products are not in direct competition with those of other countries, there are other channels, direct or indirect, through which competitive forces will make themselves felt . . . . But these levelling forces require a comparatively long period to produce their full effect, whereas in trades directly exposed to foreign competition the price at which the competing article will capture or fail to capture the market imposes immediate and obvious limits on the prices which can be charged and consequently on the resources available for wages and profits . . . . An exposed industry responds immediately to changes of economic conditions ; in the case of a " sheltered " industry there may be a " lag " of months or even years between such changes and the eventual readjustment. . . . In ordinary times the difficulty is but a limited one, but in times of great and sudden changes of prices and conditions, . . . the want of proportion between the remuneration of the exposed and " sheltered " industries may be and has in fact been substantial.

It is out of these circumstances that the support, theoretical and actual, comes for the regulation of international competition by international agreement upon labour conditions. Countries find that they cannot face the misery and disorganisation that arise from an unfavourable shift in their competitive position, and the organised workers strive to combat the worsening of their conditions. A measure of stability is sought by means of international agreement. It may be argued with force that the countries should, on the contrary, strive to encourage and aid mobility of their labour and capital within their boundaries. There can be no doubt that countries in which great mobility exists are better off. But the older industrial countries and the over-populated countries find this a counsel of perfection. For them it is virtually impossible to find fresh employment quickly for the tens or even hundreds of thousands of workers that may be engaged in a single industry. Besides, in most countries circumstances have com-

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<sup>1</sup> *Ibid.*, pp. 14-15.

pelled the enactment of unemployment insurance and other legislation which tends to lessen the shifting of workers, and brings a fresh problem to the budget when serious unemployment occurs.

It is in these important differences of circumstance, prevailing rather than exceptional as far as post-war Europe is concerned, that a reconciliation with the classical economic theories must be sought. Under these conditions the gains and losses from unrestricted international competition are not so simply assessed; and likewise the good and bad results of interfering with that competition by means of international labour agreements are not to be judged simply and solely in the light of the unqualified conclusion that "in the long run" unrestricted international competition leads to the production of the largest possible volume of valuable goods and services in each country. They are to be judged by weighing a more complex set of possible good and bad results.

The prevention of misery and the avoidance of industrial disorganisation, which under existing conditions in many industrial countries would not bring its own quick end in accordance with the classical theory, are the economic ends sought in international action dealing with labour conditions. This effort thus becomes, in my interpretation, above all an effort to secure some measure of stability in relative labour conditions. Some economic loss may — nay, it can be said, will — result from this regulation of international competition. This loss may be in several directions: first, many consumers may have to pay somewhat more for certain products; secondly, the workers and capitalists of certain countries where the general level of industrial effectiveness is low may find themselves unable to enter certain industries which they could carry on under unrestricted international competition and which would yield higher returns than some already in existence; thirdly, the lack of freedom to revise standards may produce unemployment in some directions and countries, while avoiding it in others. These losses may be serious. But considering the present conditions of industry the gains may sometimes outweigh them — gains in the way of protection of the higher standards already obtained in some countries, in the partial stabilisation of the conditions of competition, in the creation of the necessity of finding new means of competitive effectiveness, in the possible avoidance of industrial strife. It is to be expected that the losses would be minimised by the anxiety of each country to guard its own interests before entering any international agreement.

The correctness of this opinion becomes more likely when it is reflected that in the absence of all international agreement it is possible for a temporary change in circumstances in any one country, say a temporary industrial depression, to affect seriously the standards in competing industries in other countries. The trade unions of each country, in particular, feel that the conditions which they have secured are always in danger of destruction even by the temporary difficulties experienced in other lands, even by the fluctuations in trade union strength abroad. Hence their firm support for international action and their tendency to disregard the economic losses they may suffer as consumers — and in some cases, if the terms of the Conventions do not fall within the productive capacity of their country, as producers.

I wish to develop somewhat further the possible losses and gains — dangers and advantages — of international labour legislation. A number of possibilities, half in the realm of fact, half in the realm of policy, require consideration. First, it must be observed that if a country establishes a minimum standard of labour conditions as part of a joint agreement, it thereby becomes more difficult for any new industry to arise within that country merely because it happens that it can benefit by conditions of labour especially low even for that country. In other words, it may help to prevent "sweating": it makes it more difficult for an industry to arise in a country merely because it can take advantage of the bargaining weakness of particular bodies of workers; it stimulates the effort to employ the same labour more advantageously and with better methods of production. In the event, however, that no adequate alternative employment exists for the groups of workers affected, the result will be unemployment.

The preceding line of thought may be carried a step further and applied to the competitive relations of different countries. If international agreements establishing minimum conditions of labour are ratified by those countries in which conditions are now very much poorer than in the more effective industrial countries, the result will be to prevent the further expansion of industry in these countries unless and until they can meet this standard. The countries where conditions are poorest have as yet relatively few industries competing in the international market. By international action terms would be created for the possible future growth of competition with those countries where higher standards have already been achieved. That, in my opinion, is an advisable step for the world, although certain immediate economic losses

will result, and these losses might fall most heavily on those countries in which conditions are already poorest.

So much by way of estimating the differences of doctrine between orthodox economic theorists and advocates of international labour legislation, as regards the effects of unregulated international competition. Another point of difference between the two schools lies in their difference of emphasis upon another set of possibilities. This set of possibilities is represented by the belief that joint action through a permanent organisation such as the International Labour Organisation, in the work of which governments, workers, and employers participate, might in itself do something to create the economic conditions making an improvement of labour conditions possible. There has been the hope that continued discussion and effort carried on through the International Labour Organisation would sharpen the consciousness of labour conditions, arouse greater co-operative effort within each country to improve them, and, by improving industrial relations and encouraging thought and action, produce an increase of productive effectiveness within each country. The possibility cannot be weighed apart from the whole state of industrial relations and methods existing at any given time and place. Akin to this possibility is another which undoubtedly has figured in the thoughts of the labour supporters of international action. That is the possibility that the promotion of joint action by such a body as the annual Conference of the International Labour Organisation would give moral strength and prestige to the workers of each country in their effort to secure as large a share of the product of industry as possible; in other words, that joint action may be an aid to securing conditions really permitted by the general productivity of a country, but not established until forced by events. On this possibility, also, generalisation is of practically no value. The result may be economically sound or unsound according to circumstances. In one direction, however, it has considerable importance. Economic history tends to show that when the conditions of labour within a country are extremely poor, they tend to perpetuate themselves. This may be traced to a number of causes — the force of tradition, the weak bargaining power of extremely poorly paid workers, the deterioration of strength and character, the tendency towards poor management of a cheap labour supply, the extent of family labour, and the high birth rate characteristic of poorly paid industrial wage-earning groups. Joint action seeking to create a world-wide minimum standard of conditions may act as a counter force

and be the beginning of an effort to overcome the self-perpetuating situation. This result is not by any means assured — but it is among the possibilities. The necessary increase in human effort and co-operation may or may not be forthcoming under compulsion. The size of the population may or may not continue to grow at so rapid a rate compared with natural resources as to defeat all effort at improvement — huge masses seeking work at any price, and habitual economic misery such as exists in the Oriental countries. But international action is one of the few available means of stimulating the effort. The main body of economic theory does not contemplate it, does not recognise it as among the basic influences which may determine standards of work and living in the long run; on the other hand, it does not completely reject the possibility.

#### IV

Some further possible consequences of international labour legislation are revealed by considering the position in which countries possessing at present different standards of labour conditions find themselves placed in the face of international action designed to establish a universal minimum standard.

The position of countries in which the conditions of labour are already better than elsewhere is a simple one (at least as regards those particular questions in which this established superiority is clear and permanent). They anticipate a protection of their relative position in international competition. They should tend, furthermore, to become the promoters of an international interest — real or presumed. That international interest is based on a humane, semi-ethical judgement that there is a standard of working conditions and welfare which is necessary in the modern world for the proper development of human character and satisfaction of basic human wants; it is defended by the conviction that wherever such a standard has been attained it should be protected, and that where it has not been attained it should be developed. This judgment as to international interest therefore holds that those countries which have attained higher standards should not be compelled to sacrifice them to a competition which is effective merely because it is based on very poorly paid labour working under very poor conditions — as has already been stated, this result could only be temporary, but nevertheless serious. It asserts that countries where standards are poor should carry



the burden of improving them before they enter into international competition, that industries and industrial activity should not be permitted to migrate to places where conditions are poorest. Naturally this reasoning tends to be congenial to trade union organisations throughout the world.

In support of this judgement the parallel of national legislation, creating minimum standard conditions throughout the whole of a national territory, is often cited. But this parallel has little force. For within any one country there are neither customs barriers nor immigration restrictions, and there is a much freer movement of goods, capital, and labour than between countries. All parts of a country may therefore be required to meet a minimum standard with less fear of economic suffering or less chance of injustice than in the case of international action. And, on the contrary, the existence of tariff and immigration laws greatly weakens the moral argument for the international observance of minimum standards. It weakens the moral duty imposed upon the countries where conditions are poorest to meet some world standard since they enter into international competition. Our general reasoning indicates that these countries may sometimes risk an economic loss to themselves if they do participate in joint action. On the other hand, such joint action may act as a moral, social, and technical spur to these countries, helping them to improve their conditions of labour.

The difficulties facing those countries which, in order to participate in any joint effort, are called upon to modify their standards (as embodied in legislation) more than other countries, are apt to be genuine and serious. Great and permanent improvement of conditions must mainly rest upon an improvement of industrial effectiveness. The need of paying for purchases made abroad will constantly defeat the effort to improve labour conditions beyond the levels permitted by this industrial effectiveness — difficult as these may be to determine in theory. Obviously, the disposition and ability of each of these countries to undertake such changes will be determined largely by the economic fortunes of the country — by whether their workmen are fully employed, industry growing in effectiveness, industrial leadership energetic and progressive, or the contrary, trade unionism strong or weak. We have observed the numberless combinations of causes, human and physical, circumstantial or immutable, which account for the lowness of their existing standards. An improvement of these standards may sometimes be undertaken with relatively little

fear if the facts be correctly judged; the economic position may be prepared for it or easily improved by determination and industry. At other times such countries may face well-nigh unconquerable obstacles to the successful maintenance of higher standards, to the attempt to approach the better conditions prevailing in other countries; any effort may be doomed to failure by causing unemployment, by non-observance of enacted legislation, by worsening the lot of some groups of wage earners in the effort to improve that of others. The economic limits are ever present and important; a loss not only to these countries but to the countries which sell to them will result from attempts to ignore them.

It is not necessary to go over again the grounds on which the opinion is based that the effort to improve conditions should be made whenever a reasonable chance of successful achievement exists — the possibilities of making industry more effective or increasing the share of the product going to the workers without doing corresponding economic harm elsewhere. These are important possibilities in this rapidly changing, complex economic world, in which we are all conscious of the fact that our technical knowledge and human talent is enough to make production so much more effective than it is at present. Yet they are often only vague and frequently turn out to be visionary. Still, it is within the domain of these possibilities that the hopes of those lie who believe it possible gradually to create by international action a general minimum standard of conditions, good enough to satisfy to some extent the aspirations embodied in Part XIII of the Peace Treaty — even in countries where conditions are now poorest. The economic limitations are to be tested. Because of them the work of the International Labour Organisation must become an educative, conciliatory influence, adding to practical knowledge, moulding human attitudes and relations — if the Organisation hopes to make any progress in its aims. If it turns into a mechanical Convention-dragging agency it will be dead.

## V

In the existence of economic obstacles, in fact, is to be found a great part of the explanation of some features of the agreements formulated by the International Labour Organisation up to the present. The States Members, even if their action is not made cautious by the caution of the employers, even if the will exists to participate in international action dealing with labour conditions,

must feel their way slowly about the economic difficulties they may face. Gathered together in conference the representatives of governments, workers, and employers of each country always find that they have numerous courses of action open to them, each course of action shading into the next by small degrees. The time of the Conference is spent chiefly in trying to decide which course of action shall be undertaken. It is possible to indicate only a few of the broader types of possibilities. The Conference majority of two-thirds may endorse terms which represent conditions better than those prevailing even in the countries where economic effort is most effective — terms designed to satisfy social ideals at once; if that is done it is very likely that the resulting agreement will secure extremely few ratifications and have no effect. Or the terms embodied in the Draft Convention may represent some improvement over existing conditions in countries where they are poorest, but not mark any improvement in most countries; in which case the process of ratification will probably move smoothly in most countries, but the conditions established still fall below the minimum expectations of the workers in the more industrially effective countries. Or the Conference may after many meetings contrive to find a compromise between these two types of agreement — a constant compromise of detail, which should mark, if put into force, some improvement of conditions in almost all countries, yet not be such as to exclude completely the ratifications of countries where existing conditions approach the poorer levels. Such is usually the course pursued. Most of the draft agreements formulated by the Conference propose some improvement of existing conditions in most countries, perhaps even in all countries — still, only a small improvement; most of them also, as we shall see, leave the way open for exceptions and hold over the hope of agreement upon many points where the difference of economic conditions in different countries proves too great an obstacle. These agreements are almost always opposed with determination by the employers' representatives, and supported by the workers' representatives as being much below their wishes but the best immediately attainable. These opposed views find expression in opposite theories of the aims of the Conference. This process of compromise may be regarded as exploratory manœuvres carried on within the area of uncertainties left by economic observations. They are the push and tug of opposed interests and hopes, of caution and of boldness.

## VI

If the preceding examination of the economic problems brought up by international action dealing with labour agreement, and of the methods by which the attempt to reach agreement is carried out, is correct, it is plain that the establishment of a uniform standard of conditions is unattainable; or rather, it is plain that the only uniform standard that might be attainable would have to be within reach of those countries where the level of production is extremely low, and such standards will never find embodiment in international agreements. It may be asked, therefore, whether the attainment of uniformity is essential to the achievement of the aims of international action, and whether that is the only just basis of agreement. A natural assumption to that effect is often made in conference discussion. There would seem to be no sound economic or ethical basis for that opinion. The economic results of such a policy have already been discussed; and (since national barriers such as tariff and immigration laws are enforced, and as long as it is generally held that a country's economic policy should be based first of all on national interests irrespective of international effects) only an extremely weak ethical duty can be assigned to those countries where the standards are lowest, except the duty of these countries towards their own workers.

Economic analysis reveals no essential need for uniformity; nor will the absence of uniformity in itself defeat the aims of joint action. Even if uniformity of minimum standards were attained, the difficult situations sometimes created by international competition would not necessarily be less than they would otherwise be. What is needed, and what may not be out of the range of achievement, is, first, a tendency towards general improvement, a tendency on the part of each country to improve conditions of labour as much as its industrial effectiveness may permit; secondly, substantial equality and stability of minimum conditions as between countries where the levels of industrial effectiveness are substantially equal; and thirdly, the gradual pressure on States where conditions are poorest to approach the standards existing elsewhere, so that industrial activity may not gradually shift into the areas where conditions are worst. In some such moderate policy as this lies the hope of avoiding some of the worst effects of international competition, while preserving most of its gains.

## VII

If it were possible, it would be illuminating to study the history of the action of the States Members of the International Labour Organisation in regard to the projects for agreement which have been before the annual meetings of the Conference, and the Conventions and Recommendations adopted by the Conference. That study would throw light upon the economic calculations of each State, and reveal clearly how the effort has been made by each State to participate in joint action for the improvement of labour conditions and yet to avoid the economic difficulties. It would show why and where the effort has been made to limit or stabilise the force of international competition, and how difficult and even inadvisable that is in many circumstances. But that would be a task of difficulty and endless complexity. Only one phase of it can be attempted now. It is possible to trace out roughly and generally the way in which the States Members have tried, in framing their agreements, to find terms of agreement which represent some improvement of conditions in many countries and some modification of the rigour of international competition, within the limitations of economic facts and frequently conflicting national interests. That study shows that the rule of uniformity of conditions has been found partially applicable, especially as between the chief competing countries in Europe, and that, on the other hand, other rules and arrangements have been substituted for it in many instances<sup>1</sup>.

In the third paragraph of Article 405 of Part XIII of the Peace Treaty, the following paragraph is to be found :

In framing any recommendation or draft convention of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organisation, or other special circumstances make the industrial conditions substantially different, and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries.

Article 421 of the same Part of the Treaty reads as follows :

The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty

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<sup>1</sup> A useful distinction may perhaps be drawn between matters of principle (e.g. freedom of association, existence of social insurance plans) and matters of direct economic measurement and actual standards (e.g. hours of work). The principle may be universally applicable, the standard not so — but the reverse is also possible. I owe this distinction to J. R. Richardson of the International Labour Office.

to their colonies, protectorates and possessions which are not fully self-governing :

- (1) Except where owing to the local conditions the convention is inapplicable, or
- (2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

Article 427 of Part XIII may also be quoted in this connection :

The High Contracting Parties, recognising that the well-being, physical, moral and intellectual, of industrial wage earners is of supreme international importance, have framed, in order to further this great end, the permanent machinery provided for in Section I, and associated with that of the League of Nations.

They recognise that differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labour difficult of immediate attainment. But, holding as they do that labour should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit.

In these texts there appears adequate constitutional recognition of the fact that uniform conditions may in many cases be inadvisable and impossible of attainment. To learn what has actually happened it is necessary to enquire what process has taken place under these constitutional texts.

First, as has been stated, serious controversy has arisen at each Session of the Conference over the precise standard of conditions to be embodied in the proposed agreement under discussion. It was to be expected that it would often be debated whether the conditions provided should be actually or very nearly within immediate attainment on the part of countries having comparatively poor conditions, or so decidedly above existing conditions in those countries as to make their acceptance and enforcement a considerable risk and strain, though still below the conditions prevailing in the countries of greater industrial effectiveness. The decision in many instances runs in the latter direction. But in many instances, also, the controversy has concerned itself rather with the question whether the conditions prescribed should not mark an improvement over existing conditions even in the countries of comparatively high existing conditions, such as those of Western Europe. That is due to the comparatively great strength and prestige of the trade union movements in those countries. These trade unions have been most reluctant to see standards embodied in Conventions that did not mark decided improvement over the conditions under which they,

themselves, were working. These trade union movements have held the hope of procuring the ratification of their own countries, even though the countries where existing conditions were comparatively low could not be expected to ratify. In short, the labour representatives of the various countries have not often been afraid of tipping the balance of international competition against themselves. This attitude is based partly on the deeply held trade union conviction that it is virtually always possible for workers to receive a larger share of the product than they are actually receiving without doing economic harm. In short, labour representatives have wanted the Conventions to be of assistance to them in their distributive contest, and have been willing to rest on the hope that similar improvements of industrial conditions in other countries would keep the international competitive position unchanged. The economic hazards of realising this programme have already been discussed. The employers' representatives of each country have usually taken a position of opposition to the labour demands and views, and have tended to seek conditions relatively easy of establishment which also might improve their competitive position. Sometimes they have supported a small measure of improvement, sometimes declared that economic difficulties made any improvement impossible.

A tendency towards group feeling and co-operation within the Conference has probably led the employers' representatives of some countries to oppose terms which might not have caused any serious additional production expense to them, but might have that effect in other countries. Behind such action lies the hope of reciprocal support. The same tendency to group support and bargaining exists among the workers' representatives. The result of the whole process is compromise under influence of the government representatives, sometimes on terms little or no better than the existing situation in many Member States, sometimes better than those in most or all Member States. To try to describe fully and accurately the level reached would require an immense detailed investigation. Seldom or never have the terms of agreement passed by the Conference majority (two-thirds) been pitched down to the lowest range of those existing. But no guarantee of ratifications exists, of course, and the process of ratification in many instances has made difficult progress.

Certain other features of the agreements reached by the Conference require consideration as part of the same subject. In the case of several important Conventions a special standard

lower than the main standard is provided for countries which could not possibly reach the main standard. The debates of the Conference show that this arrangement was made only with reluctance. An instance of such special provisions is to be found in the Hours of Work Convention of 1919, wherein a special regime different from the general one of the Convention is specified for Japan and British India, and it is furthermore provided that "The provisions of this Convention shall not apply to China, Persia and Siam, but provisions limiting the hours of work in these countries shall be considered at a future meeting of the General Conference." Special provisions of a similar character to that of the illustration just given are to be found in the Conventions concerning the employment of women during the night, the minimum age for admission of children to industrial employment, the night work of young persons employed in industry, and the minimum age for the admission of young persons to employment as trimmers and stokers.

All the differences of regime specified in the Conventions up to the present apply only as between certain countries of the Far East and the other Member States. The general idea that all the other Member States must and can prove themselves capable of having minimum conditions equal to those of the Conventions, has prevailed. Smaller differences were involved. Still, the attainment and enforcement of the general terms of these Conventions will mean a different measure of change in different countries. A real economic problem may be involved with the possibility of genuine economic loss; it will be solved only if and as the countries with the relatively poor conditions improve their productive effectiveness.

The specification of exceptional terms for certain countries is not the only way in which heed has been taken of the differences in economic position which form an obstacle to uniformity. The Conference under its constitutional powers is authorised to embody its agreements in either of two forms or instruments, for submission to the judgement of the competent authorities of the States Members. These two forms are known as Conventions and Recommendations. Conventions, once ratified, are strict documents: a ratifying country gives a pledge that its national law will be brought into conformity with the terms of the Convention and so maintained for the period of the Convention. Recommendations, on the contrary, never become international treaties, and do not require that States give any international pledge. Each State Member is under the same



obligation to submit Recommendations to the competent authority for such action as that authority may decide to take, as in the case of Conventions. But no international obligation is assumed. Each country may carry out the terms of a Recommendation piecemeal and partially rather than completely, and remains legally free to change its legislation as and when it pleases. Furthermore, the terms of a Recommendation are usually drawn very broadly, and leave open a broad field of discretion as to the standard to be established, in contrast to the main principle of a Convention. The Conference has put its agreements in the form of Recommendations when dealing with matters in which joint action is necessary, but in which (a) the obstacles to uniformity of standards are so great as to make even near approach to uniformity unrealisable; (b) the alternative means of carrying out a given purpose are numerous and traditionally different in different countries; for example, as regards the organisation of factory inspection. Because of the characteristics of Recommendations, this form of agreement raises far less serious economic problems than do Conventions. But they are a very weak form of joint action, amounting at most to a moral stimulus to action, and at worst to a pious wish. For they offer no such guarantee and security as is found by States Members in the relative precision and irrevocability of Conventions.

It is important to observe, however, that even in the Conventions it has often been found necessary to avoid the insertion of precise and rigid terms on many points if any real hope of ratification was to be entertained. On various points of the matters covered by the Conventions, no precise standard is defined within the Conventions. The method used is to provide that the conditions to be established as regards the point in question are to be decided in accordance with national legislation. This procedure was followed, for example, in the matter of determining the rates of compensation for industrial accidents and occupational diseases. This leaves the way open for States Members to ratify the Convention, though the conditions established in some respects or parts may differ from those maintained in other countries. It leaves these points to be decided by each country. Or in other words, when this formula is used, the States Members of the Conference virtually agree to disagree.

Lastly, it should be observed that up to the present no attempt has been made to secure international action dealing with wages. It has been tacitly recognised that the differences between the

productive effectiveness and economic condition of the States Members, and the complexity of the subject, make it impossible to formulate internationally any general level — not even a low minimum. For these same reasons any future agreement reached will have to be in very general terms and weak form ; for example, a recommendation to States Members to establish machinery to determine minimum wages for the poorest paid occupations.

These have been the main methods by which, up to the present, economic difficulties have been reckoned with in the effort to reach international agreements, by which the attempt is being made to limit the possible downward pressure of international competition without sacrificing its advantages. To try to measure the success of this effort is beyond the scope of this paper.

### VIII

The preceding analysis does not lead to many clear-cut conclusions. But a few tentative and general ones may be drawn.

(1) The conclusion of economic theory, that the main effect of international competition is beneficial to all countries affected by it, is sound. Its main constantly working effect is to increase the income of all countries participating in it.

(2) The general doctrine does not give proper weight to certain effects of international competition which may be destructive and serious. These arise from the fact that the basic assumptions of economic theory do not always correspond closely to some of the existing facts of economic life. Many of those industries which are most subject to international competition operate on an immense scale, have great fixed plants, and employ up to hundreds of thousands of workers who can find employment in other directions only with difficulty and when the country is in a state of industrial activity or expansion. Hence shifts in the competitive situation of different countries may produce serious depression in labour conditions, particularly in the export industries, below the standards supportable by the productivity of some or all of these countries. These effects may be of considerable duration, and indirectly may prove a serious set-back of the whole industrial situation within a country.

(3) Such agreements may be a means of securing important economic gains for all concerned :

(a) They may prevent a depression of working conditions and

industrial disorganisation, especially in the export industries, from being produced by temporary circumstances and fluctuations in one country.

(b) They may prevent such depression of standards resulting from the fact that in one or several countries particular grades of labour are "sweated", taking into account the level of industrial effectiveness within these countries.

(c) They may prevent a drift of industry to those places where labour conditions are poorest, at the cost of great readjustments in those countries where they are better; they may lead to the establishment of certain minimum required standards in the creation of future industrial communities.

(4) On the other hand, such agreements may entail certain economic losses :

(a) By hindering certain basic changes in the conditions of competition between countries from working themselves out, they may produce higher prices than would otherwise prevail.

(b) They may make it more difficult for countries where conditions are poorest to advance industrially.

(c) The welfare of particular groups of workers and capitalists in industries in particular countries may be adversely affected by the lack of freedom to revise standards downwards so as to meet either temporary or permanent changes in their competitive situation.

(5) The soundness of international labour legislation cannot be judged solely by weighing the preceding possibilities of loss and gain. Some broader considerations must also be taken into account :

(a) The fact that there often is a genuine possibility of increasing industrial effectiveness within a country by determination, intelligence, and common effort is a sound basis for the opinion that countries have a duty to co-operate in international action in this field; it also is the basis for the further opinion that a particularly serious duty rests on those countries where conditions are unusually low to approach the more general standard.

(b) If in any country the product of industry is being shared out so that the workers are not receiving in the way of income or conditions approximately as large a part of the product as might be paid to them without doing injustice to the other participants, and without reducing future production by discouraging investment and business leadership, this tends to produce a similar result in

other countries because of its effect upon comparative costs. Bargaining weakness may produce this result; international action might overcome it without a shift in the competitive conditions.

(c) The inability or unwillingness of some countries to improve labour conditions may act as a drag upon the efforts at improvement in other countries — as indicated in the preceding headings. This check can only be temporary, but is, nevertheless, of consequence.

Certain further pertinent conclusions indicated in the preceding analysis may also be summarised here.

(6) Substantial uniformity of labour conditions, even as a legal minimum, is never to be expected. Nor is there any economic reason for believing that a condition of uniformity established by legislation will result in the greatest total economic good for all countries concerned, or avoid, to the greatest possible extent, economic misery.

(7) It is in the essential nature of the aims of the International Labour Organisation that it will for ever be faced with intricate conflicts of interests between workers and employers, and between different countries. It can do little more than achieve a delicate and constantly renewed balance of these interests on changing grounds, a reconciliation of them on the basis of some improvement of labour conditions wherever the economic circumstances make improvement possible.

(8) Substantial and permanent progress towards the aims of the International Labour Organisation must come through uniting workers and employers in a common duty, in the determination to make improvement of conditions possible by making industry more productive. Its work must be, in that sense, primarily educational.