January 3, 1959

Dear Com.TRG,

You are perhaps aware that the sub-committee meeting for considering amendments to Industrial Disputes Act has been fixed at Bombay on 16th and 17th of this month.

As we all will be busy with the General Council meeting at Bangalore at that time and earlier, it is suggested that Com.Row and you friends should find find to discuss the amendments prepared by us and our line of action with Coms.P.R. and K.T.K.Tangamani. I am sure you will take necessary steps in the matter.

With greetings,

Yours fraternally,

(K.G.Srivastava)

Copy to: Com.K.T.K.Tangamani,
Madurai.

THE COMMERCIAL & MERCANTILE EMPLOYEES' FEDERATION

(Reg. No. 2456)

President:
V. G. ROW, Barrister-at-Law.

12/13, Angappa Naicken Street,
Madras-1

Madras-1.....24th..January...1959 .

Mr. S.A.Dange, M.P.,
4, Ashoka Road,
New Delhi.

Dear Comrade,

I enclose a copy of letter written to the Deputy Union Minister for Labour, New Delhi to-day, furnishing certain particulars, which he has asked me at the Sub-Committee Meeting of the Standing Labour Committee held at Bombay. The letter is self-explanatroy.

The matter may please be raised in the Parliament either during the Budget Session while discussing the grant for Labour or on some occassion suitable for it.

The AITUC's amendment that the Govt. should not be vested with the discretion in the matter of granting a reference to an Industrial Dispute was not accepted by the Sub-Committee, but the Deputy Union Minister said that as a normal rule reference of a dispute to a tribunal will be made.

Thanking you,

Yours faithfully,

V. Subramaniam.

27 JAN 1959

THE COMMERCIAL & MERCANTILE EMPLOYEES' FEDERATION

(Reg. No. 2456)

President:
V. G. ROW, Barrister-at-Law.

12/13, Angappa Naicken Street,
Madras-1 ..... 24th January ..... 1959.

Mr. Abid Ali,
Deputy Union Minister for Labour,
Govt. of India,
NEW DELHI.

Dear Sir,

At the meeting of the Sub-Committee of the Standing Labour Conference held at Bombay on the 16th and 17th, instant, the representative from the All India Trade Union Congress, while in the course of discussion of the Section 10 of the Industrial Disputes Act, pointed out to you that the Madras Government have not been fair in rejecting a reference to Industrial Tribunal on the question of Bonus for 1957. The representative informed the Sub-Committee that the Govt. refused a reference of the dispute for Bonus for the year 1957 on the ground that the demand was belated. We enclose herewith a true copy of the Govt. memorandum No.152206 LI/58-1 dated 12-12-58 - Department of Industries, Labour and Co-operation. You will find from there that on item No.19 of the dispute, the Govt. have held that the demand was belated.

For your information, we may inform you that the financial year for the company namely Messrs. Binny & Co.(Madras) Ltd. is calender year, and the balance sheet of the Company for the year 1957 was first published on 1st April 1958. The Shareholders meeting was held on the 25th April 1958. The demand for Bonus for the year 1957 was made by the Binny Staff Union on 9th May 1958. You will therefore find that the demand was placed on the Management within 14 days after the adoption of the Directors' report by the share-holders and within 39 days after the publication of the balance-sheet by the Company. You may also be aware that Many Industrial Tribunal has held a claim for Bonus as belated, unless atleast 3 years have elapsed since the close of financial year to which the claim for Bonus relates. The A.I.T.U.C. representative had not had the copy of the Government order with him then and as directed by you, we are sending herewith the same. The Commissioner of Labour, Madras tried to justify the order on the ground that the Govt. had not turned down the dispute for the reason that it is belated, but you will see on dispute No.19 that the Govt. have held so.

We request you to kindly use your good Office in the matter and see that the justice is done to the workers. You were good enough to agree that for the reason given by the Madras Govt. for refusal of the reference to an Industrial Tribunal on the ground that it is belated is "patently wrong" and you were good enough to ask the Madras Labour Commissioner to reconsider the matter.

We are sending a copy of this letter both to the Minister for Labour, Madras and to the State Labour Commissioner.

Thanking you,

Yours faithfully,

General Secretary

Encls: copy of Govt. Order.

copy to the Minister for Labour,
Govt. of Madras, Madras.
2. Commissioner of Labour,
Madras.
3. Com. S.A.Dange, M.P.
General Secretary, AITUC,
New Delhi.

THE COMMERCIAL & MERCANTILE EMPLOYEES' FEDERATION

(Reg. No. 2456)

President:
V. G. ROW, Barrister-at-Law.

12/13, Angappa Naicken Street,
Madras-1 ..... 195 .

/True copy/

DEPARTMENT OF INDUSTRIES, LABOUR AND CO-OPERATION

Memorandum No.I52206 L/I/58-I, dated: I2-I2-58

Sub: LABOUR - Disputes - Binny & Co.(Madras) Ltd. Madras - Bonus for I956 etc. - conciliation -- orders passed.

Ref: Labour Officer's Conciliation report No.C.I.2586/58 dated I5-II-58
From the Commissioner of Labour, Letter No.AI.58091/58 dated 26-II-58

The Govt. pass the following orders on the demands raised in the conciliation report cited:

I. Bonus for 1956: The demand is belated. There is no case for adjudication.

2. Increase in Provident Fund Contribution and
3. Increase in dearness allowance:
These demands were not pressed by the Union.
4. Supply of Tea: This is not a fit issue for adjudication.
5. Grant of educational facilities: The Union has accepted the scheme offered by the Management. No intervention is called for.
6. Improved medical facilities: The Union did not press the demand.
7. Payment of acting allowance: The Management is reported to have agreed to consider the question of payment of acting allowance to employees in a lower cadre when they act in the higher cadre. There is therefore no case for adjudication.
8. Night shift allowance to watchmen: It has been reported that night duty is given to watchmen in rotation. There is therefore no case for adjudication.
9. Grant of festival holidays as under the Negotiable Instruments Act: It is observed that the Management are granting holidays as per the list prepared by the Madras Chamber of Commerce. There is therefore no case for adjudication.
10. Cloak room for facilities to attenders etc: It has been reported that the present system is working satisfactorily. There is no case for adjudication.
11. Increased leave facilities: It has been reported that the existing leave facilities are in accordance with the provisions of the Madras Shops & Establishments Act. There is no case for adjudication.
12. Uniforms, promotion and overtime to attenders:- As regards issue of uniforms, the management has agreed to examine the matter.
The demand regarding promotion to attenders was not pressed by the Union.
The management has agreed to consider specific cases of overtime work if brought to its notice.
There is therefore no case for adjudication.
13. Overtime wages to drivers: It has been reported that the management has agreed to consider the question. The Union may await its decision. There is no case for adjudication.
14. Uniforms to sweepers and scavengers: and
15. Preference in employment to employees' children: These demands were not pressed by the Union.
16. Travelling Allowance to clerks going on leave: This is a matter which has to be left at the discretion of the management. There is no case for adjudication.
17. Conveyance allowance to watchmen posted for bungalow duty: It is reported that on occasions when the watchmen have to report for bungalow duty, they do not go to the main office. This demand is not therefore reasonable. There is no cause for adjudication.
18. Lunch interval to drivers: It has been reported that in actual practice there is no difficulty for the drivers in taking off some time for their lunch. However, specific cases

THE COMMERCIAL & MERCANTILE EMPLOYEES' FEDERATION

(Reg. No. 2456)

President:
V. G. ROW, Barrister-at-Law.

12/13, Angappa Naicken Street,
Madras-1 195

Cont/-

of hardship may be taken to the notice of the management for redressal.

The union demand for tiffin allowance is not justified.

It has been reported that drivers are paid double the wages for the work on holidays.

It has also been reported that the drivers are given sufficient protection against cold when they go to the Hill stations.

The existing batta now paid to the drivers are adequate.

There is therefore no case for adjudication.

I9. Bonus for 1957: The demand is belated. There is no case for adjudication.

C.D.JANAKIRAMAN
Additional Deputy Secretary to Govt.

To: The Secretary, Binny's Staff Union, I2/I3, Angappa Naicken St., Madras.

The Management of Binny & Co. (Madras) Ltd, Post Box No.66, Madras-I

Copy to: The Commissioner of Labour, Madras-5.

FOR AMDED : BY ORDER

sd/-
SUPERINTENDENT

SUM.I6.I2.

OFFICE: TELE: 2611 RESIDENCE TELE: 4810

V. C. Row
BARRISTER-AT-LAW
MEMBER, MADRAS LEGISLATIVE COUNCIL,
OFFICE:
M/S. ROW & REDDY,
ADVOCATES
ANDHRA INSURANCE BUILDINGS,
337, THAMBU CHETTY STREET,
MADRAS 1.

25, LETANGS ROAD,
VEPERY, P.O., MADRAS-7.

175 B

Dated 21st January 1959.

Sri K.G.Srivastava,
Secretary,
All India Trade Union Congress,
4, Ashoka Road,
NEW DELHI.

Dear Com. Srivastava,

Regarding my expenses etc. for the trip to Bombay for the sub-committee meeting including expenses for Com.V.Subramaniam and typing and other incidental charges, I request you to send Rs.250/- in full settlement. Kindly let me have an early reply.

With Greetings.

Yours fraternally,

(V.C. ROW)

TELEGRAMS: "CAPACITY" V.G. ROW, C/o

ROW & REDDY
ADVOCATES

Partners:
V. G. ROW, BARRISTER-AT-LAW,
ADVOCATE, SUPREME COURT,
MEMBER, MADRAS LEGISLATIVE COUNCIL.
A. RAMACHANDRAN, M.A. (CANTAB)
BARRISTER-AT-LAW.

TELEPHONE NO. 2611

ANDHRA INSURANCE BUILDINGS,
337, THAMBU CHETTY STREET, MADRAS-1.

Ref. No.....

Dated 21st January 1959.

Sri K.G. Srivatsava,
Secretary,
All India Trade Union Congress,
4, Ashoka Road,
NEW DELHI.

Dear Com. Srivatsava,

I am enclosing with this letter a Report of the proceedings of the Sub Committee Meeting held on 16th and 17th January, 1959 at Bombay for considering Amendments to the Industrial Disputes Act. Shri Abid Ali, Union Deputy Minister for Labour who presided over the meeting did not seem to be anxious to have a full discussion of all the Amendments but seem to be rather anxious to get over the proceedings as quickly as possible and this was specially so on the second day of the meeting when amendments to Section 25 onwards were considered. However due to our efforts and the efforts of the delegate of the H.M.S. Com. Sathe, we forced the committee to discuss some of the important amendments to the Act.

Though all the important amendments suggested by us were pressed we were not able to achieve much but it could be stated here that the main achievement was that every one of the amendments suggested by the organisations of employers were negatived due to our vehement opposition. Some of the reactionary amendments suggested by the Bombay Government were also negatived. The Report which appeared in the Times of India and other papers relating to Chapter V.A of the Act, namely provisions relating to lay off and retrenchment is not quite correct. What happened was that when the proceedings started ~~with~~ that Chapter on the 17th Shri Abid Ali stated that there was an agreement at a higher level regarding the provisions relating to retrenchment and lay off, and therefore the Government would not consider any amendments unless both the employers and workmen agree.

One important point I would like to make is that the Bombay Labour Minister Shri Chantilal Shah tried to press some of the reactionary amendments that they were successfully resisted. The amendment on which the Bombay Minister was very anxious was to exempt new factories and small scale industries ~~to be exempted~~ from the provisions of retrenchment compensation.

The enclosed report only shows the result of the discussions on the main amendments suggested by us and also all the amendments which were accepted with or without modification.

I should like to know whether you want me to send a copy of all the amendments sent to us by the Government and considered at the meeting. We are enclosing herewith an extra copy of this letter and the report for Com. Dange.

Encls: Three.

Yours fraternally,

(V.G. ROW)

The Sub-Committee met at Bombay Sachivalaya at 10 A.M. on 16-1-1959 with Sri, Abid Ali, Union Deputy Minister for Labour as Chairman:

We are enclosing a list of persons who participated at the Meeting.

The Chairman opened the Conference with a statement that the Committee ought to have met on the 6th Dec. But unfortunately the meeting was delayed. He said that the total number of amendments received by the Government upto 24-12-1958 was 201 out of which 119 were suggestions from workers' organisations, 50 from Central and State Governments 32 from Employers Organisations. The Committee observed a minute's silence as a mark of respect of late Sri.Somnath Dave.

The amendments were taken up for consideration section-war.

The amendment to Sec.2 (a) (i) to bring disputes in contonment Boards within the Central sphere was agreed to by the Committee.

2(eee): The suggestion of the A.I.T.U.C for deletion of this sub-section relating to the definition of "continuous service" was discussed. It was generally considered that there was redundancy and therefore it was agreed that the Government draftsman should look into this and the definition both in Sec.2 (eee) and Sec.25B should be brought in line.

2(g) The suggestion of the A.I.T.U.C. to define the word "employer" so as to make him an employer of contract labour also on the lines of the Bombay Industrial Relations Act was discussed at some length and the suggestion to amend on the above lines was <u>accepted.</u>

2(j) The suggestion on behalf of the workmen to include profession like solicitors, auditors etc, within the meaning of the word Industry was accepted with the modification that only where such profession is carried on with an establishment would come within the word "Industry".

2(k) Re: The suggestion of the A.I.T.U.C. to amend the word "industrial dispute" to remove the effect of the Supreme Court judgment in the Dinakuchi Tea Estate Case even though pressed, the Government only agreed to have the matter examined whether at the end of the definition the words "whether a workman or not connected with the establishment" should be added.

2(n): The suggestion to include "Air Transport Industry" as a public utility service was agreed to by the Committee.

2(oo): The suggestion of the A.I.T.U.C. to include within the meaning the word "retrenchment" even a simple discharge was discussed at great length but the Government did not accept the suggestion.

2(p): After a heated discussion, the Government did not accept the A.I.T.U.C. suggestion to amend the word "Settlement" so that a settlement will be binding only if ratified by majority of the workmen".

(2(rr): The A.I.T.U.C. suggestion to include bonus and contribution of pension or provident fund or benefits of gratuity within the meaning of the word "wages" and also the suggestion to amend the payment of Wages Act, so as to allow a recovery of lay off compensation under that Act was discussed. The Bombay Minister, Mr.Chantilal Shah agreed that the grievances regarding recovery of lay off compensation etc, is genuine, it was agreed that the Government should consider suitable amendments.

2(s): The suggestion of the A.I.T.U.C. to amend the definition of the word "workman though pressed was not accepted".

Sec.7: The suggestion by the A.I.T.U.C. that some provisions should be made for intimating to the parties the interest in shares held by a Tribunal under Sec.2 (2) of the Act was accepted.

Sec.7A: The suggestion made by Government to enable persons eligible to be appointed Industrial Tribunal to be also eligible for appointment as Presiding Officers of Labour Courts was accepted.

Sec.10 (1): The A.I.T.U.C. suggestion to make it obligatory on the Government to refer disputes once conciliation fails and either party applies, though pressed, was not accepted. Even a suggestion to make it mandatory to refer disputes on failure of conciliation in public utility concerns, even after strike notice was not accepted.

Sec.10 (2) - The Madras Government's suggestion to allow disputes regarding matters in Schedule III to be referred to Labour Courts when the number of workmen involved is less than 100 was accepted.

Sec.9A: After a discussion about the ineffectiveness of Sec.9A, it was admitted by the Chairman that there was some difficulty and it was agreed that suitable amendment should be made to allow the management to effect the change only after conciliation or decision by a Labour Court or Tribunal . The Bombay Minister suggested the pattern of the Bombay Industrial Relations Act where the workmen can go directly to an Industrial ~~xxxxxxxxxxxx~~ Court on a notice of change being given.

Sec.10B: The U.T.U.C. suggestion for the inclusion of a new section to enable an individual dismissed workman to go directly to a Labour Court though supported by the A.I.T.U.C. as well as H.M.S. was opposed by the I.N.T.U.C. and hence was not accepted.

Sec.11: On the suggestions of the Government of Kerala that conciliation officers should be vested with powers to compel attendence of parties, the Central Labour Commissioner, Mr.Mukherjee suggested that if any party does not appear before the Conciliation Officer there should be automatic reference of the dispute to a Tribunal. It was however thought not necessary to amend the Act for this purpose. A.I.T.U.C. suggestion to give powers to the conciliation officers to compel production of documents and information was not accepted.

Sec.12: On the A.I.T.U.C. suggestion to make it obligatory on the conciliation office to take up the dispute when asked to do so by the workmen, the Chairman suggested that the Act need not be amended but instructions be issued that Conciliation should be taken up expeditiously. The Chairman also wanted particulars of cases where the Conciliation officer delayed taking up conciliation.

It was pointed out that in the case of non-public utility concerns there was nothing in the Act to show when conciliation is deemed to have commenced and it was pressed that it should be made obligatory under the Act the date on which the Conciliation officer receives a notice of the dispute from the workmen should be the date of commencement of conciliation. The amendment suggested of the A.I.T.U.C. was however not accepted.

New SECTION 15A: There was a suggestion of the Government of Bombay to add a new section 15A to certify a settlement arrived at during proceedings before an Industrial Tribunal to be certified as fair before making the settlement an award. The A.I.T.U.C. suggested that it must be done only after giving all workmen notice of the settlement and only after hearing the parties that such certification should be allowed to be made. The Bombay Government's suggestion was agreed to be considered along with our modification.

17A: The suggestion of the U.T.U.C. to give effect to an Award from the date of publication unless retrospective benefits are conferred under the Award was in principle agreed to.

19: The suggestion of the Bombay Government to insert a new sub-section (7) to Sec.19 allowing majority of the workmen to give notice of termination of a settlement or award was accepted with a modifications suggested by A.I.T.U.C. that a union having a majority of the workmen as its members may also give such a notice of termination.

Sec.20: The Government promised to consider seriously the suggestion made by the Andhra Pradesh Government and the workmen's representatives to afford protection to the workmen under Sec.33 even after conciliation report is received by the Government till a reference is made or a reference is refused.

Sec.22: It was pointed out by the AITUC. that there is inconsistency in Sec.22. The AITUC. wanted that clause (d) of Sub Sec. (1) should be deleted as it is inconsistent with cl.(a). Clause (a) requires that 14 days notice should be given before a strike and under the rules made under the Act the date on which the strike would be commenced should be specified in the strike notice. Though conciliation has to be concluded within 14 days from the date of the receipt. of the strike notice under Sec.12, ~~xxxxx xxxxxxxxx~~) Sec.22(d) prohibits a strike seven days after the conclusion of the Conciliation proceedings. It has been held by the Supreme Court that this seven days period will commence from the date of receipt of the conciliation report by the Government. Thus it would be impossible to specify a date of strike in the strike notice, when it could not be known when the Government would receive the report of the failure of conciliation. The Central Labour Commissioner accepted the position that there was real difficulty and it was agreed to modify the section, so that the conclusion of conciliation proceedings should be within 21 days after the strike notice.

Sec.24: As to the AITUC. suggestions to add a new Sec.24A to prevent a worker from being dismissed, discharged or terminated from service without a proper enquiry, the Government promised to examine this suggestion and the Madras Labour Commissioner said that the standing orders could include this particular provision.

Sec.25B: It was agreed to include the days of absence on account of sickness or accident injuries as suggested by the A.I.T.U.C. for the purpose of computation of 240 days of continuous service under this section.

It was also agreed to adopt the Bombay Government's suggestion that all days of ley off instead of the longest period should be included in computing the 240 days.

The suggestion of the Bombay Govt. for inserting a new Sec.25CC for notification of ley off to a prescribed authority was accepted. The accepted suggestion was that within 72

should be given by the employer. It was also agreed to provide in the rules for a muster roll for lay off to be made available for inspection by the prescribed authorities.

Sec.29: A proposal to make continued breach of an award after publication, liable to a fine for each day of breach was supported by All State Governments and Workermen's representatives. But the Central Government only promised to consider, as employers opposed this.

Sec.33C: The AITUC. suggestion to amend the section to enable workmen to go to Labour Court Commissioner direct without first approaching the Government was agreed.

Sec.33C(1) (2) The proposal of the Madras Government to substitute the word "workman" by the words"any person" so as to enable dismissed employees and legal representatives of deceased employees to recover any amount due from the employer was agreed to.

Sec.36A: The suggestion of the AITUC. to amend this section so as to enable the Tribunal to be approached for removal of any doubt, ambiguity or difficulty in any Award or Settlement, was ~~agreed to by~~ discussed the Government and the government agreed to consider this suggestion seriously.

List of persons attending the Committee meeting of the Standing Labour Committee to be held at Bombay on the 16th and 17th January, 1959.

CENTRAL GOVERNMENT.

1. Shri Abid Ali, Union Deputy Minister for Labour. — Chairman.

2. Shri P.M.Menon, I.C.S., Secretary.
3. Shri Teja Singh Sahni, Deputy Secretary.
4. Shri S.P.Mukerjee, I.A.S., Chief Labour Commissioner (Central).
5. Shri V.S.Jetley, Additional Legal Adviser, Ministry of Law.

STATE GOVERNMENTS.

Bombay.

6. Shri Shantilal H.Shah, Minister for Labour and Social Welfare. — Delegate
7. Shri B.B.Brahmbhatt, Under Secretary, Labour & Social Welfare Department. — Adviser.

BIHAR.

8. Shri B.P.Singh, I.A.S., Labour Secretary. — Delegate.
9. Shri S.N.Pande, I.A.S., Labour Commissioner. — Adviser.

MADHYA PRADESH.

10. Shri Kulkarni, Assistant Labour Commissioner, Bhopal. — Delegate.

MADRAS.

11. Shri V.Balasundaram, I.A.S., Labour Commissioner. — Delegate.

UTTER PRADESH.

12. Shri Uma Shanker, I.A.S., Labour Commissioner. — Delegate.
13. Shri S.P.Pande, Deputy Secretary. — Adviser.

WEST BENGAL.

14. Shri Q.Nwaz, Dy. Labour Commissioner. — Delegate.

Employers.

All-India Organisation of Industrial Employers.

15. Shri Lakshmipat Singhanai. — Delegate.
16. Shri Surottam P.Hutheesing. — Adviser.
17. Shri P.Chentsal Rao. — Adviser.

Employers' Federation of India.

18. Shri Naval H.Tata. — Delegate.
19. Shri T.S.Swaminathan. — Adviser.
20. Shri M.Ghose. — Adviser.

All-India Manufacturers' Organisation.

21. Shri H.P.Merchant, AIMO, 4th Floor, Cooperative Insurance Bldg., Sir Pherozshah Mehta Rd, Fort, Bombay. — Delegate.
22. Shri K.Naoroji, AIMO, Bombay. — Adviser.

WORKERS.

Indian National Trade Union Congress.

23. Shri Kanti Mehta, Organising Secretary-INTUC, Indian National Mine Workers' Federation, 128/7, Hazara Road, Calcutta. — Delegate.
24. Shri R.M.Shukla, C/o Textile Labour Association, Gandhi Majoor Sevalaya, Bhadra, Ahmedabad. — Adviser.

All India Trade Union Congress.

25. Shri V.G.Row, Bar-at-law., 25, Tetangs Rd, Vepery, Madras. — Delegate.
26. Shri Subramanyam. — Adviser.

Hind Mazdoor Sabha.

27. Shri V.P.Sathe, Nagpur Textile Union, Bhaldarpura Road, Nagpur. — Delegate.

United Trade Union Congress.

28. Shri Pratul Chowdhury, C/o United Trade Union Congress, 249, Bow Bazaar Street, (First Floor), Calcutta.12. — Delegate.

January 9, 1959

Dear Com.Mohan Kumaramangalam,

I got a telegram from Com.Dange yesterday that 'Fix by wire Mohan Kumaramangalam for Bonus Case Supreme Court". With whatever information I had at that time I sent you a wire to this effect.

I do not know if Com.SAD had any talk with you on the subject or since this was sent to us, you have also received anything from him.

The position is that till today the AITUC is not a party to the dispute re. bonus. Some of our unions are parties and to the best of my knowledge, Coms. K.T.Sule, Janardan Sharma and Sadhan Gupta are appearing on behalf workers and Mr.Setalwad, etc. are appearing on behalf of employers.

I learn that AITUC can become a party if we apply just now or can gight the case through any of its unions which are already parties to the case.

The Bank case re. bonus is starting on 12th May. The lawyers here feel it will continue for at least three days and may be upto seven days. The general case will be taken up only after that. According to Com.Janardan Sharma, the case after its start will take minimum seven days - may be more.

Tata Oil Co. is also a party to this case and Com.Chari was to appear on this case. I am not sure if Com.Chari is coming here for this case though he has got a case here on 19th inst., I am told.

Now it is certain that the case is not starting on 12th and not earlier than 15th inst. So we get some time. I have asked for the detailed instructions of Com.SAD. He may have written to you also, I presume.

There is also a proposal to protest against Mr.Setalwad appearing on behalf of the employers and in this context, to ask the Government of India also to become a party to the dispute.

I will keep you informed of the developments as they take place.

With greetings,

Yours fraternally,

KG Jan 9.

(K.G.Sriwastava)

P.S. I realize your difficulties but I am no better. As soon as I hear from Com: Dange & things are finalized here, I will inform you along with papers, dates etc.

KG.

S. MOHAN KUMARAMANGALAM
B. A. (Hons.) (CANTAB)
BARRISTER-AT-LAW
ADVOCATE, SUPREME COURT
46 LAW CHAMBERS, HIGH COURT, MADRAS

Residence:
8 Nungambakkam High Road
MADRAS-6
PHONE: 84369

(175-B)

9th January, 59.

Dear Cor. Srivasthava,

In confirmation of my telephone conversation with you this morning I am writing this letter. I want to know the following:

1. When exactly the appeals in the Supreme Court are posted for disposal?
2. Are the appeals posted filed by the employers or by the workmen?
3. Are the employers' counsel going to begin the arguments or counsel for workmen?
4. Who else are appearing on either side and what is the position of the Government if any?
5. How long are the appeals are expected to take and how long am I expected to stay in Delhi?

It is impossible for me to commit myself about being present there for a long time as I have got heavy work here but if I am given some idea of the extent of time the appeals are likely to take, then it will be possible for me to decide. In future, I would request you that when you want me to appear in any case in the Supreme Court you should give me sufficient notice of at least a month or so, which is possible ordinarily. It is very difficult for me to adjust my programme if I am given just 2 or 3 days notice as in this case.

With best wishes,

Yours sincerely,

Sri K. Srivasthava,
All India Trade Union Congress,
4, Asoka Road,
New Delhi.

January 10, 1959

Com.V.G.Row, Bar-at-law,
Madras

Dear Comrade,

We enclose herewith a letter in original from the Ministry of Labour and Employment re. amendment to Industrial Disputes Act.

With greetings,

Yours fraternally,

(K.G.Sriwastava)
Secretary

Encl:

January 6, 1959

Dear Com.TRG,

Yours of 5th inst.

Com.Row could take along with him Com.V.S.Mani to help in the work at Bombay.

With greetings,

Yours fraternally,

(K.G.Sriwastava)

P.S. We have today remitted a sum of Rs.120/- towards cost of tickets to Bangalore. Hope you will arrange the necessary bookings.

- 6 JAN 1959

Tamilnad Trade Union Congress,
6/157, Broadway, Madras.-1.
5th January, 1959.

To

The Secretary,
A.I.T.U.C.,
4, Ashoka Road, New Delhi.

CERTIFICATE OF POSTING OBTAINED.

Dear Comrade, K.G.S.,

We learnt that the Industrial Disputes Sub Committee is meeting at Bombay and not in Delhi. Will it be possible for you to fix up a leading Comrade to assist Comrade V.G.Row.

Otherwise we have to ~~xxxxxxxxxxx~~ fix Com.V.S.Mani to accompany Mr.Row. Please let us have an early reply.

Please send Rs.400/- towards V.G.Row's Travelling Expenses. Mr.Row will settle the account after he receives the T.A.Bill which may take some time for realisation.

The money may be sent immediately directly to Mr.V.G.Row's office address (M/s Row & Reddy, Advocates, Andhra Insurance Bldgs., 337, Thambu Chetty St., Madras.-1).

With Greetings.

Yours Sincerely,

T. R. Ganesan

(T.R. GANESAN).

- 6 JAN 1959

IMMEDIATE

NO. LR-I 1(87)/58
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

...

From

Shri A.L. Handa,
Under Secretary to the Government of India

To

1C. The General Secretary, All India Trade Union Congress,
4 Ashok Road, New Delhi.

SUBJECT:- Industrial Disputes Act 1947 - Meeting of the Sub-committee of the Standing Labour Committee to consider draft amendment to the.

...

Sir,

In continuation of this Ministry's letter No. LR-I(87)/58 dated the 26th December, 1958, I am directed to say that the meeting of the Sub-Committee of the Standing Labour Committee will be held at 10 A.M. in the Committee Room on the 6th Floor of the Sachivalaya, Bombay, on the 16th and 17th January, 1959.

Yours faithfully,

(A.L. Handa)
Under Secretary

...2.

Copy to the Ministry of Law, for information.

Copy forwarded to Chief Labour Commissioner, New Delhi.

(A.L. Handa)
Under Secretary

d.a.nil.
b.k.m. 2/1/59

TELEPHONE CAPACITY [illegible]

TELEPHONE NO. 2611

ROW & REDDY

ADVOCATES

Partners :

V. G. ROW, BARRISTER-AT-LAW,
ADVOCATE, SUPREME COURT,
MEMBER, MADRAS LEGISLATIVE COUNCIL.

A. RAMACHANDRAN, M.A. (CANTAB)
BARRISTER-AT-LAW.

ANDHRA INSURANCE BUILDINGS,
337, THAMBU CHETTY STREET, MADRAS-1.

Dated 21st January 195 .

Ref. No.....

Shri K.S.Srivastava,
Secretary,
All India Trade Union Congress,
4, Ashoka Road,
NEW DELHI.

Dear Com. Srivastava,

I am enclosing with this letter a Report of the proceedings of the Sub Committee Meeting held on 16th and 17th January, 1950 at Bombay for considering Amendments to the Industrial Disputes Act. Shri Abid Ali, Union Deputy Minister for Labour who presided over the meeting did not seem to be anxious to have a full discussion of all the Amendments but seemed to be rather anxious to get over the proceedings as quickly as possible and this was specially so on the second day of the meeting when amendments to Section 25 thereof were considered. However due to our efforts and the efforts of the Delegate of the H.M.S. Com.Sathe, we forced the committee to discuss some of the important amendments to the Act.

Though all the important amendments suggested by us were rejected we were not able to achieve much but it could be stated here that the main achievement was that every one of the amendments suggested by the representatives of employers were negatived due to our vehement opposition. Some of the reactionary amendments suggested by the Bombay Government were also negatived. The Report which appeared in the Times of India and other papers relating to Chapter V.A of the Act, namely provisions relating to lay off and retrenchment is not quite correct. What happened was that when the proceedings started with that Chapter on the 17th Shri Abid Ali stated that there was an agreement at a higher level regarding the provisions relating to retrenchment and lay off, and therefore the Government would not consider any amendments unless both the employers and workmen agree.

One important point I would like to make is that the Bombay Labour Minister Shri Kanjilal Shah tried to press some of the reactionary amendments that they were successfully resisted. The amendment on which the Bombay Minister was very anxious was to exempt new factories and small scale industries to be exempted from the provisions of retrenchment compensation.

The enclosed report only shows the result of the discussions on the main amendments suggested by us and also all the amendments which were accepted with or without modification.

I should like to know whether you want me to send a copy of all the amendments sent to us by the Government and considered at the meeting. We are enclosing herewith an extra copy of this letter and the report for Com.Jhuge.

Encls: Three.

Yours fraternally,

(V.G. ROW)

The Sub-Committee met at Bombay Sachivalaya at 10 A.M. on 16-1-1959 with Sri, Abid Ali, Union Deputy Minister for Labour as Chairman:

We are enclosing a list of persons who participated at the Meeting.

The Chairman opened the Conference with a statement that the Committee ought to have met on the 6th Dec. But unfortunately the meeting was delayed. He said that the total number of amendments received by the Government upto 24-12-1958 was 201 out of which 119 were suggestions from workers' organisations, 50 from Central and State Governments 32 from Employers Organisations. The Committee observed a minute's silence as a mark of respect of late Sri. Somnath Dave.

The amendments were taken up for consideration section-war.

The amendment to Sec.2 (a) (i) to bring disputes in contonment Boards within the Central sphere was agreed to by the Committee.

2(eee): The suggestion of the A.I.T.U.C for deletion of this sub-section relating to the definition of "continuous service" was discussed. It was generally considered that there was redundancy and therefore it was agreed that the Government draftsman should look into this and the definition both in Sec.2 (eee) and Sec.25B should be brought in line.

2(g) The suggestion of the A.I.T.U.C. to define the word "employer" so as to make him an employer of contract labour also, on the lines of the Bombay Industrial Relations Act was discussed at some length and the suggestion to amend on the above lines was accepted.

2(j) The suggestion on behalf of the workmen to include profession like solicitors, auditors etc, within the meaning of the word Industry was accepted with the modification that only where such profession is carried on with an establishment would come within the word "Industry".

2(k) Re: The suggestion of the A.I.T.U.C. to amend the word "industrial dispute" to remove the effect of the Supreme Court judgment in the Dinakuchi Tea Estate Case even though pressed, the Government only agreed to have the matter examined whether at the end of the definition the words "whether a workman or not connected with the establishment" should be added.

2(n): The suggestion to include "Air Transport Industry" as a public utility service was agreed to by the Committee.

2(oo): The suggestion of the A.I.T.U.C. to include within the meaning the word "retrenchment" even a simple discharge was discussed at great length but the Government did not accept the suggestion.

2(p): After a heated discussion, the Government did not accept the A.I.T.U.C. suggestion to amend the word "Settlement" so that a settlement will be binding only if ratified by majority of the workmen".

(2(rr): The A.I.T.U.C. suggestion to include bonus and contribution of pension or provident fund or benefits of gratuity within the meaning of the word "wages" and also the suggestion to amend the payment of Wages Act, so as to allow recovery of lay off compensation under that Act was discussed. The Bombay Minister, Mr.Shantilal Shah agreed that the grievances regarding recovery of lay off compensation etc, is genuine, it was agreed that the Government should consider suitable amendments.

2(s): The suggestion of the A.I.T.U.C. to amend the definition of the word "workman though pressed was not accepted".

Sec.7: The suggestion by the A.I.T.U.C. that some provisions should be made for intimating to the parties the interest in shares held by a Tribunal under Sec.2 (2) of the Act was accepted.

Sec.7A: The suggestion made by Government to enable persons eligible to be appointed Industrial Tribunal to be also eligible for appointment as Presiding Officers of Labour Courts was accepted.

Sec.10 (1): The A.I.T.U.C. suggestion to make it obligatory on the Government to refer disputes once conciliation fails and either party applies, though pressed, was not accepted. Even a suggestion to make it mandatory to refer disputes on failure of conciliation in public utility concerns, even after strike notice was not accepted.

Sec.10 (2) - The Madras Government's suggestion to allow disputes regarding matters in Schedule III to be referred to Labour Courts when the number of workmen involved is less than 100 was accepted.

Sec.9A: After a discussion about the ineffectiveness of Sec.9A, it was admitted by the Chairman that there was some difficulty and it was agreed that suitable amendment should be made to allow the management to effect the change only after conciliation or decision by a Labour Court or Tribunal . The Bombay Minister suggested the pattern of the Bombay Industrial Relations Act where the workmen can go directly to an Industrial Court on a notice of change being given.

Sec.10B: The U.T.U.C. suggestion for the inclusion of a new section to enable an individual dismissed workman to go directly to a Labour Court though supported by the A.I.T.U.C. as well as H.M.S. was opposed by the I.N.T.U.C. and hence was not accepted.

Sec.11: On the suggestions of the Government of Kerala that conciliation officers should be vested with powers to compel attendance of parties, the Central Labour Commissioner, Mr.Mukherjee suggested that if any party does not appear before the Conciliation Officer there should be automatic reference of the dispute to a Tribunal. It was however thought not necessary to amend the Act for this purpose. A.I.T.U.C. suggestion to give powers to the conciliation officers to compel production of documents and information was not accepted.

Sec.12: On the A.I.T.U.C. suggestion to make it obligatory on the conciliation office to take up the dispute when asked to do so by the workmen, the Chairman suggested that the Act need not be amended but instructions be issued that Conciliation should be taken up expeditiously. The Chairman also wanted particulars of cases where the Conciliation officer delayed taking up conciliation.

It was pointed out that in the case of non-public utility concerns there was nothing in the Act to show when conciliation is deemed to have commenced and it was pressed that it should be made obligatory under the Act the date on which the Conciliation Officer receives a notice of the Dispute from the workmen should be the date of commencement of conciliation. The amendment suggested of the A.I.T.U.C. was however not accepted.

NEW SECTION 15A: There was a suggestion of the Government of Bombay to add a new section 15A to certify a settlement arrived at during proceedings before an Industrial Tribunal to be certified as fair, before making the settlement an award. The A.I.T.U.C. suggested that it must be done only after giving all workmen notice of the settlement and only after hearing the parties that such certification should be allowed to be made. The Bombay Government's suggestion was agreed to be considered along with our modification.

17A: The suggestion of the U.T.U.C. to give effect to an Award from the date of publication unless retrospective benefits are conferred under the Award was in principle agreed to.

19: The suggestion of the Bombay Government to insert a new Sub-section (7) to Sec.19 allowing majority of the workmen to give notice of termination of a settlement or award was accepted with a modifications suggested by A.I.T.U.C. that a union having a majority of the workmen as its members may also give such a notice of termination.

Sec.20: The Government promised to consider seriously the suggestion made by the Andhra Pradesh Government and the workmen's representatives to afford protection to the workmen under Sec.33 even after conciliation report is received by the Government till a reference is made or a reference is refused.

Sec.22: It was pointed out by the AITUC. that there is inconsistency in Sec.22. The AITUC. wanted that clause (d) of Sub Sec. (1) should be deleted as it is inconsistent with cl.(a). Clause (a) requires that 14 days notice should be given before a strike and under the rules made under the Act the date on which the strike would be commenced should be specified in the strike notice. Though conciliation has to be concluded within 14 days from the date of the receipt. of the strike notice under Sec.12, ~~xxxxx xxxxxxx(d)~~ Sec.22(d) prohibits a strike for seven days after the conclusion of the Conciliation proceedings. It has been held by the Supreme Court that this seven days period will commence from the date of receipt of the conciliation report by the Government. Thus it would be impossible to specify a date of strike in the strike notice, when it could not be known when the Government would receive the report of the failure of conciliation. The Central Labour Commissioner accepted the position that there was real difficulty and it was agreed to modify the section, so that the conclusion of conciliation proceedings should be within 21 days after the strike notice.

Sec.24: As to the AITUC. suggestions to add a new Sec.23A to prevent a worker from being dismissed, discharged or terminated from service without a proper enquiry, the Government promised to examine this suggestion and the Madras Labour Commissioner said that the standing orders could include this particular provision.

Sec.25B: It was agreed to include the days of absence on account of sickness or accident injuries as suggested by the A.I.T.U.C. for the purpose of computation of 240 days of continuous service under this section.

It was also agreed to adopt the Bombay Government's suggestion that all days of lay off instead of the longest period should be included in computing the 240 days.

The suggestion of the Bombay Govt. for insprting a new Sec.25CC for notification of lay off to a prescribed authority

should be given by the employer. It was also agreed to provide in the rules for a muster roll for lay off to be made available for inspection by the prescribed authorities.

Sec.29: A proposal to make continued breach of an award after publication, liable to a fine for each day of breach was supported by All State Governments and Workermen's representatives. But the Central Government only promised to consider, as employers opposed this.

Sec.33C: The AITUC. suggestion to amend the section to enable workmen to go to Labour Court direct without first approaching the Government was agreed.

Sec.33C(1) (2) The proposal of the Madras Government to substitute the word "workman" by the words"any person" so as to enable dismissed employees and legal representatives of deceased employees to recover any amount due from the employer was agreed to.

Sec.36A: The suggestion of the AITUC. to amend this section so as to enable the Tribunal to be approached for removal of any doubt, ambiguity or difficulty in any Award or Settlement, was discussed and the government agreed to consider this suggestion seriously.

List of persons attending the Committee meeting of the Standing Labour Committee to be held at Bombay on the 16th and 17th January, 1959.

CENTRAL GOVERNMENT.

1. Shri Abid Ali, Union Deputy Minister for Labour. — Chairman.

2. Shri P.M.Menon, I.C.S., Secretary.
3. Shri Teja Singh Sahni, Deputy Secretary.
4. Shri S.P.Mukerjee, I.A.S., Chief Labour Commissioner (Central).
5. Shri V.S.Jetley, Additional Legal Adviser, Ministry of Law.

STATE GOVERNMENTS.

Bombay.

6. Shri Shantilal H.Shah, Minister for Labour and Social Welfare. — Delegate.
7. Shri B.B.Brahmbhatt, Under Secretary, Labour & Social Welfare Department. — Adviser.

BIHAR.

8. Shri B.P.Singh, I.A.S., Labour Secretary. — Delegate.
9. Shri S.N.Pande, I.A.S., Labour Commissioner. — Adviser.

MADHYA PRADESH.

10. Shri Kulkarni, Assistant Labour Commissioner, Bhopal. — Delegate.

MADRAS.

11. Shri V.Balasundaram, I.A.S., Labour Commissioner. — Delegate.

UTTER PRADESH.

12. Shri Uma Shanker, I.A.S., Labour Commissioner. — Delegate.
13. Shri S.P.Pande, Deputy Secretary. — Adviser.

WEST BENGAL.

14. Shri Q.Nwaz, Dy. Labour Commissioner. — Delegate.

Employers.

All-India Organisation of Industrial Employers.

15. Shri Lakshmipat Singhanai. — Delegate.
16. Shri Surottam P.Muthoosing. — Adviser.
17. Shri P.Chentsal Rao. — Adviser.

Employers' Federation of India.

18. Shri Naval H.Tata. — Delegate.
19. Shri T.S.Swaminathan. — Adviser.
20. Shri M.Ghose. — Adviser.

All-India Manufacturers' Organisation.

21. Shri N.P.Merchant, AIMO, 4th Floor, Cooperative Insurance Bldg., Sir Pherozshah Mehta Rd, Fort, Bombay. — Delegate.
22. Shri K.Naoroji, AIMO, Bombay. — Adviser.

WORKERS.

Indian National Trade Union Congress.

23. Shri Kanti Mehta, Organising Secretary-INTUC, Indian National Mine Workers' Federation, 128/7, Hazara Road, Calcutta. — Delegate.
24. Shri R.M.Shukla, C/o Textile Labour Association, Gandhi Majoor Sevalaya, Bhadra, Ahmedabad. — Adviser.

All India Trade Union Congress.

25. Shri V.G.Row, Bar-at-law., 25, Tetangs Rd, Vepery, Madras. — Delegate.
26. Shri Subramanyam. — Adviser.

Hind Mazdoor Sabha.

27. Shri V.P.Sathe, Nagpur Textile Union, Bhaldarpura Road, Nagpur. — Delegate.

United Trade Union Congress.

28. Shri Fratul Chowdhury, C/o United Trade Union Congress, 249, Bow Bazaar Street, (First Floor), Calcutta.12. — Delegate.

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175 B (1)

ALL-INDIA TRADE UNION CONGRESS
4 Ashok Road,
New Delhi

November 19, 1958

SUGGESTIONS FOR AMENDMENTS TO

INDUSTRIAL DISPUTES ACT, 1947

(1) Section 2: Delete clause (eee) as it is inconsistent with the definition contained in 25B of the clause / continuous service.

(2) " 2(g): The definition of the word "employer" should be amended on the lines of the word "employer" as defined in Section 3(14) of the Bombay Industrial Relations Act. Remodelling the definition as stated above, will make the principal employer an employer even of contract labour.

(3) " 2(k): "Industrial Dispute" - This definition should be amended so as to enable workmen to raise an industrial dispute about non-workmen also employed in the same industry. The object of this amendment is to remove the effect of the Supreme Court decision in the case of Workmen of Dimakuchi Tea Estate Vs. Management Dimakuchi Tea Estate (14 F.J.R. page 41). The emphasis of the Supreme Court decision is on the workmen ruling that they have substantial interest in the dispute about non-workmen. The proof of this substantial interest is always very difficult to establish. Workmen may be interested in the continuance or non-continuance of an officer and they must be given a right to raise dispute about such persons. 1958(1) LLJ 500.

(4) " 2(oo): "Retrenchment" - The definition of the word "Retrenchment" should be amended so as to bring within the scope of retrenchment the termination by an employer of the service of a workman even by way of simple discharge. Before the Supreme Court decision in the Barsi Light Railway case, all the Tribunals treated a simple discharge as a retrenchment because the definition spoke of termination of employment of a workman "for any reason whatsoever" except as a punishment. 1957(1) LLJ 243.

(5) " 2(p): "Settlement" - This definition should be so amended as to safeguard the following:

(i) Settlement could be reached between the employer and the Union of the workmen.

(ii) Section 36 of the Act gives power to a Union to represent the workmen in any proceedings under the Act. But the word "workmen" as defined does not include their trade union and the employer may object to a trade union signing the settlement and may insist on the signature of the workmen. To remove this lacuna the trade union must also be given authority to sign an agreement.

(iii) In many disputes, it is our experience that employer somehow brings pressure on workmen to sign a settlement bypassing the Union. This must be stopped.

(iv) All settlement therefore must be ratified by the majority of the workmen concerned in the dispute. For this purpose, a properly convened meeting of the workmen called by the union and attended by the conciliation officer must ratify the settlement. This procedure should hold good in the case of agreements referred to in the definition.

(6) " 2(q): "Strike" - The definition of the word "strike" should be amended so as to include a cessation of the work in

. . . consequence of an

consequence of an industrial dispute only, in the establishment.

Decisions of some Tribunals include even"go-slow"as in the definition of strike, because it is construed as partial cessation of work. "Go-slow" should never be construed as a strike.

(7) Sec.2(rr): "Wages" - The definition should include bonus, such as production bonus or incentive bonus and such other bonuses that are paid at an interval of not more than two months, contribution to pention or provident fund or benefits of workmen under any law for the time being in force. It should also include gratuity.

We suggest that the definition of the word "wages" contained in the Payment of Wages Act 1936 should also be amended accordingly so as to enable the workmen to recover their dues promptly. Lay-off compensation should be covered by the definition of wage.

(8) Sec.2(s): "Workman" - The definition should be amended to include salesmen, medical representatives of pharmaceutical establishments, artists, musicians, badli, casual and contract labour.

It is impossible to mention all the categories of workmen now excluded from the definition of workman and more preferably should be so amended as to include all employees excepting administrative Head of any undertaking.

(9) Sec.2(s)(iv): This clause should be amended as follows: "who being employed in a supervisory capacity draws wages exceeding seven hundred and fifty rupees per mensem, or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

(10) Section 3(2): "Works Committee" - Works Committee should not be empowered to settle a dispute or come to an agreement on any issue without the same being ratified in the manner stated above.

(11) Section 7(c)(a) "Independent person" - should be defined and an explanation thereof to be incorporated.

(12) Section 9-A - "Notice of Change" - This section should be completely deleted. If an employer wants to effect a change in any service condition of his employment to the prejudice of the employees, the employer must raise an industrial disupte and must be compulsorily made to go through conciliation proceedings and then before a Tribunal.

(12) Section 9B : "Power of Government to exempt" - This section becomes superfluous in view of the above.

(13) Section 10(1): "Reference of Dispute" - This section should be thoroughly amended. Government should be given power to refer a dispute to a Board/Tribunal only in cases where employees make an application; where such an application is made, the Government shall refer such a dispute.

In case of dispute relating to a public utility service, the Government may be given power to make a reference to a Board of Conciliation of Tribunal suo motu. But where a strike notice under section 22 has been given, no discretion should be left to the Government and a reference must be made.

. . . . Section 11:

(14). Section 11: A conciliation officer, board/Tribunal and National Tribunal should be given powers to compell the production of documents and information from the employers during the course of proceedings before them. This duty to call for information should be specifically provided for. It is our experience that these officers or bodies many times refuse to call for information. A penalty should be provided for the employers refusing to give necessary information.

We suggest that tribunals should specifically be empowered to call upon the employers to produce their income-tax returns and assessment orders and no privilege of confidence under the Income-Tax Act should be allowed to employers. It is our experience that many Tribunals are in a position to detect gross irregularity in the accounts of the employers and therefore the Tribunals should be empowered to call for these documents.

(15). Section 12: If the employees raise an industrial dispute and choose to take it to conciliation, the conciliation officer must be required to entertain the dispute.

(16) Section 12(5): This section gives discretion to the Government to refer a dispute to a Board, Labour Court, etc. No discretion should be vested in the Government and on an application from the employees, the Government should make the reference.

(17) Section 17-A: The power to the State Governments or the Central Government to reject or modify an award should be restricted to the cases where an award is manifestly against the interest of the employees.

(18) Section 19: Specific provision should be made in this section for the continuance of the efforts of the awards even after termination by notice till the time a fresh award of settlement takes place.

The decision of the Supreme Court holding that the principles analogous to res judicata must prevail in industrial dispute, takes away the right of the workmen to raise an industrial dispute to improve their material conditions. The Supreme Court does debar the Tribunals from re-considering the disputes afresh. This bar is obviously obnoxious and the Section must be so amended as to leave to the employees a clear field for raising a fresh dispute without hindrance.

Provisions also should be made in this Section to provide for opportunities to both the parties for an agreed modification of the award. Provision should also be made for employees to seek modification of an award without termination.

(19) Section 19(3): The appropriate Government should not extend the period of operation of any award before at least one month after the date of expiry of the Award.

(20) Section 21: This section should be deleted. Proceedings, particularly before a Board, L.C. and Tribunals, are necessarily proceedings before a public forum and nothing should be treated as confidential.

(21) Section 22 (1) - "Breach of Contract" - to be deleted.

(22) Section 22(1)(d).....

(22) Section 22(1)(d) - to be deleted.

(23) Section 22(2), clauses (a),(b) and (c) - to be deleted.

(24) Section 22(3), (5) and (6) should be amended in the light of above.

(25) Section 23. "In breach of contract" to be removed. All lockouts should be prohibited under this section. Only those strikes should be prohibited, which are in consequence of the dispute pending before the Board or Tribunal. Strikes in general should not be prohibited.

(26) Section 24: No strike should be held to be illegal under this section unless it is declared to be illegal by a competent court by an application made by the appropriate Government. No strike should be declared illegal even if it contravenes the provisions of Section 22 and 23, if the strike is provoked by the employer or takes place as a result of an unfair labour practice by the employer.

(27) Section 24(3): The sub-clause should be reconstituted as follows:
"A lockout declared in consequence of an illegal strike or a strike declared in consequence of an illegal action of the employer shall not be deemed as illegal."

(28) Section 24. ADD a section, 24-A:

"24-A. No workman shall be dismissed or discharged or terminated from service without proper enquiry and without conforming to the principles of natural justice."

NOTE: This protection clause has become necessary in view of the recent judgement dated 14.10.58 of Balakrishna Iyer, J. of the Madras High Court in the case of Sridaran Motor Service, Attur, where concept of social justice is questioned and that courts are bound by law only. The learned judge has added in effect that the employer who gave work to the workman has the fundamental right to discharge provided he conforms to the Standing Order relating to notice, etc. This position takes away the hard-won right of the TU movement to question before Tribunals, cases of victimisation, unfair labour practice, etc. which are embodied in the Code of Discipline.

(29). Section 25 - to be made applicable to lockouts.

(30). Section 25(A), clauses (a) and (b) to be deleted.

(31). Section 25A(2) to be deleted.

(32). Section 25-B: Instead of the limit of 240 days, it should be 200 days. Consequential amendment would be necessary to relevant portion of the Factories Act.

Clause (d) should be added to the explanation covering the days of absence of a workman due to sickness or accident injuries.

(33) Section 25-C: To be amended to provide compensation to laid-off workman for every day of lay off.

Badli or casual workman who has put in 100 days in one calendar year should be given lay-off compensation for every day of lay off at the rate of 25 per cent of the total of the sick wages, and dearness allowance that would have been payable to him had he not been so laid off.

The maximum days of 45 days compensation to be removed.

(34) Section 25-C(2) should be deleted.

Lay off compensation should be treated as wages.

(35) Section 25-E - The workman should be allowed to choose between alternate employment and lay-off compensation. If he chooses to refuse alternative employment, he must be entitled to his lay off compensation.

(36) Section 25-E(ii) to be deleted. No worker during the period of lay off should be put on parole. Every employer must declare the period of lay off at the time of commencement of lay off. We demand that if a worker is required to present himself at the place of work, he should be paid full wages.

(37) Section 25-E(iii) to be deleted.

(38) Section 25-F: If the provision of this section are not complied with, in toto, by an employer, the workman should be treated as being in service. This would be in accordance with the decision of the Bombay High Court in the case of Hospital Mazdoor Sabha. The Supreme Court has held otherwise. Therefore this section should be suitably amended to bring it in line with the Bombay High Court decision.

It should be made clear that retrenchment compensation is independent of any gratuity or any retirement benefit scheme, where such schemes exist. The retrenchment compensation should be paid in addition to that benefit. This is desired because many Tribunals have confused the issue.

(39) Section 25-F(b): The word "completed" appearing in the section should be deleted.

(40) Section 25-fff: Compensation in case of closing down of an undertaking should be at the same rate as of retrenchment compensation.

P.T.O.

(41). Section 25-g. Delete.

(42) Section 25-h. After the words "the employer", add the following: "or his successor in interest).

(43) Section 27 and Section 28. - Delete.

(44) Section 29. The penalty for committing a breach of a settlement or an award by an employer should be only by imprisonment.

(45) Section 30: Section should be deleted.

(46) Section 31 (1): The penalty should be only imprisonment.

(47) Section 31 (2): The penalty for contravention by an employer should be raised to Rs.5,000.

(48) Section 33. This section as it stood before the 1956 amendment should be restored in place of the present section 33, and the tribunal, conciliation officer, etc. should be given full power in the matter arising out of the employers' application. This amendment to be made to the section and it should be on the lines of the Bombay High Court in the case of Eugene Fernandes and Caltex. The effect of the Supreme Court decision on this point should be nullified by the amendment to the statute.

(49) Section 33(1). Should be amended as:

"During the pendency of any conciliation proceeding before a conciliation officer, a Board or of any proceeding before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall -

(a) alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct, discharge or punish whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending; or

(c) retrench any of the workman."

(NOTE: The addition of (c) is necessary because, of late, view has gathered in Tribunals and certain High Courts like Madras High Court that Section 33 deals with discharge only and not with "retrenchment" so much so that retrenchment during pendency is allowed and a separate reference becomes necessary.)

(50) Section 33(2). Delete this section.

(NOTE: This was added to the original section 33 and it has taken away the right as it existed before the introduction of various sub-clauses. Consequential amendment to 33(3) is needed.)

(51) Section 33(5). - Delete

(This will be superfluous after deletion of 33(2).

(52) Section 33A: Before the words "a labour court", the words, "a conciliation officer and a board of conciliation" should be added.

(53) Section 33-C: This section should be so amended as to leave it to a workman to approach the labour court directly without first making an application to the Government.

In sub-section (2), the words "by such Labour Courts....apprppriate Government" should be deleted and the words "by Labour Court" added.

(54) Section 34A: The workman should be empowered to file a complaint of an offence on the part of an employer under this Act directly to the court or the Magistrate referred to in sub-section (2). It is our experience that the Government rarely if ever take any action against the offending employer.

(55). Section 36(4): The words "in writ or appeal proceedings before a High Court or Supreme Court" should be added after the words "National Tribunal" wherever they occur. It is our desire that legal practioner should not be in any original or appeal proceedings in industrial matters to appear for an employer at any stage of the dispute.

(56) Section 36-A: This section should be so amended as to enable a workman to approach a labour court, tribunal, etc., for removal of any ambiguity or doubt or difficulty in an award or settlement directly without intervention of government. The Court or Tribunal should also empowered to correct even substantial error in the award or settlement occurring therein on an application made by either of the parties.

(56) Third Schedule: Item 11 - change as: "Recognition by employer of the registered trade union."

(57) -do- Add Item 12: Any other matter that may be prescribed.

(58) The Fourth Schedule - Delete the Fourth Schedule. See our amendment No.12 to Section 9A.

Parliament

WORKMEN'S COMPENSATION AMENDING BILL

The Workmen's Compensation (Amendment) Bill, 1958 was introduced ~~xx xxx~~ in the Rajya Sabha on November 24. The Bill sought to amend the Workmen's Compensation Act by way of removing the distinction between an adult and minor for payment of compensation, ~~xxxxxxxx~~ reducing the waiting period, introducing provision for penalties, and to make the list of injuries in the schedule I more comprehensive.

The scope of the Act is also sought to be extended to cover a larger number of industries and occupations. The list of occupational diseases in Schedule III has also been expanded.

The Deputy Minister for Labour who introduced the amending Bill said that the Government "have made an attempt to broaden the scope of the Act, remove certain anomalies, improve its procedure and make compensation more easily available to the workmen."

The Bill however lacked many vital provisions for improving the scope and functioning of the Workmen's Compensation Act and fell far short of even the recommendations made by an official memorandum of the Government circulated in May 1953 on this question.

Com.Raj Bahadur Gour, M.P., Secretary, AITUC, described ~~xxxxxxxxxxxxx~~ the Bill as a haphazard measure, in spite of the inexplicable delay in introducing the amendments which were overdue long ago. He said that the Bill should not be rushed through without considering ~~xxx~~ all the relevant aspects and for this purpose he wanted it to be referred to a Joint Select Committee.

Com.Gour added that the problem of accidents in our industries is a problem that has to be attended to daily, in its changing magnitude. The programme for rapid industrialisation in our country also creates special problems, he said.

The number of accidents have increased over the years and compared to 1939, when injuries per thousand workers accounted for 20.56, the figure had gone up to 44.56 in 1956.

clearly stated that there should be only a waiting period of three days, even in the present amending Bill, the waiting period has been stipulated as five. (Later on, in the course of the debate, the Deputy Labour Minister agreed to reduce the waiting period to three.).

Dr.Gour, referring to the administration of the Act, exposed the scandallous manner in which the labour laws are being violated by the employers and the incapacity of the Government to take counter-measures. Even in the case of factory inspections, he pointed out, out of 33,772 factories in 1954, those inspected even once a year numbered only 28,994. In Bengal, out of 3,018 registered factories, only 1,906 could be inspected. "If this is the position of factory inspection, how then are you going to improve the working of the Workmen's Compensation Act?"

He then listed the following points recommended in the Government's memorandum of 1955 which have not been covered in the present Bill:

- There should be specialist medical officers for inspection and detection of occupational diseases.

- The accidents which take place to workers in premises outside the factories while on duty should also be covered by the Act.

- The list of occupational diseases should be further amended, for instance byssinossis (caused due to inhalation of cotton fluff in textile mills), nystagmus (which underground miners contract in their eyes due to insufficient lighting), writers' cramp, etc.

Com.Vallabha Rao, M.P., pointed out that manganese poisoning should be included in the list of occupational diseases. He called for improving the definition of 'dependants', so as to include step-parents or step-brothers, and major dependants who happen to be incapacitated.

Com.Vallabha Rao also stressed the necessity for providing alternate employment for disabled workers, as a measure of rehabilitation. It was also necessary, he said, to ensure

that employers keep a list of workers' nearest relatives, who are eligible for compensation in the case of the death of the workers, as was suggested in the Government's earlier memorandum.

The suggestions put forward by Dr.Gour, and Com.Vallabha Rao and other Opposition speakers were not acceptable to the Deputy Labour Minister. The Bill was passed with only one amendment (relating to waiting period, referred to earlier) by the Rajya Sabha on September 28. It will now come for discussion in the Lok Sabha.

UNEMPLOYMENT

On November 21, a private member's resolution for the appointment of a Committee to enquire into the unemployment problem was debated in the Lok Sabha. The Government's apathy towards the problem of increasing unemployment came in for vehement criticism.

Shri Brij Raj Singh criticised the huge amount of expenditure being entailed in the name of creating employment, which benefitted only a negligible few. Shri M.C.Jain said the community projects have failed to give any relief to landless labour by way of employment.

Shri S.M.Banerjee stressed that "if retrenchment and closure of mills continued, the number of unemployed would shoot up and people would loose faith in the Second Plan." He pointed out that retrenchment is going on in the Defence establishments and in Kanpur textiles alone, about 10,000 people have lost jobs. Even in the mining industry, there is a spate of retrenchment. He suggested that by curtailing extravagant expenditure, a sum of Rs.50 crores should be found for giving relief to unemployed people."

Shri Mahanti pointed out that according to the national survey, the unemployment figures were in fact four times of those shown in official registers. This meant that the one million reported by the Employment Exchanges was really four million. He said the Government should take a lesson

Shri Rajendra Singh said that the announcement made by the Government in 1955 that eight million people would be provided with jobs proved to be nothing but an election stunt.

Shri Khadilkar estimated disguised unemployment at 15.5 million persons.

Com.K.T.K.Tangamani demanded that closures should be put an end to by legislative action and that there should be immediate measures for land reforms. He castigated the Government policy as having contributed to further worsening of the situation.

Shri Abid Ali, Union Deputy Labour Minister, in reply to the criticisms claimed that very strenous efforts are being made to achieve the (pruned) objective of providing 6.5 million jobs during the Second Plan period. He announced that a Central Committee on Employment, in which members of Parliament would be represented, would be constituted soon.

BHOWRAH COLLIERY ACCIDENT

Shri L.N.Misra, Parliamentary Secretary to the Union Labour Minister, stated in Lok Sabha on November 20, that "a criminal case has been instituted against the owner and ex-Manager of the Central Bhowrah Colliery who have been held responsible for the accident in the mine early this year by a court of inquiry, and the case is proceeding."

He was replying to a question by Com.T.B.Vittal Rao,M.P., President, Indian Mine Workers' Federation.

It will be remembered that the accident took place on February 20 this year simultaneously with the Chinakuri tragedy. 23 workers lost their lives.

Shri Misra also informed the House that the Regional Inspector of Mines, had been charge-sheeted for dereliction of duty and his explanation is under consideration.

NATIONAL TRIBUNAL FOR CANTT. BOARD EMPLOYEES

It was announced by Government of India on November 26, 1958 that the dispute between the Cantonment Boards and their workmen have been referred to a National Tribunal for adjudication.

The main demands of the workers are: centralisation of services, promotion facilities, adequate pay scales, D.A., provident fund contribution, house-rent allowance, gratuity, free medical aid and festival and other holiday benefits.

The Cantonment Board employees' unions have been agitating for long on these issues and the All-India Defence Employees' Federation had represented to the Pay Commission to consider these demands. The Pay Commission however contended that the Cantt. Board employees are not strictly under the Defence Ministry and hence do not under the purview of the Commission's terms of reference. The employees had then demanded that their demands should be referred to a National Tribunal.

Mangalore

CASHEW WORKERS' CONFERENCE

A conference of workers in the cashewnut industry was held on November 23, at Mangalore, under the auspices of the Cashewnut Workers' Union(AITUC). 175 delegates participated ~~xxxxxx xxxxxxxxxx~~ and 25 area meetings were held earlier to prepare for the conference. Nearly 750 volunteers were enrolled.

The conference began with the flag-hoisting by Srimathi Ummalu, the oldest TU worker in the industry. Com.Shantaram Pai presided over the delegates' conference, where ~~xxxxxxxxxxxxxxxxxxx~~ Com.Shivanada Kamath presented a report. Among others who participated were Com.A.Krishna Shetty, Dr.M.S.Shasthri, Com.B.Lingappa Suvarna and Com.B.Vishwanatha.

In a resolution, the conference demanded that the cashew factories should be declared as "non-seasonal" and that a struggle should be launched to realise this demand. It was also demanded that the Maternity Benefit Bill of the Mysore Government should should be immediately enacted and that amenities under the Factories Act should be enforced.

Welcoming the decisions of the Nainital Tripartite Conference, the meeting demanded implementation of these decisions by the managements, particularly in recognising the Cashewnut Workers' Union.

NFPTE FEDERAL COUNCIL TO MEET IN JAIPUR

Shri B.N.Ghosh, Secretary-General, National Federation of P & T Employees, announced in New Delhi on November 28, that the Federal Council of the Federation will be held at Jaipur from December 26 to 30, 1958. The Council Session would be presided by Shri V.G.Dalvi, Bar-at-law, President of the Federation.

A reception committee under the Chairmanship of Shri Ved Pal Tyagi, former Law Minister of Rajasthan has been set up in Jaipur to prepare for the Council meeting.

The Council will discuss important issues confronting the P & T employees, including the demand for a second instalment for interim relief from the Pay Commission, in view of the abnormal rise in prices. The Tripartite Labour Conference relating to the Public Sector, Civil Services Statutes vis-a-vis Articles 309, 310 and 311 of the Constitution, Government Servants Conduct Rules, victimisation of TU acti-

Govt Employees

CONFEDERATION OFFICIAL VICTIMISED

The National Executive of the Confederation of Central Government Employees and Workers which met in Delhi from November 25 to 27, stated in a resolution that the victimisation of Shri E.X.Joseph, Secretary-General, All-India Non-Gazetted Audit and Accounts Association and Organising Secretary of the Confederation "is a complete negation of the freedom of Association" of the employees.

Shri Joseph was dismissed from service on alleged violation of rule 4(a) of the notorious "Conduct Rules", early November.

The Confederation also stated that Shri Bimalendu Das Gupta, Sorter, Gauhati R.M.S., Shri Amal Dutta, Sorter, H Division, R.M.S., Shri K.L.Chatterjee, Clerk, Calcutta GPO and some others have also been victimised for legitimate trade union activities.

The Executive of the Federation added that in various parts of the country, action is being taken against active workers of Unions and Associations under Rules 4 (a) and (b) of the "Conduct Rules", Rule 5 of the Temporary Service Rules, Safeguarding of National Security Rules and Article 311 of the Constitution. It was stated that "all these measures of victimisation are obviously aimed at curbing the basic trade union rights of the Central Government employees and of discouraging legitimate trade union activities." The Executive demanded that the Government should "ensure the stoppage of all measures of victimisation."

UNION REPORTS

RANIGUNJ PAPER AND REFRACTORY UNIONS
BUILD UNION OFFICES

The Bengal Paper Mill Mazdoor Union and Ceramic and Refractory Workers' Union in Ranigunj, W.Bengal, moved into their new offices on November 15. The inaugural function was presided over by Com.Jyoti Basu, MLA, Leader of the Opposition in West Bengal.

November 15 is "Sukumar Day" in Ranigunj - the martyr Sukumar Sen Banerjee was crushed to death twenty years ago by the British owners of Bengal Paper Mills.

The two union office buildings were erected at a cost of Rs.70,000.

Among those who addressed the Sukumar Day memorial rally on November 15 were Coms. Ranen Sen, MLA, Vice President, AITUC and Indrajit Gupta, Secretary, AITUC.

ASSAM OIL WORKERS IN CONFERENCE

The annual general conference of the Assam Oil Company Labour Union, Digboi was held on November 8. The conference paid tribute to the four glorious martyrs of the historic 1939 strike.

It was demanded that the Charter of Demands submitted in November 1957 by the union, which has remained unfulfilled till date, should be pressed forward with greater determination.

Com.Niranjan Biswas was elected President and Coms. N.B.Chhetry and Dharmeswar Barooah as Joint Secretaries.

ASSAM CHAH KARMI SANGH

The first annual general meeting of the Assam Chah Karmi Sangh was held at Naharkatia on October 4 and 5, under the presidentship of Com.Barin Chowdhury.

The meeting demanded that the beneficiary provisions of the Plantation Labour Rules, 1956, which have not been properly implemented, should be immediately enforced.

VICTORY FOR COMMERCIAL EMPLOYEES IN MADRAS

The Commercial Employees Association, Madras, has achieved a notable victory in the fight against the policy of victimisation by the employers.

The Union has succeeded in getting a compensation of more than Rs.24,000 to the twentyone workers who were dismissed from service by K.S.Shivji & Co., Madras, for normal trade union activities. The compensation amount was distributed to the workers by the Association on November 13, 1958. The workers donated a sum of Rs.565 to the union.

LAY OFF IN TATANAGAR FOUNDRY LIFTED

The lay off declared by the Tatanagar Foundry, Jamshedpur, was withdrawn on November 12.

The lay off was declared on the alleged scarcity of pig iron, as already reported in xxx TUR of November 20. The AITUC representatives on the Standing Labour Committee had raised this question in the Committee which met in Bombay late October.

PEPSU ROAD WORKERS' STRUGGLE

In a memorandum submitted to the Chairman of the State Implementation Committee and Labour Commissioner, the president of the Pepsu Road Transport Corporation Workers' Union has complained about the non-implementation of the agreement arrived at earlier between the management and the workers, on January 1 and May 31, 1958.

The agreement related to enforcement of labour enactments, leave facilities, service conditions, etc.

Questions in Parliament

REPORT OF THE PAY COMMISSION

The inordinate delay in the preparation of the report by the Central Pay Commission came under fire in Lok Sabha during question hour on November 19. Several members asked if the Government would give another instalment of interim relief.

Com.Tangamani, M.P. asked: "Is it not a fact that since the interim relief was given, prices have gone up?"

Com.S.M.Banerjee, M.P. wanted to know "whether the Minister is aware that this abnormal delay has caused serious discontent among Central Government employees and that they are seriously thinking in terms of launching a struggle?"

Com.Vittal Rao asked if "there has recently been a meeting of the Chairman of the Pay Commission together with the Chairman of the three Wage Boards and if so, what are the points discussed at that meeting?"

Com.Mohd. Elias, M.P. queried if the Government is thinking of setting up another Pay Commission for the State Government employees.

Replying to the questions, the Deputy Minister and the Minister for Finance informed the House that the Pay Commission will require some more time to submit its report. It was for the Commission to give any further relief or not.

The Ministers contended that there has been no abnormal delay, and denied knowledge of any meeting of the Pay Commission and Wage Board Chairmen.

Pressed by a number of MPs, the Minister finally stated that the Pay Commission's report would be forthcoming within the next four months. It was for the State Government to appoint Pay Commissions for their employees.

WAGE BOARD FOR PLANTATIONS

In a written reply to Com.K.T.K.Tangamani and Com.S.M.Banerjee in Lok Sabha on November 25, the Union Deputy Minister for Labour, Shri Abid Ali stated that views of the State Governments on the proposal to constitute a Wage Board for Plantation Industry are still awaited.

Allahabad High Court Judgement

UNFAIR LABOUR PRACTICES OF KANPUR MILLOWNERS

Mr.Justice Dhavan of the Allahabad High Court, in a judgement delivered on November 25, observed that the High Court would not permit article 226 of the Constitution to become a weapon or licence for employers to inflict unfair labour practices on their workmen.

The above observation was made by the court while dismissing a writ petition, filed by J.K.Cotton Manufacturers Ltd., Kanpur, for quashing the award of the adjudicator holding the petitioner guilty of unfair labour practices and directing it to reinstate one of its workmen and to pay him compensation for the period of unemployment.

His lordship said that the adjudicator had held that the company was guilty of unfair labour practice. It was stated in the order of the adjudicator that the Kanpur Mechanical and Technical Workers' Union, which espoused the cause of the workman, led evidence to prove that the company had made a practice of hiring temporary employees for permanent jobs with the object of avoiding to give them the benefits of permanency.

The court said that the workman was given a job which was permanent but the company made him sign a contract limiting the period of his services to six months and extending this period from time to time. The company was determined to deprive him of his claim of permanency. In other words, the company wanted to continue the unfair practice and decided that the workman must go. Consequently, they removed him on a trumped up and vague charge of unsatisfactory work which had been held to be false, and the workman was victim of unfair labour practices.

His lordship referred to a Supreme Court case in which their lordships of the Supreme Court had held that an industrial tribunal had the power to modify a contract in the interest of industrial peace, to protect legitimate trade

industrial court had the power to modify a contract and prevent an employer from dismissing his employee if it was of opinion that such an act was in furtherance of or amounted to unfair labour practice.

His lordship added that the petitioner company had been found to be guilty of a practice which must be considered reprehensible in the extreme.

"An employer, who does not play fair with his workmen, is entitled to no consideration from this court. He comes for relief which, if granted, would enable him to continue his unfair practice. If I were to grant the relief demanded by the petitioner, I would be virtually making this court an accessory to the unfair labour practice of which the company has been found guilty. It has been held again and again that the jurisdiction of this court under article 226 of the Constitution is discretionary and is governed by some principles which apply to suits for equitable reliefs. A suitor who seeks equity must do equity himself. Applying this principle to industrial disputes, an employer, who comes to this court for relief against an award of an industrial court must not be guilty of unfair labour practices. The employer in the present case has been found to be guilty. In my opinion, no relief should be granted. This court will not permit article 226 of the Constitution to become a weapon or licence for employers to inflict unfair labour practices on their workmen," his lordship said.

The facts were that Trilokinath Mehrotra was appointed as store-keeper which was a permanent post, on contract basis and after one year, he claimed for being made permanent. A few days before the expiry of his term, the petitioner dismissed him on the ground that his work was unsatisfactory.

The court awarded Rs.200 as costs of the petition to the workman and legal costs to the State.

(From National Herald, Lucknow, dated November 26, 1958)

8TH SESSION OF THE PUNJAB STATE LABOUR ADVISORY BOARD

by Satish Loomba

The 8th Session of the Punjab State Labour Advisory Board was held at Chandigarh on November 13 and 14, 1958, under the presidentship of Shri Amar Nath Vidyalankar, Labour Minister. Shri G.L.Nanda, Union Labour Minister, inaugurated the deliberations and the Chief Minister of Punjab, Sardar Pratap Singh Kairon addressed the meeting.

In his speech, Shri Vidyalankar, Punjab Labour Minister, claimed that due to the progressive labour policy of his Government and the efficient and the hard work put in by the Labour Department, there was a sharp decline in the number of strikes and of mandays lost.

Whilst in 1955, the strikes numbered 151 and the mandays lost were to the tune of 2,24,000, in 1956, there were only 36 strikes resulting in a loss of 34,756 mandays and in 1957, the number came down still further to 32 strikes and 6,069 mandays lost. He said upto September 1958, the figures for the year would be only seven strikes with a total loss of 4,267 mandays.

The Labour Minister of Punjab however conceded that the industrial relations in the State were far from happy and "we are living in the state of perpetual cold war between the worker and the owner of the industry." This is amply proved by the sharp increase in the number of disputes and of references for adjudication.

Year	No. of disputes	No. referred to adjudication
1955	155	50
1956	423	55
1957	898	107

Shri G.L.Nanda, the Union Labour Minister, put forward the thesis that the labour policy of the Government was not the policy of any one party, that due to close consultations in the panels of the Planning Commission, Tripartite meetings, etc

was a "national labour policy".

Shri Nanda added that the three important aspects of this "national labour policy" were: (1) rising standard of living; (2) employment opportunities;and (3) equitable distribution. Stating that all the three should be taken as a whole, he went on to explain the implications of each of these aspects. According to him, the share which labour demands must depend in the first instance upon production and productivity.

The Union Labour Minister characterised the Government's labour policy as a "peaceful labour policy". In this context, he held that strikes and hunger strikes had no place in present-day labour relations and in fact, had been banned by the Code of Discipline. The line which he put forward was - organise, negotiate and settle; in case if failure, refer to arbitration or adjudication but on condition that there were no strikes, hunger strikes or other "violent" methods adopted.

The Punjab Chief Minister completed the picture which Shri Nanda drew up by declaring that strikes and hunger strikes created what he called a "law and order" situation and the Government would interfere arresting five or one thousand as was felt necessary.

The INTUC representatives meekly agreed with what had been said on the part of the Ministers and while supporting the Code of Discipline, claimed that they as "Gandhites" had always stood by its principles even before it was evolved.

It was left to the AITUC representative to put squarely the point of view of the working class.

Com.Satish Loomba, Secretary, AITUC, pointed out that the AITUC agreed with the Code of Discipline. However, as admitted by the Government in Lok Sabha, it was the employers who violated the Code far more than the workers.

In Punjab, there was another difficulty. The majority of the employers were not members of any central organisations of employers who were parties to the Code. In such circumstances, who could make the employers abide by the Code and who could take any action, on cases of violation, against recalcitrant employers.

Com.Loomba ~~pxxxxxxxxx~~ added, new versions and novel interpretations are now being given to the Code, as for instance the statement made in the meeting that the Code bans all strikes. The AITUC agrees that disputes should be settled by mutual negotiations but failing that, it reserves the right to strike.~~x~~ The AITUC stood by its general line laid down at its Ernakulam session which said: ~~xxxxxxxxx~~ "organise and unite; demonstrate and protest; negotiate and settle; and strike, peacefully, and as a last resort."

As regards the attitude of the employers, the ~~f~~requent recourse to High Courts and Supreme Court on frivolous matters is clear from the figures supplied by the Government itself. The employers filed no less than 76 writ petitions during 1955-58 out of a total of 210 references made. Out of these 69 were dismissed outright, two by Division Bench and one by Supreme Court. But by these tactics, the employers managed to delay the proceedings, on an average, by one year and three months.

Shri Nanda at once intervened to say that he had not intended to say that strikes and hunger strikes were ruled out, but recourse to these methods must be minimised. As regards the point about Code of Discipline and the employers, it was a fair challenge to the employers and a cogent one and he hoped that they will take it up.

The Session divided itself into two sub-committees: one, on industrial relations and another on social security and welfare. As a result of the deliberations of these sub-committees, a number of important recommendations were made on various topics.

The sub-committees recommended, among others, (1) collective agreements should be encouraged in the light of norms set up by judicial pronouncements on such questions as holidays, leave, bonus, etc.; (2) industrial housing schemes should be expedited; (3) workers should be encouraged to voluntarily invest part of bonus in national savings certificates or Provident Fund; (4) provision of facilities for technical training to workers; (5) removal of defects in Provident Fund administration; (6) references under the Industrial Disputes Act should be expedited, etc.

The Board called upon all employers' organisations to immediately ratify the Code of Discipline.

A notable feature of the meeting was the categorical declaration made by Shri Nanda that it was the policy of the Government to treat industrial workers in the Public Sector on a par with their counterparts in the private sector so far as rights, facilities and application of labour laws, etc. are concerned. It is worth recalling here that the Punjab Government has been denying all these rights to industrial workers in the State Sector.

The Labour Advisory Board in the Punjab had more or less ceased functioning. The present meeting was held after a lapse of one year and nine months! But it was useful in clarifying certain basic issues, in removing certain technical and administrative difficulties and, above all, in laying the foundation of better functioning in future.

INTER-UNION RIVALRY

Earlier on November 12, an informal meeting was convened by the State Labour Minister, Shri Vidyalankar, of representatives of AITUC, INTUC and HMS. (The UTUC has no unions in Punjab).

At this meeting, discussion veered round to inter-union relations and the Code evolved in Nainital. The AITUC representative pointed out grave violations of this Code on the part

of the INTUC and supplemented his contention with xhx voluminous published material. The INTUC representatives had to xgx concede the correctness of these allegations and promised better behaviour in future.

It was unanimously agreed that an informal committee consisting of two representatives of each of the three organisations under the Presidentship of the State Labour Minister should be set up to enforce the inter-union Code of conduct and to thrash out problems and difficulties. This committee will meet from time to time.

This decision was later on approved by the State Labour Advisory Board.

PAYMENT OF MATERNITY BENEFITS TO WOMEN WORKERS IN MINES

The Union Ministry of Labour, it is understood, has in a letter to the organisations of coaliery employers, xxx asked for implementation of the tripartite meeting of colliery interests held in Calcutta on August 3, in regard to payment of maternity benefits.

The tripartite meeting recommended that with regard to the rate of maternity benefit, Government should take steps to amend the Mines Maternity Benefit Act, so as to equate the benefits under this Act with that applicable to factories and that, in the meantime, employers should pay the enhanced rate of benefit which would be suggested by the Union Labour Ministry.

The rate of maternity benefit payable to factory labour varies from State to State. In certain States, it is average daily earnings subject to a minimum of 12 annas. The Employees State Insurance Act provides for payment of maternity benefit at the rate of half the assumed average daily wages or 12 annas per day, whichever is greater. The xxxxx E.S.I. Corporation has approved a proposal to raise the rate of maternity benefit under its Scheme to the full assumed daily wage subject to a minimum of 12 annas per day.

The Labour Ministry has now called upon the employers' in coal industry to ensure that pending a statutory provision for enhancing the maternity benefits, steps should be taken to ensure that maternity benefits are paid at the rate of average daily wage subject to a minimum of 12 annas per day.

Govt. Employees

CENTRAL INDUSTRIES EMPLOYEES FEDERATION FORMED IN BANGALORE

Nearly twentythousand employees of the four Central Government's industrial undertakings in Bangalore - aircraft, telephone, machine tools and electronics - were united on one Federation at a conference held on November 15 and 16, 1958.

The Federation was formed under the joint auspices of the four unions in the Government-owned industries in Bangalore, viz., the Hindustan Aircraft Employees Association, Indian Telephone Industries Employees Union, Hindustan Machine Tools Employees Association and Bharat Electronics Employees Union. These unions are not affiliated to any national TU centre.

Earlier in 1956, a joint conference was held to constitute the Federation but though a formal decision was taken, much headway could not be made due to certain practical difficulties.

The need for greater coordination between the four unions was emphasised by experience of the past years and it was also pointed out by the representatives of the unions that the Government had all along neglected the welfare of the workers in these undertakings. It was stated that the Bangalore industrial employees were even deprived of even those amenities extended to their counterparts in Chittaranjan Locomotive Works and Sindri Fertilizers, both of them Government-owned. The privileges enjoyed by workers in the private sector were also denied to them. They are not getting D.A. on Central Government rates nor do they have profit-sharing bonus as in the private sector.

Speakers at the conference stressed the fact that even among the four industries under the Central Government in Bangalore, there exists no uniformity in respect of leave facilities and other service conditions. The Federation has, therefore, been formed with a view to press forward more vigorously the main demand of the employees that they should be treated on a par with other employees of the Central Government.

The past experience of the employees in getting even their ordinary demands fulfilled, it was stated, was very bitter. The workers of Hindustan Aircrafts had to wage a determined struggle for more than three years to get a meagre increase in their D.A. and a paltry reduction in conveyance charges. And it was also their experience that the Government had spared no method of repression to cow down the workers' agitation. Meetings were banned, trade union leaders were arrested, workers were subjected to lathi-charge and in a police firing, Com.Pandhyan Achari, a worker of the Aircraft factory, fell a martyr.

The success achieved in united struggles in the four industries was finally given organisational shape in the formation of the Central Industries Employees' Federation.

The conference was inaugurated by Com.P.Ramamurti, Vice President, AITUC and the inaugural session was presided over by Com.B.S.Mahadev Singh, President of Hyderabad HMS. The INTUC and UTUC representatives, it is reported, could not attend the conference due to certain practical difficulties, even though they had earlier announced their participation.

Coms.P.Ramamurti and Mahadev Singh assured the support of their central organisations to the struggle of the workers for better living conditions.

264 representatives from the four enterprises participated in the delegates' session. Among resolutions adopted were on labour policy of the Government, in which it was demanded that (a) the TUs which command the confidence of the majority should be recognised; (b) uniform conditions of leave, wages, D.A., etc. should be brought about in all industries in Public Sector on par with the Central Government employees; and (c) create a machinery to solve expeditiously the problems of employees.

The conference demanded that the four victimised employees of Hindustan Aircrafts should be reinstated; a Wage Board should be appointed to evolve a proper wage structure in the four industries and that compensation should be paid to the family of Com.Pandyam Achari who fell victim to the police firing in the course of the Aircraft workers' struggle.

Com.F.Louis was elected President, Coms.M.S.Krishnan and P.R.P.Thevar, Vice Presidents, and Com.K.S.Krishna Murthy as General Secretary.

"MATSUKAWA CASE" -

FRAME-UP AGAINST JAPANESE TRADE UNIONISTS

The final appeal in what is known as the "Matsukawa Case", before the Supreme Court of Japan since November 5, has coincided with the powerful protests lodged by working class and democratic organisations against a foul frame-up against Japanese trade unionists.

The case was framed following the derailment of a goods train and was used as an opportunity to break the morale of the militant railway workers' trade unions which were in the forefront of the struggle against poverty, re-militarisation of Japan and against the domination of their country by American imperialists.

Under the pressure of the most reactionary Japanese circles and the American occupation forces, the authorities fo ged a case against prominent trade union leaders, accusing them of deliberate derailment of the train.

Their aim was political: to discredit the working class movement which was leading the fight for a policy of independence and peace and to inflict a blow on the Japanese Railwaymen's Union which, at that time, had launched a powerful movement against the dismissal of one lakh railway workers who had been declared "surplus".

Twenty workers were declared guilty by the court in 1950. Five of them were sentenced to death, five to prison for life and the others to hard labour. The first Appeal Court in 1953 acquitted three but sentenced four innocent workers to death, two to life imprisonment and eleven to various other penalties.

What is indeed astounding in this whole episode is the fact that the Court itself accepted that the enquiry furnished no proof of the accused railwaymen's guilt. The judgement was given purely on the basis of so-called "confessions" which were extorted from the victims by the police.

The Trade Unions International of Transport, Port and Fishery Workers (WFTU) and many other organisations have

SPOTLIGHT ON INDUSTRY

S U G A R

The modern sugar industry in India, in the last three decades, had made phenomenal progress: from 31 factories producing 1.58 lakh tons of sugar in 1931-32, the industry in 1957-58 has in its fold 183 factories with an aggregate production capacity of over twenty lakh tons.

Under the Second Five Year Plan, a sum of Rs.51 crores is set apart for further development of the industry. The Second Plan target for 1960-61 is 22.5 lakh tons, and the planners expect that the present working force in the industry which is around 1,40,000 would be further augmented by another 30,000 at the end of the plan period.

Although the manufacture of crystalline sugar by the modern vacuum pan process has had a late beginning in our country, India is credited with the discovery of the method for converting sugarcane juice into sugar and its use as a sweetening agent in the form of gur or rab. Several references are found in our ancient scriptures about the production and consumption of sugar and legend has it that a Chinese Emperor had sent a delegation in about A.D.600 trekking over the Gobi desert and the Himalayas to India to know the secret of sugar-making.

The late beginnings of the modern large-scale industry in India could be mainly attributed to the absence of State protection to Indian sugar industry in the early years, in face of stiff competition from abroad.

Attempts for the establishment of modern sugar mills were initiated in late nineteenth century but it was only in the year 1931 that a Tariff Board was appointed to recommend measures for protection to the industry and governmental patronage was not forthcoming till 1932.

In the wake of tariff protection, and following it the prosperity of the war and post-war boom periods, helped the industry to make rapid progress. Compared to the days of [illegible] competition before 1932, the-

sizeable exports to foreign countries, even at the risk of an increased price for Indian consumers!

The industry, according to the Second Five Year Plan, would expand to 220 factories, with a capacity of 25 lakh tons capacity and producing 22.5 lakh tons. Under the Plan, new licences for sugar mills to achieve the target would be issued to get an additional capacity of 9.5 lakh tons. Of this 1.29 lakh tons would be obtained by expansion of existing factories and 2.50 lakh tons by establishing 25 new factories.

Under the Second Plan, the cultivation of sugarcane by intensive methods would result in the production of cane reaching a target of 710 lakh tons, compared to 590 lakh tons in 1956-57.

Nearly thirty to thirtyfive percent of the sugarcane produced is consumed in sugar mills. The rest is made use of in indigenous production of gur, on a cottage industry basis, and for the manufacture of khandsari sugar.

In terms of percentage of recovery of sugar from cane, India is one of those countries which has the poorest record. Compared to Australia which has 14.33% recovery, the average percentage for India is only 9.9. In other words, while it takes only 8.16 maunds to manufacture one maund of sugar, in our country, ten maunds are required.

In terms of yield per acre also, India lags far behind. Compared to 62 tons in Hawai, 26 in Jawa and 41 in Peru, India produces on an average of only 14 tons per acre. Thus the advance that could be registered in these two respects is patent, and the industry could make further rapid headway on this basis.

Again, the per capita consumption of sugar in India is also one of the lowest in the world. In order to make up this deficiency, it is estimated that -

"To raise India's consumption to the level of Egypt (31 lbs.), sugar production will have to be raised to 45 lakh tons; to go to the standard of U.K. (90 lbs.) production would have to be stepped up to 140 lakh tons, which would require more than 1000 sugar factories." (Investor's Encyclopaedia, page 1884)

Thus the target of the Second Plan itself is extremely modest and the prospect for a rapid advance of the industry in the future period is immensely bright.

In addition to the production of crystal sugar, sugar factories have subsidiaries for distillation of molasses (a by-product) into power alcohol, plants for manufacturing confectionery, fruit preservation, etc.

REGIONAL DISTRIBUTION

The sugar industry is mainly concentrated in Uttar Pradesh and Bihar, the sub-tropical regions in India, although the tropical climate of Southern regions are more suited to sugarcane cultivation.

There are 77 mills in Uttar Pradesh, 23 in Bombay, 31 in Bihar, 12 in Andhra, 8 each in Mysore and Madhya Pradesh, and Punjab and 7 in Madras, 3 in Rajasthan, 2 each in W.Bengal and Orissa and 1 in Kerala, of a total of 183 mills which were expected to be in production in the year 1957. (Indian Sugar Industry, 1956-57 Annual)

The industry being seasonal, the duration of the crushing season varies from State to State, with 165 days in Andhra being the highest and Punjab with only 121 days as the lowest. The average duration of the crushing season in India during 1955-56.

CAPITAL STRUCTURE

According to the Census of Manufacturing Industries, 1955, an analysis of returns received from 153 sugar factories showed that a sum of Rs.24.89 crores was the fixed capital employed in this industry, besides a working capital of Rs.65.10 crores. The output of these 153 factories were valued at Rs.118.73 crores.

exists a high degree of monopoly control over the sugar industry.

The tentacles of the leading monopolist managing agency houses in the country have gone very deep in this industry too. The House of Birlas (masquerading under the name of "Cotton Agents Private Ltd."), Karamchand Thapar and Brothers, Sahu-Jain Ltd. (Dalmia concern), Begg Sutherland & Co. (subsidiary of British India Corporation involved in the Mundhra Affair), the Singhanias, Jaipurias, W.H.Brady&Co., Parry & Co., Walchand Hirachand, Narang Brothers, Lala Shri Ram and other leading lights of Big Business in India have each of them sizeable holdings in the industry's capital structure.

There are also a few co-operative sugar factories, notably in Punjab and Bombay.

PROFITS

The following table giving the dividends paid by major sugar companies is revealing:

Name of the Company	1954	1955	1956	1957
Bharat Sugar (Birlas)	15	15	15	15
Kesar Sugar (Tulsidas Kilachand)	-	5.6	10	17.5
New India Sugar Mills (Birlas)	25	25	25	25
New Swadeshi Sugar (Birlas)	20	20	20	20
Upper Ganges Sugar (Birlas)	25	25	30	50
Belapur Company (W.H.Brady)	32	32	32	36
Ravalgaon Sugar Farm (Walchands)	5	18	24	24
Walchandnagar Industries (do)	16	18	21	21

The above table has been worked on the basis of quantum of dividends declared by the companies, as published in the Commerce, dated May 31, 1958. Due to lack of space, it has not been possible to detail the enormous profits garnered by the employers in this industry, indicating the dividends declared by other sugar companies.

Indian Sugar Mills Association, which in press advertisements costing thousands of rupees, has tried to paint a picture of the miserable plight of these gentlemen, hedged in by the fantastic claims of sugarcane growers, the workers and the Government's tax-collectors.

According to the Sugar Mills Association, which has picturesquely described the share of the growers, government and workers in the final product, the profit earned by the millowners on a maund of sugar is less than three percent of its actual cost.

It does not take much argument to point out that even with this 3 per cent profit on sale price of sugar, the companies could declare dividends ranging from 10 to 36 per cent.

But there are, besides, more interesting aspects of the way in which these pious gentlemen have managed to accumulate colossal fortunes.

The great gods of the industry, the managing agency houses, among whom arise the Birlas, Thapars and other great names, have earned their special remuneration in addition to the dividends. In this connection, we would rather quote from Shri S.K.Basu's The Managing Agency System, In Prospect and Retrospect, (World Press, Calcutta), on the earnings of managing agents in sugar industry.

"It will be interesting to investigate the position in the Sugar Mill industry. A study of the articles of association and managing agency agreements of the sugar mills and of the evidences tendered by some of the older concerns before the Tariff Board conducting the sugar industry enquiry brings out the same divergence in practice as regards the system of remuneration. Messrs.Begg Sutherland & Co., (of Kanpur) in conjunction with Messrs. Begg Dunlop & Co., of Calcutta held the managing agencies of several well-known sugar mill companies and were remunerated in some cases by a commission on profits and in others by one on sales."

10 FEB 1959

THE COMMERCIAL & MERCANTILE EMPLOYEES' FEDERATION

(Reg. No. 2456)

President:

V. G. ROW, Barrister-at-Law.

12/13, Angappa Naicken Street,

Madras-1 7th Feb. 195 9

Sri K.G. Srivatsaya
A.I.T.U.C. Central Office,
4, Ashoka Road,
New Delhi.

Dear Comrade,

Industrial Dispute Act 1947 - Amendment.

In recent disputes between the management and workers of the Pope Fire Co., Kilpauk, Madras, some items of dispute were referred for adjudication. In this reference the dispute was mentioned by the Government as "Between workers and management". It was argued in the Labour Court that the word "workmen" is not been defined in the I.D. Act though this word finds a place in section 36 of the Act along with the word "workmen."

Both the words "employee" and "workmen" mean any person employed but the result is that the restricted meaning given to "workmen" in the Act cannot be given to the word "Worker". It is requested that necessary amendment be carried out in the I.D. Act to the effect that the word "workmen" would be read as "employee" wherever the word occurs.

Yours fraternally,

G.S.

175-B

17th February, 1959

Com. V.G.Row,
Andhra Insurance Building,
337, Thambu Chetty Street,
MADRAS-1

Dear Comrade,

I hope you have received my earlier letter and a cheque for Rs.250/- dated 11.2.59.

In your letter of 21st January, while dealing with the subcommittee meeting for considering the amendments of the Industrial Disputes Act, you have referred to an agreement at a higher level regarding the provisions relating to retrenchment and lay off because of which the Government was not prepared to consider any amendments unless both the employers and workmen agree.

I shall be gald if you will kindly furnish all the details about the same at an early date.

Greetings,

Yours fraternally,

PS: The parcel containing all the amendments to the Idustrial Disputes Act to hand to-day.

(K.G.Sriwastava)
SECRETARY

14 FEB 1959

Telegrams : "CAPACITY" V. G. ROW

Telephone No. 2611

C/o ROW & REDDY

ADVOCATES

ANDHRA INSURANCE BUILDINGS,
337, THAMBU CHETTY STREET, MADRAS-1.

Partners :
V. G. ROW, BARRISTER-AT-LAW.
ADVOCATE, SUPREME COURT.
A. RAMACHANDRAN, M.A. (CANTAB)
BARRISTER AT-LAW.

Dated 13-2-59. 195 .

Ref.: R.1/386

Dear Com. Srivastava,

Thank you very much for your letter dated 11-2-59 enclosing a cheque for Rs.250/-.

I am sending you a tabulated typed book containing the amendments considered at the Sub-Committee Meeting held at Bombay.

I am also sending you the typed copies of amendments sent by the Government also.

Thanking you with Greetings,

Yours fraternally,

V G Row

Com. K. G. Srivastava,
Secretary,
All India Trade Union Congress,
4, Ashok Road,
New Delhi.

file
VGR
14/2

Regd A.D.

11th February, 1959

Com. V.G.Row,
Andhra Insurance Buildings,
337, Thambu Chetty Street,
MADRAS-1

Dear Comrade,

Received your letter dated 21st January, 1959 along with a report of the meeting of the Subcommittee on Industrial Disputes Act. I thank you very much for the same.

I shall be glad if you will send a copy of all the amendments sent to you by the Government and considered at the meeting.

Please find along with this letter a crossed cheque No. 44903 dated 11th February, 1959 of National Overseas Bank Ltd of Rs. 250.00. Kindly acknowledge the receipt of the same.

Greetings,

Yours fraternally,

SECRETARY.

March 6, 1959

Com. V. G. Row,
Bar-at-Law,
25 Lotanga Road,
Vepery,
Madras-7

Dear Comrade,

Please find herewith a copy of a letter received from the Ministry of Labour and Employment.

With greetings,

Yours fraternally,

(K.G.SRIVASTAVA)
SECRETARY

6 MAR 1959

LRIV-366/59

Telegrams :—
"LABOUR"

Teja Singh Sahni
Deputy Secretary.

MINISTRY OF
LABOUR AND EMPLOYMENT.

New Delhi, the 5th March 1959

Dear Shri Row,

This is with reference to the issue of bonus demand of the Binny Mill workers referred to by you at the last meeting of the Industrial Disputes Act Amendment Committee held in Bombay and your letter, dated the 24th January 1959. As you are also aware, an agreement on bonus for 1956 and 1957 was concluded with the Binny Employees' Union.

Adjudication on the demand for bonus for 1957 was not granted by the Government of Madras on the ground that it was not sustainable as the issue had already been settled by the management with their recognised union and accepted by the workers.

Yours sincerely,

Teja Singh 5/3/59

(Teja Singh Sahni)

Shri V.G.Row,
All India Trade Union Congress,
4, Ashoka Road,
New Delhi.

12 JUL 1959

6. The General Secretary,
The All India Trade Union Congress,
4, Ashoka Road, New Delhi.

No.LRI-1(103)/59
Government of India
Ministry of Labour & Employment

From
Shri A.L. Handa,
Under Secretary to the Government of India.

To
(1) All State Governments.

(2) All India Organisations of Employers and Workers.

12 JUL 1959

Dated New Delhi, the

Subject:- Committee appointed by the Standing Labour Committee (17th Session) Summary of the Proceedings of -

Sir,

I am directed to send herewith a copy of the summary of the proceedings of the Committee appointed by the Standing Labour Committee, which met at Bombay on the 16th-17th January, 1959, A copy each of the following statements are also enclosed:-

(a) Statement indicating the amendments accepted by the Committee of Standing Labour Committee.

(b) Statement indicating the points on which an undertaking was given by the Chairman on matters other than amendments to the Industrial Disputes Act, 1947.

(c) Statement indicating the points on which an undertaking was given by the Chairman that the matter would be further examined.

Yours faithfully,

(A.L. Handa)
Under Secretary

d.a.refd.to
sps 3.7.

Copy forwarded with enclosures for information to:-

1. All Employing Ministries
2. Chief Labour Commissioner(Central)New Delhi(10 spare copies)
3. Director, Labour Bureau, Simla.
4. Press Information Bureau (Shri S. Kumar Dev)
5. LRII/LRIII/LRIV/E&I/E&P Sections.

(A.L. Handa)
Under Secretary

Draft Summary of the Proceedings of the meeting of the Committee of the Standing Labour Committee to consider draft amendments to the Industrial Disputes Act, 1947 - 16th and 17th January 1959.

..*.*.*.

CENTRAL GOVERNMENT

1. Shri Abid Ali — Chairman.
Union Deputy Labour Minister.

2. Shri P.M. Menon, I.C.S.,
Secretary.

3. Shri Teja Singh Sahni,
Deputy Secretary.

4. Shri S.P. Mukerjee, I.A.S.,
Chief Labour Commissioner (Central).

5. Shri V.S. Jetley,
Additional Legal Adviser,
Ministry of Law.

6. Shri G.A. Ramrakhiani,
Deputy Secretary,
Ministry of Defence.

STATE GOVERNMENTS.

Bombay

7. Shri Shantilal H. Shah, — Delegate
Minister for Labour and Social Welfare

8. Shri S.K. Sukhthunker,
Labour Commissioner, Bombay — Adviser.

9. Shri B.B. Brahmbhatt, — Adviser
Under Secretary,
Labour & Social Welfare Department.

Bihar

10. Shri B.P. Singh, I.A.S., — Delegate.
Labour Secretary.

11. Shri S.N. Pande, I.A.S., — Adviser.
Labour Commissioner.

1 Madhya Pradesh

12. Shri V.R. Kulkarni, — Delegate.
Assistant Labour Commissioner,
Bhopal.

Madras.

13. Shri V. Balasundaram, I.A.S., — Delegate
Labour Commissioner.

Uttar Pradesh.

14. Shri Uma Shankar, I.A.S., — Delegate.
Labour Commissioner.

15. Shri S.P. Pande, Deputy Secretary — Adviser

West Bengal

16. Shri S.M. Bhattacharya, Labour Commissioner. — Delegate

E M P L O Y E R S

All India Organisation of Industrial Employers.

17. Shri Surottam P. Hutheesing — Delegate

18. Shri P. Chentsal Rao — Adviser

Employers' Federation of India.

19. Shri Naval H. Tata — Delegate

20. Shri T.S. Swaminathan. — Adviser

21. Shri M. Ghosa — Adviser

All-India Manufacturers' Organisation.

22. Shri H.P. Merchant, AIMO, 4th Floor Cooperative Insurance Building, Sir Pherozshah Mehta Road, Fort Bombay. — Delegate

23. Shri K. Naoroji, AIMO, Bombay — Adviser

W O R K E R S

Indian National Trade Union Congress.

24. Shri Kanti Mehta, Organising Secretary-INTUC, Indian National Mine Workers' Federation, 128/7, Hazara Road, Calcutta. — Delegate

25. Shri R.M. Shukla, C/o Textile Labour Association, Gandhi Majoor Sevalaya, Bhadra, Ahmedabad. — Adviser

All India Trade Union Congress.

26. Shri V.G. Row, Bar-at-Law, 25 Letangs Road, Vepery , Madras-7. — Delegate.

27 Shri T.R. Ganesan. — Adviser

28 Shri Subramanyam — Adviser

Hind Mazdoor Sabha

29 Shri V.P. Sathe, Nagpur Textile Union, Bhaldarpura Road, Nagpur. — Delegate.

Unionited Trade Union Congress.

30. Shri Pratul Chowdhury, C/o United Trade Union Congress, 2[illegible] — Delegate.

In his opening remarks, Shri Abid Ali referred to the fact that the meeting of the Committee had to be postponed twice to meet the wishes of the different parties. Originally, there were 45 proposals for amendment of the Industrial Disputes Act, 1947, at the time of the meeting of the Standing Labour Committee in October, 1958. Now, there were 201 amendments, 50 of which had been proposed by Central and State Governments, 119 by workers' organisations and 32 by the Employers' organisations. Some of them were really of a controversial nature.

The Chairman expressed the hope that the Committee would discuss these issues in an amicable spirit, and settle them, so that the desired result of industrial prosperity and happiness could be ensured.

The Chairman. then referred to the untimely demise of Shri Somnath P. Dave, a member of the Committee which was a great loss to the Committee. The Committee observed two minutes silence to mourn his death.

The Chairman also remarked that only such amendments as had been received by Government the 24th December, 1958, were circulated to the members of the Committee.

Shri Naval Tata referred to the fact that quite a number of amendments suggested by the two sides were of a controversial nature. He believed that only the more important ones need be discussed at the meeting and that others could be left out for the time being.

The Chairman suggested that the Committee might proceed with discussion of the different proposals for amendment.

Section 2(a)(i)

The proposal was approved.

Section 2 (aa)

As regards the amendment suggested by the Government of Bombay, Shri Kanti Mehta felt that there should be some simplification. The term "average pay" should mean the rate of pay drawn by the workmen on the last day.

The Chairman pointed out that the Bombay Government were withdrawing their amendment.

Section 2(eee)

Shri Kanti Mehta suggested that section 2(eee) itself should be deleted. He was of the view that the provision regarding lay-off and retrenchment were conflicting with each other and that what was necessary was only an actual period of 240 days should be taken into consideration which would, of course, include the days specified in the explanation to section 25B.

Shri Jetley. intervened to say that for the purpose of lay-off and retrenchment, 240 days was the actual period which is to be taken into consideration. In his view, it was difficult to organise the two provisions. Section 2(eee) appeared to be a redundant one.

Shri Shukla said that section 2(eee) and 25B should be read together. Section 25B added something more to section 2(eee) and he did not think the suggestion for deletion of the latter was advisable.

Shri Sathe felt that section 2(eee) should be made more copious by incorporating section 25B therein.

As there was a considerable difference of opinion, particularly so far as the principle of computation of the qualifying period, the Chairman suggested that the matter should be further considered.

On the suggestion of Shri Kanti Mehta, it was decided that the section could again be discussed along with the proposal for amendment received for section 25B.

Section 2(g)

The suggestion sponsored by the Government of Hyderabad was withdrawn after some discussion.

The representatives of the labour organisations were of the view that the principal employer should be responsible even in respect of the labour employed by contractors under him. It was decided that the definition as in section 3(14) of the Bombay Industrial Relations Act, 1946 should be adopted.

Section 2(hh)

It was pointed out that it would be very difficult to define the term 'go-slow'.

The Chairman expressed the hope that the operation of the Code would reduce the instances of 'go-slow' and that a trial should be given to the working of the Code;

Section 2(j)

The amendment suggested by the Indian Merchants Chamber, Bombay, to the effect that small establishments employing a certain minimum number of employees should be exempted from the scope of the scope of the Act, was dropped after some discussion. As regards the other amendments suggested by the Indian Merchants Chamber, the United Trade Union Congress and the Bengal Provincial Trade Union Congress, it was decided that the Act might be amended so as to cover professionals having establishments. It was pointed out by the Chairman that under the existing provisions hospitals were already included.

Section 2(k)

All the amendments were rejected, after some discussion.

Section 2(n)

The amendment that "air transport" industry should be specified as a permanent "public utility service" was accepted.

5/-.....

Section 2(oo)

The Chairman enquired whether any amendment to clause (c) was considered necessary and the consensus of opinion was that no such amendment was necessary.

Shri Kanti Mehta desired that some compensation should be given in cases where services of workmen were terminated on account of ill-health, after a long spell of, say, 25 years' service.

The Chairman said that such cases could not be brought within the purview of the Industrial Disputes Act.

Section 2(p)

Shri Subramanian expressed the view that an agreement entered into by minorities should not be imposed on the majority.

Shri V.P. Sathe stated that only any agreements entered into by the majority should be enforced.

The Chairman. suggested that the amendment might be dropped.

Shri Subramanian again stressed that the minority settlement should not bind the majority of the workers, unless it was ratified by the majority.

Shri Shantilal Shah stated that it would not bind.

The Chairman stated that persons, who enter into agreement are alone bound by the agreement.

Section 2(q)

The Chairman suggested that it would be better to leave it as it is, since Government have decided not to include "go-slow".

Shri Subramanian pointed out that when Maulana Abdul Kalam Azad died the workers observed a 'hartal' for a short period. For that 7 days' wages were cut. It was unfair and unjust.

The Chairman observed that for such occasions there must be agreement between the workers and the management. There should be some sort of adjustment.

Shri V.P. Sathe desired to know who should be the person to decide whether a particular cessation was a strike or not.

The Chairman observed that the Court should decide this.

Section 2(rr)

Shri Kanti Mehta pointed out that bonus has been treated even by tribunals as part of the wages.

Shri T.S. Swaminathan was of the view that bonus should not be considered as wages.

The Chairman thought that for the purposes of Provident Fund etc., bonus is included.

Shri Kanti Mehta stated that it was not so and suggested that the BIR definition should be adopted.

The Chairman stated that it would be considered.

Shri Merchant pointed out that under the payment of Wages Act there was no difficulty for recovery of the dues.

Shri Shantilal Shah stated that the Bombay Industrial Relations Act definition was by an amendment made in 1953. At that time the Bombay Government's definition was before the Central Government. For some reason which the State Government did not know, the Central Government took a different view.

Shri Sathe stated that there was difficulty for recovery of moneys and that the Court could not recover gratuity or bonus.

The Chairman remarked that bonus would not come in the picture. If any one was entitled to retrenchment compensation, then it would be included.

Shri Shantilal Shah pointed out that the word "wages" had two different implications. Here the "wages was what was to be recovered. Under the Payment of Wages Act it was different. There it was as to when the workmen becomes entitled to it. The two definitions must remain different. The Bombay Industrial Relations Act definition was better.

Shri Merchant supported the Industrial Disputes Act definition.

Shri Mehta stated that the lay-off compensation was not recovered under the Industrial Disputes Act. The employers should have no objection for recovery under the Payment of Wages Act. Layoff compensation was recoverable under section 33C of the Act.

Shri Sathe stated that lay-off compensation was provided statutorily but there was no provision for recovery.

Shri Shantilal Shah pointed out that there was some difference between wages and compensation. If lay-off compensation was wages then the suggestion was to include it under wages. The Industrial Disputes Act and Workmen's Compensation Act definitions might be considered and a remedy found.

The Chairman stated that if it was not covered by section 33C it would be examined.

Section 2(s)

Shri Swaminathan felt that the apprentices should not be covered and the words should be deleted. There should be no distinction between one supervisor and the other. There should be some consequential change.

The Chairman stated that the Act mentioned badli and casual labour only for the purpose of lay-off compensation.

Shri Subramanian remarked that the Madras High Court have said that badli was not a workman.

The Chairman said that the position would be examined.

The other amendments were not pressed.

Section 3

The amendments were dropped.

Section 4

Shri Ghose stated that there were not sufficient number of qualified personnel.

Shri P.M. Menon asked him to send his proposals

Shri Ghose suggested that they should be graduates in Social Science. Sometimes they were neither qualified nor experienced. He suggested that a three-year probationary period should be fixed for Assistant Commissioners of Labour.

The Chairman stated that these would be brought to the notice of the State Governments who would be requested to consider them and tell the Central Government exactly what should be their qualification and probationary period.

Shri Shantilal Shah enquired of Shri Ghose whether he wanted these to be provided for in the Act. Shri Ghose replied in the negative.

The Chairman said that they must be competent for the job.

Section 7

The amendment suggested by the Ministry of Labour and Employment was adopted by the Committee.

Shri Row suggested that the term "Independent person" should be defined properly. He desired that the extent of share held by the judge should also be communicated to the parties.

The Chairman stated that the Ministry would communicate to the judges that the Committee had discussed the matter. They would be requested to disclose the information in the open Court.

Shri Jetley stated that the object in communicating to the appropriate Government was to enable it to be satisfied whether or not the person concerned was an independent one.

Shri Sathe stated that workers should be satisfied.

The Chairman agreed that they should be satisfied. The Ministry would consider what should be done about it.

Section 7A & 7B

The Chairman stated that the amendment suggested by the INTUC(Maharashtra Branch) need not be accepted. The other amendments were dropped.

Section 9A

Shri Mehta desired that in cases of notice of change, there should be automatic reference.

The Chairman stated that, where necessary, workers affected could raise an industrial dispute.

Shri Mehta desired that once conciliation proceedings started, there should be no change. If employers wanted to change the conditions of service, they should go to Government.

Shri Shantilal Shah suggested that it should be on the pattern of the BIR. There would be an automatic settlement failing which conciliation is there. The BIR is quite satisfactory. He was in favour of adopting the BIR pattern and set up.

Shri M. Ghose stated that it had been introduced by some of the State Governments very recently. Before any change is effected, it should be given a trial.

The Chairman stated that it has been covered and there should not be any difficulty.

Shri Subramanian stated the Central Act defined when the conciliation started, as far as the public utility concerns were concerned. But so far as non-public utility concerns were concerned it was not stated as to when the conciliation started.

Shri Kanti Mehta stated that it was to the deteriment of the workers.

Shri V.S. Jetely drew the attention of the members to rule 10 of the Industrial Dispute (Central) Rules, 1957.

Shri V.G. Row said that the rule was never observed.

Shri Shantilal Shah stated that there was a corresponding rule in Bombay.

The Chairman stated that the same rule should be adopted wherever it was not adopted.

Section 10(1)

The amendment suggested by the Ministry of Labour and Employment was agreed to.

Shri Hutheesing suggested the deletion of the first proviso to section 10(1)(d).

The Chairman said that the intention was that if a small number of workers were employed in an undertaking the matter could go to the Labour Court.

Shri Chentsal Rao said that it was not the size of the establishment that should be taken into account, but the nature of the dispute.

The Chairman pointed out that for more than two years the three-tier system had been working and it was not a fact that because the number of workers was small the reference was made to a lower tribunal.

Shri Mukherjee suggested that the dispute must be raised within one year of the cause of action.

Shri Swaminathan added that if the cause of action is older than one year, the dispute should not be referred.

The Chairman stated formerly there had been very old cases but nowadays Government do not refer old cases. There need be no such rigidity as suggested. Government's power should however, not be restricted.

Section 10(7)

The Chairman felt that there would be some difficulty in accpeting the amendment. Once a National Tribunal was appointed for an industry it would always remain in the Central sphere. Then the Central Government would find it difficult to keep up with the volume of work for a National Tribunal.

Shri Chentsal Rao stated that the whole position is rather anomalous. He desired that if a National Tribunal has been appointed by the Central Government, then all the subsequent matters should go to the National Tribunal.

Shri P.M. Menon stated that normally, the appropriate Government refers a dispute to a Tribunal. They have the power under section 10(3) to prohibit the continuance of any strike or lockout in connection with such disputes. If a National Tribunal is appointed in the State sphere the Central Government has no power to make any reference of other disputes. If a particular strike is declared to be illegal under section 10(3) if any prosecution is to be started for an illegal strike or lockout, though the Tribunal is National, the powers are with the State. There is, therefore, some point for examination. To say that once a National Tribunal is appointed everything connected with it should be done by the Central Government is going too far.

The Chairman stated that the matter would be examined.

Shri Sathe suggested that in cases of persons who are themselves affected personally by a particular matter, they should be allowed to take the dispute straight to a Court.

Shri Row suggested that where the majority of workmen had applied that a dispute should be referred, there should be negotiations and conciliation and there was no question of Government having discretion regarding reference.

Shri Row stated that if the conciliation failed and then if the majority of the workmen pressed for adjudication it must be given.

The Chairman observed that in practice grant of adjudication was not arbitrary.

Section 10(2)

Shri Merchant stated that if the parties agreed then it should be referred to the forum referred to in the application.

The Chairman agreed to the suggestion.

Shri S. Shah pointed out that "accordingly" meant "in accordance with the joint application". If it was redundant, then let it be omitted. Government had got no power to make any changes in the agreement or terms of reference in the joint application. Adjudication should be announced. Government could not make any changes.

Shri Sathe suggested that it might be left as it was. "Considerable" was not a precise term. A percentage should be fixed.

The Chairman said that "majority" should be reasonable.

Section 10(2A)

Shri V.G. Row suggested that the parties must be allowed to go to the Tribunal directly. That might be incorporated here to avoid multiplication of proceedings. Instead of going through the same proceedings again, they should be allowed to go to the Tribunal directly, if the majority of the workers wished to do so.

Shri Shantilal Shah said that according to the Bombay provisions an award made in respect of one establishment might be made applicable to another establishment after consultation with the industrial court.

Shri Subramanian said if the dispute was already referred to the Tribunal, instead of going through the conciliation proceedings, parties could straightaway file the application and have the matter settled.

The Chairman suggested that parties could write to the Government that a reference had been made to the Labour Court or Labour Tribunal and ask Government to refer it also.

Section 10(8)

Regarding the amendment suggested by BPNTUC, Shri Shantilal Shah stated that it was a matter of procedure.

Section10(B)

Shri V.P. Sathe pointed out that this was possible both under the BIR and the Madhya Pradesh Act. There are specific provisions under which the employee, who is dismissed, can take his case himself before the Court and get justice. That experience has proved very helpful, because it is not possible for the Union to fight for individual injustice. A dispute of this nature is essentially of a personal nature and it would be fair if the individual employee is allowed in matters of dismissal or termination of service, otherwise than in retrenchment, to take his case himself to the Court or Tribunal. It may be referred only to the Labour Court. At least in the Labour courts it should be allowed.

11/.....

The Chairman enquired whether the object was to cover every case of termination.

Shri V.P. Sathe replied that it was for the Court to decide on the merits of the case.

Shri V.S. Jetley stated that individual dispute was no "industrial dispute" at all. That was the Supreme Court decision. The very fact that the Union did not champion the cause implied that there was no substance in the complaint.

Shri Row pointed out that in Madras the State Government had provided for dealing with such cases, in so far as hotel employees were concerned.

The Chairman pointed out that a large number of individual cases had been referred under the Industrial Disputes Act.

Shri Kanti Mehta felt that it was more in the interest of the trade union movement that the workers should sooner rather than later find their way to the Union. He did not, therefore, associate himself with what was said on this point.

Section 11

The Chairman posed the question whether it would be all right to compel the parties to go before Conciliator. The Conciliator should be able to conciliate and settle. By compelling the parties to appear before the Conciliator, he would not be able to settle.

Shri S.P. Mukherjee stated that the Chief Labour Commissioner should know what the version of the Conciliator was. That would help the Government to examine the case.

Shri Jetley stated that if the party was not coming even on issue of summons, then a non-bailable warrant would have to be issued. But then there would be unpleasantness and trouble.

Shri S.P. Mukherjee suggested that if the parties did not come, there should be automatic reference.

Shri Mehta said that in such cases, an adverse inference should be drawn.

The Chairman stated that when a party did not turn up, then the conciliator acted in such a manner and then the matter was referred to adjudication.

Shri Tata pointed out that if the party's heart was not in conciliation he might refuse to give his version.

Shri Shantilal Shah was of the view that Shri Mukherjee was rather unfair to conciliator; above all, a conciliator should be a conciliator and not a court.

The Chairman stated that when once the conciliator was vested with these powers, then he would become unfair.

Section 11(8)

The Chairman enquired whether the proposed amendment was acceptable.

Shri Swaminathan considered it was not necessary. Under the Act, except the conciliation officers all authorities are deemed to be judicial authorities.

Shri Shantilal Shah pointed out that under the Contempt of Courts Act action could be taken suo moto; under the Panel Code it could not be done.

Shri Jetley pointed out that such a provision was there under the Labour Appellate Tribunal Act.

Shri Sathe did not want the provision to be made. That would be encouraging contempt. If powers were given to Labour Courts and Tribunals the powers would be abused. He wanted to know how many instances had occured in the past.

Section 11(5)

The amendment suggested by the AIOIE was dropped after some discussion.

Section 12

Shri Row said that discretion might be given to the Conciliation Officer in this respect.

Shri Mehta suggested that three months should be fixed.

The Chairman also suggested that some limit might be fixed. Sub-section (6) was unrelated to public utility service. The discretion was always with the Conciliation Officer. The time limit shall be extended as may be agreed upon by the parties. The question was whether any time limit was to be fixed and as to how many adjournments should be allowed. After some discussion the Chairman suggested that as far as possible three months might be fixed as the (maximum) time limit for the submission of the Conciliation Officers' report. The question would be examined in the light of the discussion.

Shri Sathe said that no discretionary power should be given to the Conciliation Officer and that as soon as notice was given he should be required to take up, Conciliation Proceedings.

The Chairman pointed out that generally conciliation proceedings were taken up. The Chairman asked the parties to supply statistics as to the number of cases taken up by the Conciliation Officer and the number of cases where delay had occured.

The Chairman further requested the parties to supply the statistics regarding applications sent and conciliations not undertaken. His feeling was that 1% are refused. If, however, even 5% are refused, then there might be a case for reconsideration.

Shri Sathe stated that the cases were being postponed and not taken up.

Shri S. Shah confirmed that hardly 1% might not have been entertained.

13/....

Shri Sathe stated that he would show a number of cases where the percentage was more than 10%, where the disputes were not taken up for more than 3 months. He insisted that at one stage the Conciliation Officer must tell the parties whether he intended to take up the case or not. It was not done as expeditiously as it ought to be.

The Chairman said that instructions would be issued to entertain the dispute expeditiously, for that the law need not be changed.

Shri Sathe stated that in his view it was siffucient if the Conciliation Officer submitted a failure report to Government without any reasons.

Shri Ghose was of the view that those reasons would be very helpful to Government.

Shri Sathe said that his reasons and accounts on which settlement could not be arrived at should be deleted as that influenced the Government.

The Chairman enquired how Government could then decide the case.

The Chairman suggested that it might be left to Government for decision.

Shri Sathe stated that copies of the intimation were not being sent to them.

The Chairman said that they should be sent to them.

Section 12(5)

Shri Shantilal Shah did not press the amendment proposed by the Government of Bombay as the matter was in the Supreme Court. It was dropped.

Section 12(6)

The amendment proposed by the Ministry of Labour and Employment was agreed to.

Section 15A

Shri Shantilal Shah stated that if the two parties to the dispute arrive at some settlement it should be certified by the Court that the settlement is fair.

After some discussion, the amendment was dropped.

Section 17A

Shri Kanti Mehta wanted that an award should take effect at least from the date of the publication.

Shri S.P.Mukherjee stated that it was not necessary to do so.

The Chairman stated that the Government might take some time and asked why the workers should not get the benefit.

Shri M.Ghose said that it took time to adjust.

The Chairman stated that the workers had no objection to the date of payment. They objected to the time from which it would be effective. The suggestion was that the Government took time for processing, etc. and the workers should not suffer on that account. The Chairman said that the suggestion was accepted.

The All India Trade Union Congress's amendment was dropped.

Section 17B

This was not pressed.

Section 19

The workers' representatives and employers' representatives accepted the Bombay Government's amendment.

Shri Sathe said that he would like the words "either by majority of workers or a union having majority of workers as its members" to be added.

Shri Merchant enquired what would happen if the union of workers with the majority went against the representative union.

Shri Shantilal Shah stated that there could not be a representative union except under the Bombay Industrial Relations Act.

Shri Merchant stated that this point should be borne in mind when drafting the amendment.

The Chairman stated that it should be accepted keeping in view Court decisions.

Shri Row stated that even after the termination of the the award the employers should continue to implement the award until a new award was made.

Shri Jetley pointed out that decision of the Supreme Court was to the effect that the award, even after its termination would continue to have effect until it was modified either by change in circumstances or by consent of parties. The award would not come to an end.

Shri Row stated that the question of principles analogous to res judicate should not be there. A Tribunal might have various considerations; idea of fair wages, minimum wages might change..

Shri Jetley clarified that disputes once settled should not be reopened. The doctrine of res judicata would not apply but the principle would apply.

Shri Row stated that the management should not make the termination of the award an excuse to discontinue it.

The Chairman accepted the suggestion but remarked that according to Shri Jetley it was not necessary in view of the Supreme Court decision. Yet Government would examine it.

Shri Shantilal Shah was of the view, that it should be treated as final unless there was some change.

Shri Sathe stated that it was very difficult to prove the change in circumstances.

Shri Jetley suggested that the principle of res judicata should be followed. He pointed out that in U.K., U.S.A., Australia, etc. the principle of res judicata applied. He was of the view that if the principle of res judicata was accepted, it would be easier for the Tribunals.

Shri Sathe agreed that the principle of res judicata might be made applicable but that it should not become a bar to raise further dispute as far as the labour matters are concerned.

With regard to the AIOIE's amendment, the Chairman stated that the discretion of the Government and Courts need not be interfered with.

With reference to the AITUC's amendment to Sec.19(3), Shri Shantilal Shah said that a party could not terminate it before the said period of expiry.

Shri Jetley suggested that one month's clear gap should be made. Parties approach Government when the Award was to be extended. Government should do it one month before the period of expiry. If both the parties agreed to its extension then let them have it.

The Chairman pointed out that Government had a discretionary power in the matter. According to 19(3) an award could be extended upto three years. The suggestion was that Government should not do it unless both the parties agreed to it.

Shri Mehta. said that the extension should be to such a period as parties wanted to remain in it.

The Chairman agreed to drop the suggestion. No change was to be made in the existing section.

Section 20

Shri Subramanian was of the view that the starting point should be from the date the Conciliation Officer started the conciliation proceedings.

The Chairman enquired whether that should be the date of receipt or taking up of the conciliation proceedings. For the purpose of Section 9A the date of receipt of intimation that the management have declared the change in service conditions may be taken as the starting point of a conciliation date.

Shri Subramanian suggested that it might be taken up after one month and completed in three months.

The Chairman suggested that some understanding should be there.

Shri Subramanian suggested that the conciliation proceedings might be deemed to have started after 21 days' of notice

Shri Subramanian enquired how money could be recovered after the notice of change.

The Chairman pointed out that they could be reinstated if the dispute was finally decided by the Tribunal. Once when a notice was given by the employer under Section 9A and if the trade union raised a dispute, then the conciliation proceedings should be deemed to have started from that date.

Shri S Shah pointed out that B.I.R. Act should not be adopted asother things would also consequentially have to be adopted. The matter should be considered on merits.

Shri Ghose stated that the Andhra Pradesh Government's proposal was not practicable.

Shri Subramanian said that status quo must be maintained. After failure report action should be taken and only then should service conditions be changed.

Shri S Shah pointed out that it was against the BI.R. Act pattern.

Shri Jetley suggested that the proposal of Andhra Government was worth consideration.

The Chairman said that in the light of the discussions, the question would be considered.

Section 21

Shri Jetley was of the view that the Section should remain as it is.

The Chairman suggested that as the matter was pending before the Supreme Court in connection with bank bonus cases, its decision might be awaited.

Section 22

The workers' representatives suggested that if it could be provided in the rules that the report must reach the Government within 14 days, it would be all right.

The Chairman enquired whether some period should be fixed up and whether it was intended that the proceedings would be deemed to be over within a certain period.

The Chairman pointed out that it was not possible to finish everything in 14 days.

Shri V.P. Sathe had no objection to 21 days being fixed. To a question by the C.L.C. whether workers' representatives wanted a specific period to be fixed, they answered in the affirmative.

The Chairman said that the question needed further examination.

Section 23

Shri Merchant suggested that strikes should be prohibited during the pendency of proceedings before conciliation Officers

and arbitrators. A clause might be added as clause (b) to section 23 "during the pendency of arbitration, either voluntary or compulsory". Strikes should be prohibited even when the matter was before an arbitrator.

Shri Kanti Mehta pointed out that in that event, even section 33 and other allied sections should be made applicable in such cases. They were interlinked. They should be taken together.

Shri Shukla said that if strikes were to be prohibited then lockouts should also be prohibited. Other service conditions should also not be changed.

Shri Shantilal Shah stated that an illegal change should also be prohibited.

Shri Merchant agreed in regard to change in working conditions which are connected with the dispute and not for anything else.

The Chairman said that employers should accept it in respect of strike, lockout and change in working conditions.

Referring to the AIOIE's amendments, Shri V.S.Jetley stated that there were distinctions between private sector and public utility concerns. So far as the public utility concerns were concerned the well-being ofthe community depended on them. Shri Jetley enquired why those provisions should apply to private concerns.

Shri Merchant pressed for the consideration of all the three amendments suggested by the EFI & AIOIE.

The Chairman said that it was not proper to effect the change to the extent that was suggested.

Section 24

Shri Mehta stated that in the Nainital Conference the INTUC had suggested amendment of section 24(3) regarding illegality of strikes. His experience had been that, however justified the strike was, it was always illegal. An unjustified strike might be legal. He could show many decisions to this effect. The Tribunals considered the workers' action as justified but declared the strikes illegal.

Shri Subramanian suggested that any strike in pursuance ofan illegal action of the employers should not be illegal. Or if that position was not acceptable, some specific conditions should be laid down by which alone the illegality of a strike could be determined.

Shri Ghose said that first of all the word "illegal" should be defined. "Illegal action" was question of fact. Any action of the employer might be considered as illegal action. He was afraid that the phraseology "illegal action" would be more misusedthan used.

Shri Kanti Mehta stated that Government might prohibit a strike taking place in certain circumstances. A worker would not lightheartedly go on strike, as he would have to starve during the strike periods. He agreed that the words "illegal action" may have different interpretations. He urged that

Government should lay down specific causes and specific conditions underwhich a worker cannot go on strike.

The Chairman stated that the question would be examined in the light of the discussions.

Section 24A.

The Government of Bombay did not press their amendment.

Shri Row then read out the amendment proposed by the AITUC.

Shri Sathe stated that the right was a statutory one. A workman should not be dismissed or his services terminated without a proper inquiry and without conforming to the principles of natural justice.

The Chairman enquired where it was laid down that a worker could be dismissed.

Shri Row referred to the recent judgement of the Madras High Court (in the case of Sridaran Motor Service) where the concept of social justice was questioned. In view of that judgement, Shri Row considered the provisions necessary.

The Chairman expressed the view that unless the Supreme Court decided the issue, the Act should not be amended. The decision of the High Court should be tested in the Supreme Court. It was better to place this in the Standing Order and not in the Act.

Shri Sathe agreed that the Standing Orders might accordingly be amended.

Shri Balasundaram also agreed that the Model Standing Order might be amended.

Shri Subramam pointed out that following the Madras decision, numerous workers had been thrown out of employment.

The Chairman pointed out that in such circumstances industrial disputes could be raised.

Shri Balasundaram stated that the Government of Madras are amending the standing orders that no employee's services should be terminated without fulfilling certain conditions.

The Chairman stated that in Madras they were taking care of it. In other places there was no difficulty. He desired to know how many people had been sent away without action being taken.

Shri Sathe said that a number of people had been sent away. The workers appealed to the Court but it was held that under the common law employers could do any thing in the matter. There was also a decision of a Bombay Court; if the termination was under a contract of service and not as a punishment, then it was termination pure and simple, and not victimisation.

The Chairman said that the question needed further examination.

Shri Balasundaram pointed out that the Madras Government was trying to amend the Act to protect the workers.

** Shri Merchant observed that the grievance can be ventilated in the Labour Courts.

** The Chairman said that the workers had gone to the Labour Courts but they were told that the employer had a right to terminate their services. This point would be examined further.

Section 25

The All India Trade Union Congress's proposal was withdrawn.

Section 25A

The Chairman pointed out that this provision was inserted because of an agreement between the parties. If both parties agreed it might be accepted. Otherwise it would be difficult. The Chairman felt that the limit of 50 should be as it is till both parties agree.

Opposing the Bombay Government's proposal Shri Subramanian said that retrenchment compensation should be paid to all. The effect of the acceptance of the amendment will be that retrenchment compensation would not become payable in establishments having less than 50 workers.

Shri Merchant said that he was not for removal of retrenchment compensation but that a limit was to be imposed. In every Act under which compensation is paid some limit was fixed. He wanted the total liability to be reduced. He desired this point to be noted.

The Chairman said that all points would be considered.

Shri Tata desired to know specifically which were the amendments accepted and which ones were rejected.

The Chairman stated that there would be further consultation. Whatever have been proposed at the meeting or the suggestions made would be communicated to all the organisations. Their comments would be invited and after receipt of them, Government would consider.

The Chairman further added that all the suggestions made at the meeting would be carefully considered and after that Government would come to a conclusion; the Bill would then be introduced in the Parliament.

Shri Naval Tata enquired whether the matter would go to the Standing the Standing Labour Committee or the Conference.

The Chairman stated that he would consider it, but that he did not promise anything. Only some items had been agreed to. The items which had been agreed would be taken into consideration.

Shri H.P. Merchant enquired about the action to be taken on the amendments rejected by the Committee.

The Chairman clarified that the rejected ones would not be taken up.

20/....

Shri Merchant suggested that the report should go to the Standing Labour Committee.

Shri Shantilal Shah referring to the Bombay Government's amendment stated that exemption of small establishments from lay off compensation would encourage new and small industries. The number in the small industries was limited to 50 and an industry could be considered new if its life was less than three years. If this was not done the small industries and new industries which ought to be encouraged, will get no encouragement. The establishments employing less than 50 have been exempted from lay off. There ought to be no distinction between the small and the big industries. He desired that the Bombay Government's views be taken into account.

Shri V.G. Row was of the view that the question of retrenchment compensation had nothing to do with the encouragement of small and new industries.

The Chairman stated that it was a sort of discouragement for the new establishment.

Shri Kanti Mehta stated the same argument could be advanced against any progressive legislation. Every time the ownership of an industry changed hands, it would be considered new and the employer could take shelter under this provision.

The Chairman said that the views of the members would be considered.

Shri Naval Tata agreed with Shri Shantilal Shah that some encouragement should be given.

The amendment was not accepted by the Committee.

Section 25B

Shri Kanti Mehta referring to the amendment given notice of by the Indian National Trade Union Congress stated that his organisation was of the view that the words 'calendar months' should be clarified. He was of the view that it should really mean 12 months from the date of joining service.

Shri Jetley said that was a correct interpretation.

The Chairman observed that a person must be present during the full year and in that year he should put in a minimum of 240 days.

Shri Mehta enquired whether it should be 12 months preceding the date of lay off.

The Chairman suggested that the average number of days for the last three years he had worked might be taken into account. If during the period of three years the workers were present for 240 days in any one year he should be entitled for compensation.

Shri Shantilal Shah suggested that the solution seemed to be to take the period of 12 months preceding the date of lay off.

The Chairman enquired what would happen to a person who had put in 20 years of service but could not be present for 240 days during the last year. It was certainly not the intention to deprive him of compensation,

Shri Merchant said that he would not be given compensation for one year.

Shri Ghose was of the view that the present provision was quite sufficient and had worked satisfactory for all these years.

The Chairman enquired whether the definition of 240 days as in the Factories Act formula could be accepted.

Shri Mehta proposed for a reduction so that absence due sickness and accident could be excluded. For underground workers, he desired the limit to be lowered.

Shri Row desired two things to be included:-

(i) absence of workmen due to illness,

(ii) absence due to accident.

Shri Kanti Mehta. suggested that in the explanation instead of 'previous year' it should be previous years'.

The Chairman pointed out that the employers were not agreeable to this proposal.

Shri Shantilal Shah suggested that for the word 'largest' in sub-clause (a) the word 'total' might be substituted.

The amendment was agreed to.

Section 25 C

After some discussion, it was agreed that lay-off would be affected, as far as possible, by rotation.

The All India Trade Union Congress's suggestion that the period of lay-off should be specified was dropped.

Shri Mehta. referred to the lacuna in section 25C(2) and said that the workers should be given lay off for even periods of less than a week after the first 45 days. This was agreed to by the Committee.

Shri P.M. Menon referred to the question raised by the National Miners' Federation. The Inspector had the authority to stop work in the mines. Very often the work was stopped. The contention of the workers was that they must be paid compensation if the work was stopped.

Shri Shantilal Shah suggested the amendment of the Mines Act, if necessary.

The proposed clause 25CC was withdrawn by the Bombay Government, but there was a suggestion from workers' representatives that there should be a provision to that effect.

Shri Merchant pointed out that it would not be possible to give 24 hours notice.

Shri Shantilal Shah suggested that it might then be 72 hours' notice.

The Chairman suggested that it may be provided in the rules.

Section 25 D

The Chairman suggested that this too be included in the rules.

Section 25E

Shri Sathe enquired what would be the penalty for non-maintenance of muster rolls. He pointed out that in certain big mills like Model Mills etc., muster rolls were not being maintained.

Shri P.M. Menon referred to the provisions of Section 31(2) of the Industrial Disputes Act.

Shri Sathe suggested that where no muster roll was kept in respect of lay off, the workmen should be considered to be absent.

The Chairman said that it was for the Labour Department to look into the matter.

The Chairman suggested that no change was going to be made in respect of lay off or retrenchment provisions unless mutually agreed.

Section 25 F

As there was no agreement with regard to the substitution of the word 'industry' by the words 'industrial establishment' the amendment was dropped.

The amandment of the Ministry of Labour and Employment in clause (c) of Section 25 F was accepted.

Shri Ghose referring to the amendment of the All-India Organisation of Industrial Employers suggested that the word 'offered' should be inserted before 'paid'.

The Chairman said that the suggestion would be examined.

Section 25 FF

The amendment of the Indian Chamber of Commerce was opposed by the representatives of the workmen.

The Chairman desired this to be noted.

Shri V.G. Row referring to the case of an electricity concern in Madras which was taken over by a new employer said that the compensation payable to the workmen had not so far been paid. The whole matter had been pending for the last many years.

The Chairman said that this matter would be looked into.

Section 25FFF

Shri Tata considered it to be most unreasonable to expect a unit on its last leg to pay all of its money when there was nothing

Shri Merchant suggested that a limit of three months' compensation to be agreed upon even in cases of economic closure beyond the control of the management.

Shri Sathe was opposed to this amendment.

Shri Shantilal Shah raised the question as to whether it was intended that the provision of retrenchment compensation be so worked that the industry could not be brought back. He referred to the case of a mill having 25 years of standing with nothing left to buy either machine or make the mill run because of the heavy compensation it had to pay.

Shri Tata stated that many industries were going out of existence due to this burden. which benefited only a few people.

The Chairman said that the comments offered would receive the attention of the Government.

Shri Naval Tata referring to the amendment proposed by the Ministry of Labour and Employment stated that it would be impossible for the employer to give a three months' notice in cases of total closure.

The Chairman said that it would be included only if it was in accordance with the Nainital agreement otherwise it would not be included.

Shri Shantilal Shah stated that that was for the amendment of the Standing Order.

Shri Swaminathan said that the employers might be tempted to give notice just as a measure of precaution.

Section 25 H

Shri Merchant agreed that on merits and efficiency first preference might be given to the old employees. He, however, did not agree to Shri Sathe's suggestion that the old employees shall have a right to be taken in service first.

Section 25 J

The amendment suggested by the Bombay Government was accepted.

Section 25 K

The Amendment suggested by the United Trade Union Congress was rejected.

Sections 27 & 28

These were not proposed.

Section 29

The amendments were dropped.

Section 30

The All India Trade Union Congress's amendment was not pressed.

Section 31

Shri Merchant suggested that penal provisions should be eliminated.

The Chairman expressed a wish that everyone should carry out the provisions of the Act in such a manner that penal provisions would become unnecessary.

The employers opposed this amendment.

The Chairman enquired whether the All India Trade Union Congress's amendment raising the penalty limit to Rs.5,000 was acceptable.

The employers opposed this amendment.

Shri Shukla pointed out that the difficulty of non-compliance of section 33 would be there.

The Madras Government's amendment was dropped.

Section 32

Shri Swaminathan said that in all fairness a trade union should also be included within the purview of this section.

The Chairman enquired what could be the offences for which the union could be held liable.

Shri Swaminathan suggested cases like instigation of strikes etc.

The employers' representatives opposed the amendment.

Shri Shantilal Shah: pointed out that that a trade union was a body corporated.

Shri Jetley confirmed this view and said that they could sue and could be sued.

Shri Kulkarni said that under the Trade Unions Act, certain office-bearers were immune from being sued.

Section 33

Shri Mehta suggested that even during the pendency of voluntary arbitration as also during pendency of cases before

High Courts or Supreme Court, the status quo should be maintained in respect of matters connected with a dispute.

Shri Shantilal Shah did not press the amendment of Section 33 proposed by the Bombay Government.

Shri Merchant referring to the amendment proposed to section 33(2)(b) suggested that an employer should not be made to pay one months' wages for misconduct.

Shri Sathe Opposed the amendment.

Shri Shantilal Shah said that compelling the employer to pay one month's wage in case of dismissals for misconduct would amount to a premium on misconduct.

On apoint raised by Shri Merchant, the Chairman requested the employers to furnish information on the cases of misconduct and the dismissal effected so that the matter could be further considered.

Shri Mehta suggested that the word 'simultaneously' be added in the proviso under clause (b) of section 33(2). This was accepted.

As regards the amendment of the Indian Chamber of Commerce, all the Labour representatives expressed their opposition.

The All India Trade Union Congress's amendment for restoration of the previous position as it was before the amendments effected in 1956, was opposed by all the employers.

The employers' representatives were also opposed to the All India Trade Union Congress's suggestion for amendment of Section 33(1)

The employers also opposed the proposal to delete section 33(2) and Section 33(5).

The Chairman considered the Indian National Trade Union Congress's suggestion that status quo should be retained even during arbitration proceedings as reasonable.

Shri Kanti Mehta stated that the employees were bring retrenched without permission of the Court and that this should be covered.

This was not agreed to.

As there was a proposal to amend section 13A of the Industrial Employment (Standing Orders Act, 1946) the workers' representatives withdrew their amendment for grant of relief to workmen where labour courts considered the action taken by the employers as unjustified.

Section 33A

There was general agreement that there should be a forum for workmen to represent in case of violation of the provisions of section 33 during conciliation proceedings, though the forum should not be the conciliator himself.

Section 33B

The Indian National Trade Union Congress's amendment was dropped.

Section 33C

Shri Balasundaram suggested that for the word 'workman' the word 'any person' might be substituted so that discharged workmen and legal heirs of deceased workmen might seek relief under this section.

The Chairman said that this would be considered.

As regards the amendment suggested by the Ministry of Labour and Employment Shri Kulkarni, Shri Row and Shri Merchant supported the first alternative. The Chairman, however preferred to second alternative, as it was in accordance with judicial opinions.

The point whether the Labour Court may directly issue a certificate to the collector was raised.

Shri Jetley suggested that this suggestion could be considered further.

The Chairman suggested that the Indian National Trade Union Congress's amendment enabling the heirs and assignees of a retrenched worker to apply for recovery might be accepted.

All the amendments were dropped after some discussion.

Section 36

The Bombay Government's amendment was dropped after some discussion.

As regards the Indian National Trade Union Congress's amendment the Chairman pointed out that a High Court and Supreme Court would not accept it. The amendment was dropped.

Section 36A

Shri Swaminathan said that if the All India Trade Union Congress's suggestion was accepted it should be open for the employers also to do likewise.

Shri Shukla stated that the representation before conciliation and arbitration authorities should be in the same manner as before a Tribunal.

The Chairman said that the matter would be examined further.

Section 38

The amendment to Section 38 was accepted in principle.

Section 40A

The Employers' representatives opposed the amendment.

THIRD SCHEDULE

The All India Trade Union Congress's suggestion was not accepted because of the provisions of the Code of Discipline.

FOURTH SCHEDULE

Shri Ghose desired that item 11 should be deleted as there were a number of practical difficulties in giving effect to it.

The Chairman enquired whether the phrase "not due to force majure" and "lay off which can be foreseen" could not be dropped.

The employers objected.

The All India Trade Union Congress's amendment for the deletion of the Fourth Schedule was withdrawn.

NEW PROVISIONS

The employers' representatives opposed the Madras Government's amendment providing for higher rate of compensation in certain cases.

The other two amendments suggested by Shri Nirmal Kumar Bhattacharjee and the Indian National Trade Union Congress were dropped.

Amendment of Sec.13A of the Industrial Employment(Standing Orders) Act.

Shri P.M. Menon explained that the proposal was to amend section 13A of the Industrial Employment (Standing Orders) Act, 1946 with a view to empowering the Labour Court to award a suitable relief if it finds that the discharge of dismissal is wrong.

The proposal was accepted after some discussion.

Shri Jetley suggested that the Industrial Disputes Act might be amended.

The Chairman remarked that it was for the legal department to decide.

With a vote of thanks proposed by Shri Shantilal Shah the meeting came to a conclusion.

.-.-.-.-.-.-

Statement indicating the amendments accepted by the Committee of Standing Labour Committee which met at Bombay on 16th-17th January 1959 to consider amendments to Industrial Disputes Act, 1947.

.-.-.-.-.-

S.No.	Section	Substance of the proposal	Proposed by
1.	Section 2(a)(i)	To include disputes in cantonment Boards in the Central Sphere.	M/O L&E
2.	Section 2(g)	To amend the definition of 'Employer' so as to make the principal employer responsible even for labour engaged by contractors.	AITUC & UTUC
3.	Section 2(j)	To be amended so as to cover professionals having establishments.	UTUC AND BPNTUC
4.	Section 2(n)	"Air transport" to be specified as a permanent "public utility service"	M/O L&E
5.	Section 7	To enable persons qualified for appointment to Industrial Tribunals to be eligible for appointment to Labour Courts as well.	M/O L&E
6.	Section 10(1)	To empower the appropriate Government to amend, or add to, a reference for adjudication.	M/O L&E
7.	Section 10(A)	To provide for prohibition of strikes or lockouts during arbitration proceedings.	INTUC
8.	Section 11(8)	Labour Court, Tribunal or National Tribunal to be a Civil Court for purposes of Sec.484 of the Code of Criminal Procedure.	M/O L&E
		A new provision on the lines of sec.30(2) of the Industrial Disputes (Appellate Tribunal) Act 1950, to be inserted.	M/O L&E
9.	Section 12(6)	A further proviso to be added giving discretion to conciliation officers to refuse adjournment of proceedings even when the parties ask for it jointly in writing.	M/O L&E
10.	Section 17(A)	To make an award enforceable with effect from the date of the publication unless award is given retrospectively.	UTUC
11.	Section 19(7)	To insert a new sub-section (7) so that where a party giving notice is composed of workmen such notice may be given by a majority of such workmen in the prescribed manner.	Government of Bombay
12.	Section 23(b)	The provisions of Sec.23 should apply during pendency of arbitration proceedings as well.	INTUC

S.No.	Section	Substance of the proposal	Proposed by
13.	Section 25B	To amend the explanation to provide that all the days on which a workman is laid off should be counted as computing 240 days.	Government of Bombay
14.	Section 25F(c)	Notice of retrenchment of a few individuals - say less than ten need not be served on the appropriate Government but on an authority specified by it.	M/O L & E
15.	Section 25J	The proviso to Sec.25J to be enlarged to include the rights or benefits accruing to a workman under any other Act or rules thereunder or standing orders settled under the provisions of such Act(s) or under orders issued under the authority of such Acts.	Government of Bombay and INTUC
16.	Section 33	Status Quo should be retained even during arbitration proceedings.	INTUC
17.	Section 33(2)	To add the word 'simultanously' in the proviso under clause (b) of the Section.	INTUC
18.	Section 33A	Cases of contravention of Sec.33 during pendency of conciliation proceedings should also be included under section 33A and provision should be made enabling the aggrieved workman to file cases before a suitable forum.	UTUC INTUC AND AITUC
19.	Section 33C	To provide for procedure for computation of claim of a workman.	M/O L & E
20.	Section 38	Heirs and asignees of a retrenched worker etc. should have the right to apply for recovery.	Government of Bombay.
21.	Fourth Schedule	The expression "not due to forced matters" to be substituted by the words "occasioned by circumstances over which an employer has no control".	M/O L&E
22.	13A of Standing Orders Act.	To empower the Labour Court to award suitable relief if it finds that the discharge or dismissal is wrong.	M/O L & E

..*.*.*.*.*.*.*.*.*.*.*.

Statement indicating the points on which an undertaking was given by the Chairman on matters other than amendment to the Industrial Disputes Act.

.-.-.-.-.-.-.-

1. During the course of discussion on Section 9A

The State Governments will be addressed to adopt a rule similar to rule 10 of the Industrial Disputes (Central) Rules, 1957.

During the course of discussion on Section 12

Instructions will be issued to Conciliation Officers by Government to take up conciliation proceedings expeditiously.

The possibility of fixing three months as the maximum time limit for the submission of Conciliation Officers' report is to be examined by Government.

Copies of intimation regarding receipt of failure of conciliation report are to be sent to parties.

During the course of discussion on Sec. 25C

Rules to be amended for notice in cases of lay-off.

During the course of discussion on Sec. 25D

Inspection of muster roll by prescribed authority.

.-.-.-.-.-.-.-

Statement indicating the points on which an undertaking was given by the Chairman that the matter would be further examined.

.-.-.-.-.-.-.-

1. Section 2(eee) Section 25B	Definition of "continuous service" and mode of computation of 240 days.
2. Section 2(rr)	Revision of the definition of "wages".
3. Section 2(s)	Definition of "workman" - Position regarding "badlis" to be examined in the light of discussions.
4. Section 7	The question whether the term "independent person" should be further clarifed is to be examined.
5. Section 9A	Provision regarding notice of change to be considered further in the light of discussion.
6. Section 10(7)	Powers of the Central Government in furtherence of reference of disputes to a National Tribunal.
7. Section 12	Contents of the Conciliation Officer's failure report.
8. Section 19	Continuance of the effect of an award even after termination till a fresh award or settlement is made.
9. Section 20(2)(b)	Desirability of extending protection to workmen till the date of Government's final decision (to refer or not to refer) a dispute for adjudication.
10. Section 22&23	Prohibition of strikes and lockouts - present provisions to be examined in the light of discussions.
11. Section 24	Strike in contravention of arbitrator's award or during pendency of arbitration proceedings revision regarding illegality of strikes.
12. Section 25C	To provide for lay-off for periods of even less than a week after 45 days. To provide for full compensation to workmen affected by temporary closure of mines due to employers' non-observance of safety precautions as required by the provisions of the Mines Act.
13. Section 25F	Whether the word 'offered' should be inserted before 'paid'.
14. Section 25FFF	Three months' notice in case of total closure position to be examined in the light of Nainital agreement (Amendment of Model Standing Order 7 is also connected with this issue) Whether the three months' compensation limit should be extended to cases involving economic reasons beyond the control of the employer.

15.	Section 33.	Whether one month's pay should be given even to dismissed workmen.
16.	Section 33C	Whether the words 'any person' are to be substituted for the word 'workman' in this section. Whether the Labour Court (with computes the claim of the workmen) could be authorised to issue the certificate direct to the Collector concerned.
17.	Section 36A	Whether workmen could be allowed to approach a Labour Court or Tribunal direct for removal of doubts or difficulties.

.-.-.-.-.-.-.-.-.-

6. The General Secretary,
The All India Trade Union Congress,
4, Ashoka Road, New Delhi.

No. Fac.52(36)/58
Government of India.
Ministry of Labour & Employment

23 JUL 1959

From:

Shri P.D. Gaiha,
Under Secretary to the Government of India.

To

i) All State Governments and the Centrally Administered Areas.

ii) All India Organisations of Industrial Employers & Workers.

Dated New Delhi, the

Subject:- Extension of the Payment of Wages Act, 1936, to persons employed in Oil-fields.

Sir,

I am directed to forward a copy of this Ministry's notification of even number dated the 16th July 1959, on the above subject, with the request that your comments, if any, may please be communicated to this Ministry by the due date.

Yours faithfully,

for Under Secretary

d.a.refd.to.
h.s.

Copy for information to:-

i) Chief Adviser Factories, New Delhi.

ii) Press Information Officer.

iii) The General Secretary,
Indian National Trade Union Congress, Assam Branch,
Dibrugah, (Assam).

for Under Secretary

175.B

By Regd Post July 28, 1959

Shri V.G.Row, Bar-at-Law,
Madras.

Dear Comrade,

Thank you for your letter.

As desired, we are sending herewith Summary of the Proceedings circulated by the Labour Ministry on the meeting which considered amendments to I.D.Act.

Please let us have your comments on the same at your earliest.

With greetings,

Yours fraternally,

Office Secretary

Encl:

175B

July 14, 1959

Com. V.G.Row,
Bar-at-Law,
25 Letanps Road,
Vepery,
Madras -7.

Dear Comrade,

Possibly you might have received directly from the Labour Ministry the draft summary of proceedings of the Committee on amendments to the I.D.Act.

Please let us know if the minits have been recorded properly of if you wish to make in any correction.

If you have not received copy of the proceedings, we shall send the same on hearing from you.

With greetings,

Yours fraternally,

(K.G.Sriwastava)
Secretary

27 AUG 1959

No.LRI-1(56)/59
Government of India
Ministry of Labour & Employment
....

From

Shri A.L. Handa,
Under Secretary to the Government of India.

To

The Secretary,
All India Trade Union Congress,
4, Ashoka Road, New Delhi.

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947 - Definition of the term "workman" in section 2(s) of - Question whether badlis are covered by.

....

Sir,

I am directed to say that during the discussions in the Committee of the Standing Labour Committee which met at Bombay on 16th-17th January 1959, Shri Subramanyam, an Adviser, to your delegate, stated that the Madras High Court had held that a badli was not a workman. It has not been possible to find out to which decision of the Madras High Court, Shri Subramanyam referred. It is requested that a clarification may please be obtained from him as to which decision he was referring and the same forwarded to this Ministry, at an early date.

Yours faithfully,

(A.L. Handa)
Under Secretary

11 NOV 1959

No.LRI-1(110)/59-I
Government of India
Ministry of Labour and Employment

....

From

Shri A.L. Handa,
Under Secretary to the Government of India.

To

The Secretary,
All India Trade Union Congress,
4, Ashok Road, New Delhi.

New Delhi, the 10-11-59

Subject:- Industrial Disputes Act, 1947 - Section 20(2)(b) - Proposal to amend.

.....

Sir,

I am directed to refer to this Ministry's letter of even number, dated the 1st October, 1959, on the above subject and to request that a reply thereto may kindly be expidited.

Yours faithfully,

(A.L. Handa)
Under Secretary

Copy forwarded to all Employing Ministries (except Education and Information and Broadcasting) for similar action.

Copy to Chief Labour Commissioner, for necessary action.

Handa

(A.L. Handa).
Under Secretary

d.a.nil
sps 6.11.

No.LRI-1(86)/57
GOVERNMENT OF INDIA
MINISTRY OF LABOUR & EMPLOYMENT
....

From

Shri A. L. Handa,
Under Secretary to the Govt. of India.

To

1. All State Governments.

2. Central Organisations of Workers and Employers.

Dated New Delhi, the 12-10-59

Subject:- Model Principles for reference of disputes to adjudication.

....

Sir,

I am directed to forward herewith for the guidance of the State Government a copy of the model principles for reference of disputes to adjudication, adopted by the seventeenth session of the Indian Labour Conference held at Madras on the 27th - 29th July, 1959.

Yours faithfully,

(A. L. Handa)
Under Secretary.

Copy, with enclosure, to:-

1. All employing Ministries.

2. Chief Labour Commissioner/ Director Labour Bureau, Simla.

3. LR.II/LR-III/LR-IV Sections, Research Division and E&I Section, Ministry of Labour & Employment.

(A. L. Handa)
Under Secretary.

"d.a.refd
SSB/

The Secretary,
All India Trade Union Congress,
4, Ashok Road, New Delhi.

MODEL PRINCIPLES FOR REFERENCE OF DISPUTES TO ADJUDICATION

A. Collective disputes

(1) All disputes may ordinarily be referred for adjudication on request.

(2) Disputes may not, however, be ordinarily referred for adjudication :

(i) Unless efforts at conciliation have failed and there is no further scope for conciliation and the parties are not agreeable to arbitration.

(ii) If there is a strike or lockout declared illegal by a Court or a strike or lockout resorted to without seeking settlement by means provided by law and without proper notice or in breach of the Code of Discipline as determined by the machinery set up for the purpose unless such strike (or direct action) or lockout, as the case may be is called off.

(iii) If the issues involved are such as have been the subject matter of recent judicial decisions or in respect of which unduly long time has elapsed since the origin of the cause of action.

(iv) If in respect of demands other legal remedies are available, i.e. matters covered by the Factories Act, Workmens' Compensation Act, Minimum Wages Act, etc.

B. Individual disputes

Industrial disputes raised in regard to individual cases, i.e., cases of dismissal, discharge or any action of management on disciplinary grounds, may be referred of adjudication when the legality or propriety of such action is questioned and, in particular:-

(i) if there is a case of victimisation or unfair labour practice,

(ii) if the standing orders in force or the principles of natural justice have not been followed, and

(iii) if the conciliation machinery reports that injustice has been done to the workman.

.....

27 DEC 1958

No.LRI-1(87)/58-I
Government of India
Ministry of Labour & Employment
.....

From

Shri Pyare Lal Gupta,
Under Secretary to the Government of India

To

The General Secretary, All India Trade Union Congress, 4 Ashok Road,
New Delhi.

Dated New Delhi, the

Subject:- Industrial Disputes Act 1947 - Meeting of the sub-committee of the Standing Labour Committee to consider draft amendments of the .

Sir,

I am directed to say that certain organisations have represented to this Ministry that they would have no time to consider any more proposals for amendment of the Industrial Disputes Act, 1947. It has, therefore, been decided that suggestion for amendment to the Industrial Disputes Act 1947 received in this Ministry after the 24th December 1958 will not be placed for consideration before the meeting of the sub-committee of the Standing Labour Committee Scheduled to be held at Bombay on the 16th and 17th January 1959.

Yours faithfully,

(Pyare Lal Gupta)
Under Secretary

d.a.nil
N.Rom/24/12

27 DEC 1958

No.LRI-1(87)/58
Government of India
Ministry of Labour & Employment
..*.*.

IMMEDIATE

EXPRESS LETTER

From

Shri Pyare Lal Gupta,
Under Secretary to the Government of India

To

1. The Secretary to the Government of Bombay, Labour Social Welfare Department, Bombay.
2. The Secretary to the Government of Madras, Industries, Labour and Co-operation Department, Madras.
3. The Secretary to the Government of Bihar, Labour Department, Patna.
4. The Secretary to the Government of U.P. Labour Department, Lucknow.
5. The Secretary to the Government of West Bengal, Labour Deptt. Calcutta.
6. Secretary to the Government of Madhya Pradesh, Labour Deptt. Bhopal.
7. The General Secretary, All India Organisation of Industrial Employers, Federation House, New Delhi.
8. The General Secretary, Employers Federation of India, Bombay House, Bruce Street, Bombay.
9. The General Secretary, All India Manufacturers Organisation, Co-operative Insurance Building, Sir Phirozshah Mehta Road, Bombay.
10. The General Secretary, Indian National Trade Union Congress, 17 Janpath, New Delhi.
11. The General Secretary, All India Trade Union Congress, 4 Ashok Road, New Delhi.
12. The General Secretary, Hind Mazdoor Sabha, Servants of India Society's Home, Sardar Patel Road, Bombay.
13. The General Secretary, United Trade Union Congress, 249 Bow Bazar Street, Calcutta 12.

Dated New Delhi, the

Subject:- Industrial Disputes Act 1947 - Meeting of the sub-committee of the Standing Labour Committee to consider draft amendments to the.

..*.*.*.*.

28 DEC

Sir,

Reference this Ministry's telegram No.LR-I-1(87)/58 dated the 18th December 1958. The meeting of thesub-committee of the Standing Labour Committee will be held on the 16th and 17th January 1958 at Bombay. The venue and time of the meeting will be communicated shortly.

Yours faithfully,

(Pyare Lal Gupta)
Under Secretary to the Government of India.

d.a.nil
sps 24.12

Copy forwarded to:-

1. Shri Shantilal H. Shah, Minister of Labour, Bombay.
2. Shri V. Balasundram, Commissioner, of Labour, Madras.
3. Shri B.P. Singh, IAS, Secretary tothe Government of Bihar, Labour Department, Patna.
4. Shri Uma Shankar, IAS, Labour Commissioner Uttar Pradesh, Lucknow.
5. Shri Q.Nowaz, Deputy Labour Commissioner, West Bengal, Calcutta.
6. Shri Kulkarni, Assistant Labour Commissioner, Madhya Pradesh, Bhopal.
7. Shri Lakshmipat Singhania, President All India Organisation of Industrial Employers, Federation House, New Delhi -1.
8. Shri N.H.Tata, C/o Employers Federation of India,Bombay House, Bruce Street, Bombay -1.
9. Shri H.P.Merchant, C/o All India Manufacturers Organisation, Co-operative Insurance Building, Sir Phirozshah Mehta Road,Bombay.
10. Shri S.P. Dave, Member Parliament, General Secretary, Textile Labour Association, Gandhi Majoor Sevalaya, Bhadra, Ahmedabad.

2/----

11. Shri V.G. Row, Bar-at-Law, 25 Lotango Road, Vopory, Madras.
12. Shri V.P. Sathe, Nagpur Textile Union, Bhaldarpura Road, Nagpur.
13. Shri Pratul Chowdhury, C/o United Trades Union Congress, 249, Bow Bazar Street, Calcutta.

(Pyaro Lal Gupta)
Under Secretary to the Government of India.

PETROLEUM WORKERS' UNION

(Regd. No. 2511)

(Affiliated with A. I. T. U. C.)

President :
S. MOHAN KUMARAMANGALAM, B.A., (Hons). (Cantab), Bar-at-Law

General Secretary :
M. G. GUNASEELAN

12/13, ANGAPPA NAICKEN STREET,

Madras, Dec. 19, 1958.

No. 193/58.

Dear Comrade:

We enclose herewith a copy of a statement prepared by Com. Mohan Kumaramangalam, containing his views on the proposed amendments to the Industrial Disputes Act. The statement is being sent to you under instructions from Com. Mohan Kumaramangalam, to help you formulate the necessary amendments to the I.D. Act. in which task you are presently engaged.

With greetings,

Yours fraternally,

V. Muthukrishnan.

for Gen. Secretary.

Com. V. Suoramanyam.
New Delhi.

The result of the latest decisions of the Madras High Court -- Balakrishna Iyer J. in Writ Petition 184/58 leaves us in the position that is open to an employer to terminate the services of an employee with one month's notice giving no reason whatsoever and that order of the employer would be held to be valid in the eyes of the law. The decision of Justice Balakrishna Iyer mentioned above is now under appeal in W/A.111/58; but even at the time of admission His Lordship the Chief Justice while admitting the Writ Appeal said that of course it is open to the employee to challenge an order of termination on the ground that it was passed malafide or as a result of unfair labour practice resorted to by the employer but he also observed that the ordinary common law right of dispensing with the services of any worker on giving one month's notice still continues in existence particularly in view of the entry in clause 13 in Schedule I of the Industrial Employment (Standing Orders) Act.

In this view, I think we must definitely move for an amendment of the Industrial Disputes Act so that the right of the employer to dispense with the services of a workman at his own sweet will will be taken away. I give below a draft of the amendments which will have to be introduced in a separate section:-

Clause 1: Should read: "No employer shall dispense with the services of a workman employed continuously for a period of not less than 6 months except where the services of such workmen are dispensed with on a charge of misconduct, supported by satisfactory evidence, recorded at an enquiry held for the purpose, provided that an employer shall be entitled to terminate the services of any workman on the ground of ill-health, in which event, such workman shall be treated as having been retrenched and shall be entitled to benefits accruing to any retrenched worker under this Act."

Clause 2: "The workman employed shall have a right to appeal to the appropriate Labour Court within 6 months of the passing of an order dispensing with his services including an order terminating his services on the ground of ill-health either on the ground that the provisions of Clause I have been violated or on the ground that he had not been guilty of misconduct as held by the employer.

Clause 3: "The Labour Court in disposing of any appeal filed under Clause 2 shall have power either to dismiss the appeal or to set aside the order dispensing with the services of the workman and to direct reinstatement in service together with the payment of whatever amount as compensation for the workman's period of unemployment as it considers fit and proper.".

Clause 4. "The provisions of Clause 1 shall have effect in respect of employers and workmen despite any provision to the contrary in any other Act and also despite any provision in any Standing Order framed by an employer under the Industrial Employment (Standing Orders) Act, Act. 20 of 1946.

Clause 5: "The order of the Labour Court under Clause 3 shall be deemed to be an Award made by the Labour Court under Sec. 15 of the Act and shall be enforceable accordingly."

In addition, I think the following Amendments should also be carried out in the Industrial Employment (Standing Orders) Act, Act 20 of 1946.

Clause 13 in Schedule I of the Industrial Employment (Standing Orders) Act shall be amended to read as follows:

(1) "The services of no workman who has put in not less than 6 moths service shall be dispensed with except where the services of such workman are dispensed with on a charge of misconduct, supported by satisfactory evidence recorded at an enquiry held for the purpose, provided that any employer shall be entitled to terminate the services of any workman on the ground of ill-health in which event such workman shall be treated as having been retrenched and shall be entitled to benefits accruing to any retrenched worker under the Industrial Disputes Act, (Act XIV of 1947)

(2) "Any workman may leave his employment only after giving one month's notice or paying one month's pay in lieu of notice".

Clause 14 should be amended to read:

Add at the end of the clause "Provided that it shall be open to a workman to contend that the strike , though illegal , was justified in the circumstances in which it took place".

I also think that the power to suspend a worker given to the employer under Clause 14(5) of Schedule I of the Industrial Employment (Standing Orders) Act should be modified as follows:-

Add at the end of the clause the words "Provided that during the period of suspension a workman will be entitled to half his total emoluments".

On other point which is important and which is covered by the Amendments proposed to the Industrial Disputes Act suggested above, is concerning the right of an individual workman to agitate the legality of his discharge or dismissal even when the matter is not taken up by the mass of the workmen. This is very necessary to get over the numerous decisions that have been coming recently where the Tribunal has held that the matter is only individual dispute. In such cases very often this has taken place because the employer has brought pressure on the employees and compelled them under threat of victimisation etc., to give up the cause of the victimised employee. If the employee has a right to approach directly the Labour Court for the purpose of agitating his case then this question of whether it is an individual or a collective dispute will not arise.

- - - - -

-6 DEC 1958

No.LRI-1(125)/58
Government of India
Ministry of Labour & Employment
.....

From

Shri Pyare Lal Gupta,
Under Secretary to the Government of India

To

(1) All State Governments and Union Administrations,
(2) All Central Organisations of employers,
(3) All Central Organisations of workers.

Dated New Delhi, the

Subject:- Industrial Disputes Act, 1947 - Amendments to the suggestions received from the Indian Chamber of Commerce, Calcutta.

Sir,

I am directed to forward herewith seven statements showing the amendments to the Industrial Dispute Act proposed by the Indian Chamber of Commerce, Calcutta, for consideration by the sub-committee of the Standing Labour Committee, which is scheduled to meet at New Delhi on the 22nd December 1958.

Yours faithfully,

Pyare Lal Gupta
(Pyare Lal Gupta)
Under Secretary

d.a.refd.to
N.Ram/3/12

Copy forwarded to:-

1. Ministry of Commerce & Industry.
2. Ministry of Railways.
3. Ministry of Steel, Mines & Fuel.
4. Ministry of Law (Shri Jetley).
5. Ministry of Transport & Communication.
6. Ministry of Defence.
7. LC. Section.
8. Research Division.

Pyare Lal Gupta
(Pyare Lal Gupta)
Under Secretary

9. The General Secretary,
The All India Trade Union Congress,
4, Ashoka Road, New Delhi.

forwarded to Com. V.G. Row.

Statement showing the amendments proposed to the Industrial Disputes Act 1947.

S.No.	Substance of the proposed amendment	Section to be amended	Reasons for the proposed amendment
	Watch and ward staff, confidential staff and supervisory personnel (whatever may be their salary) should be outside the purview of the Act.	Section 2(s)	Watch and ward staff do the policing work in factories and hence it is absolutely essential that they should be treated as a separate category altogether. Similarly, employees to whom confidential work is entrusted by the management occupy, so to say, a key position and hence they also should not be treated on a par with other workmen. As regards supervisors, in a small factory even persons occupying the position of Chief Supervisor may be getting less than Rs.500 and hence it is necessary that they should not be treated as workmen for the purpose of the Act; otherwise it would be very difficult to run industrial undertakings.

Statement showing the amendments proposed to the Industrial Disputes Act 1947.

S.No.	Substance of the proposed amendment	Section to be amended	Reasons for the proposed amendment
	Temporary workmen should be excluded from the scope of the Act. (Amendment proposed by the Indian Chamber of Commerce Calcutta).	Section 2(s)	The Act confers many advantages such as the right to raise disputes, the right to lay-off and retrenchment compensation, etc. On the other hand, temporary workmen are employed either in respect of temporary vacancies where the original incumbent is on leave, etc. or in connection with specific projects. In the former case there can be no question of any special consideration since the worker knows that on the return of the original incumbent he will no longer be required. And in the latter case, when the project is completed, their services would no longer be required. The pay and allowances to be given to them are determined bearing in mind the probable duration of the project. Hence there could be no question of lay-off or retrenchment compensation in their case. Nor can they have the right to notice, etc. before their services are dispensed with; for even at the time of their engagement they are clearly aware of the purely temporary nature of the work for which they are taken. If they are to be allowed to raise disputes, then the project could not be completed on schedule.

Statement showing the amendments proposed to the Industrial Disputes Act 1947

S.No.	Substance of the proposed amendment	Section to be amended	Reasons for the proposed amendment
	Apprentices should be excluded from the purview of the Act. (Amendment proposed by the Indian Chamber of Commerce Calcutta).	Section 2(s)	Apprentices are taken on for training in Industry and it will be bad training if they are to be allowed to take part in agitations, strikes and the like. Further, the employer should have full freedom to terminate the services of an apprentice whenever he feels the apprentice is not suitable. Hence, the employers' hands should not be tied down by apprentices being included within the scope of the Act.

Statement showing the amendments proposed to the Industrial Disputes Act 1947

S.No.	Substance of the proposed amendment	Section to be adended	Reasons for the proposed amendment
	Like public utility services strikes without notice should be prohibited in non-public utility services also. The notice of strike shold invariably state the date when the strike would be launched. (Amendment proposed by the Indian Chamber of Commerce, Calcutta.)	Section 22	Whether it is a public utility service or not, the disturbance to production is always there whenever a strike takes place. Hence, strikes without proper notice should be prohibited in all classes of establishments and not merely in public utility services. It often happens that a strike notice is given, but the strike is actually launched suddenly and without any warning long after the notice period had expired. This hampers production and it is, therefore, necessary that the strike notice should specify the date on which the strike would be launched.

Statement showing the amendments proposed to the Indistrial Disputes Act 1947

S.No.	Substance of the proposed amendment.	Section to be amended.	Reasons for the proposed amendment.
	The retrenchment compensation payable to a workman in case a business establishment is sold out and the new employer does not continue to give the same terms to the workman should be related the extent to which the worker's new pay has been less than what he was getting under his previous employer. (Proposed by the Indian Chamber of Commerce, Calcutta.)	Section 25FF	At present retrenchment compensation is payable even where an industrial undertaking is sold and the new owner has given employment to the workers, but not onthe old terms. In such cases, the retrenchment compensation should not be the same as that payable to a worker who has obtained no such employment. On the other hand, it would be related to the extent to which the worker's new pay has been less than what he was getting under his previous employer. If continuity of service was given to the workers, there is no reason why the retrenchment compensation should not be reduced suitably in such cases.

Statement showing the amendments proposed to the Industrial Disputes Act 1947.

S.No.	Substance of the proposed amendment.	Section to be amended.	Reason for the proposed amendment.
	Provision should be made that if a person, who instigates or incites others to take part in an illegal strike, is an office bearer of a recognised trade union, the recognition of that union should be withdrawn. (Amendment proposed by the Indian Chamber of Commerce Calcutta)	Section 27	The Section, as it stands at present, provides for any person instigating or inciting others to take part in an illegal strikes. It should also belaid down that if such person is an office bearer of a union and if such union is a recognised union then the recognition of that union should be withdrawn.

Statement showing the amendments proposed to the Industrial Disputes Act 1947

S.No.	Substance of the proposed amendment.	Section to be amended.	Reasons for the proposed amendment.
	The maximum number of 'protected' workmen in any establishment should not exceed 20 at the most. (Amendment proposed by the Indian Chamber of Commerce, Calcutta)	Section 33(4)	The section, as it stands at present, lays down that the number of 'protected' workmen in any establishment shall be 1% of the total number employed therein, subject to a minimum of 5 and a maximum of 100 ' Protected' workmen. The idea behind the protection is that office bearers of unions should be free from disciplinary action during the pendency of proceedings. But there is no reason why 100 workmen should be protected, which is a large number.

Bill No. 35 of 1958

THE ALL-INDIA MATERNITY BENEFIT BILL, 1958

by

SHRIMATI RENU CHAKRAVARTTY, M.P.

(AS INTRODUCED IN LOK SABHA)

Bill No. 35 of 1958.

THE ALL-INDIA MATERNITY BENEFIT BILL, 1958

(AS INTRODUCED IN LOK SABHA)

A

BILL

to prevent the employment of women in factories, plantations and other establishments for some time before and some time after confinement and to provide for payment of maternity and medical benefits to them.

WHEREAS it is expedient to prevent the employment of women in factories, plantations or other establishments for some time before and some time after confinement and to provide for the payment of maternity and medical benefits to them;

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short Title, Extent, commencement and application.

1. (i) This Act may be called the All-India Maternity Benefit Act, 19 .

(ii) It extends to the whole of India.

(iii) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

(iv) It shall apply, in the first instance to all factories and plantations.

(v) The Government may after giving one month's notice of their intention of so doing by notification in the Gazette extend the provisions of this Act to any other establishment or class of establishments, industrial, commercial or otherwise wherein fifty or more persons are employed or were employed on any day of the preceding twelve months.

benefit may be paid to her or to such other person as she may nominate in this behalf and that she will not work in any employment during the period for which she receives maternity benefit. If the woman has not been confined, such notice shall state that she expects to be confined within four weeks from the date of the notice; if she has been confined, such notice shall be given within one week of her confinement.

(2) The employer shall on receipt of the notice permit such woman to absent herself from the factory or plantation or establishment until the expiry of eight weeks after the date of her confinement.

(3) The amount of maternity benefit for two weeks shall be paid in advance to the woman and the balance amount for the period up to and including the day of confinement shall be paid by the employer to the woman within forty-eight hours of the production of such proof, as the Government may by rules prescribe, that the woman has been confined. The amount due for the subsequent period shall be paid punctually each week in arrear.

Leave for miscarriage.

6. In case of miscarriage, a woman shall on production of a certificate signed by the certifying surgeon or any other qualified medical practitioner or on production of such other proof of miscarriage as may be prescribed be entitled to three weeks leave from the date of her miscarriage with average daily earnings. If the claimant refuses to be examined by a male doctor, the employer must call a woman doctor, a nurse or dai as laid down by rules to examine her.

Leave for illness arising out of pregnancy or confinement.

7. A woman shall be entitled to leave with wages for a maximum period not exceeding thirty days in cases of illness arising out of pregnancy or confinement in addition to the maternity leave to which she is entitled to under section 4 at the rate of the claimant's average daily earnings.

Payment of medical bonus.

8. Every woman entitled to maternity benefit under section 4 shall also be entitled to receive from her employer a medical bonus of ten rupees if no prenatal confinement or postnatal care is provided for the employer free of charge, on production of such proof as may be prescribed.

Payment of maternity benefit in case of claimant's death.

9. If a woman entitled to maternity benefit under the provisions of this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due to the person who undertakes the care of the child, if the child is living, and if the child is not living, to the nominee mentioned in the notice given under sub-section (1) of section 5, and if there is no such nominee, to the heirs to the deceased woman.

Dismissal during pregnancy or absence.

10. (*1*) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(*2*) The dismissal of a woman at any time during her pregnancy if the woman but for such dismissal would have been entitled to maternity benefit under this Act shall not have the effect of depriving her of that maternity benefit.

(*3*) If the confinement involves illness incapacitating a woman for work the employer shall not be entitled to dismiss her if she fails to return to duty on the expiry of eight weeks after her confinement, in addition to the leave provided for in section 7, without getting the approval of a certifying surgeon who may increase the period of absence if he considers fit.

Power of Inspector to direct payments to be made.

11. (*1*) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under section 9 is improperly withheld may make a complaint to the Inspector.

(*2*) On receipt of such complaint or on his own motion without any such complaint being made, the Inspector may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

(*3*) Any person aggrieved by the order of the Inspector under sub-section (*2*) may appeal to the Labour Commissioner or such other officer as may be empowered by the Government in this behalf within such time and in such manner as may be prescribed.

1 of 1890.

(*4*) Any amount payable under this section shall be recoverable as arrears of land revenue under the Revenue Recovery Act, 1890 for the time being in force.

Forfeiture of maternity benefit.

12. If a woman works in any factory or plantation or establishment after she has been permitted by her employer to absent herself under the provisions of section 5, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Nursing breaks.

13. Every woman in a factory or plantation or in an establishment who returns to duty after confinement shall be allowed in the course of her daily work two intervals of sufficient time to feed the child till the child attains the age of two.

Appointment of Inspectors.

14. The Government may by notification in the Gazette appoint such officers of the Government as they think fit to be Inspectors for the purposes of this Act and may assign to them such local limits as they think fit.

Powers and duties of Inspectors.

15. Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed, enter any place which is used or which he has reason to believe is used, as a factory or a plantation or an establishment with such assistants as he thinks fit and inspect the premises and such registers, records and notices as may be prescribed.

Inspectors to be public servants.

16. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Penalty for contravention of Act by employer.

17. If any employer contravenes any of the provisions of this Act, he shall be punished with fine which may extend to five hundred rupees and where the contravention is of the provision relating to the payment of maternity benefit, and where the amount has not been already recovered the court shall recover the amount due on account of maternity benefit as if it were a fine and pay such amount to the person entitled thereto.

Jurisdiction of Courts.

18. (*1*) No court inferior to that of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

(2) No prosecution for any offence against this Act or any rules thereunder shall be instituted except by or with the previous sanction of the Inspector.

Period of limitation for prosecution.

19. No Court shall take cognizance of, or convict a person for, any offence against this Act or any rule thereunder unless complaint thereof has been made within six months of the date on which the offence was committed. In computing the period of six months aforesaid the time, if any, taken for the purpose of obtaining the previous sanction of the Inspector under sub-section (2) of section 18 shall be excluded.

Rules.

20. (*1*) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the preparation and maintenance of a muster roll and the particulars to be entered in such roll,

(*b*) the preparation of a roll of women doctors, nurses and *dais* who may be called by the employers as certified surgeons, if the claimant refuses to be examined by a male doctor,

(*c*) the inspection of factories, plantations and other establishments for the purpose of this Act by Inspectors,

(*d*) the exercise of powers and the performance of duties by Inspector for the purpose of this Act,

(*e*) the method of payment of maternity benefit and other benefit under this Act in so far as provision has not been made therefor in this Act,

(*f*) the nature of proof under sub-section (*3*) of section 5 and sections 7 and 8, and

(*g*) all matters which are to be or may be prescribed.

(*3*) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) The making of rules under this section shall be subject to the condition of previous publication.

A copy of Act and Rules to be exhibited in factories, plantations and other establishments employing women.

21. A copy of the provisions of this Act and Rules thereunder in the local language shall be exhibited in a conspicuous place by the employer in every factory, plantation and establishment in which women are employed.

Repeals.

22. This Act will supersede all State Maternity Benefit Legislations which do hereby stand repealed.

STATEMENT OF OBJECTS AND REASONS

In order to permit a woman to fulfil her double role of a worker and a mother, dedicating her energy to raise both the wealth of the nation and the family, as well as to rear up healthy happy children, the need for an All-India Maternity Benefit legislation has become necessary. Although State legislations guide Maternity Benefits, All-India legislation has been demanded for a long time:

(*1*) because there is such wide divergence of the law varying from State to State;

(*2*) because Maternity Benefit in plantations is being widely circumvented due to loopholes in the State laws;

(*3*) white collar women workers in offices, in schools and colleges and in other institutions have no legal act guiding their right to Maternity Benefit.

2. Although the Central Government has asked State Governments to revise their Maternity Benefit laws and made them conform to certain common standards, as yet very few State Governments have complied with this request while many workers continue to face the sufferings arising out of the loopholes and inequities of the existing maternity benefit laws. Dismissals from service and threats of being rendered unemployed are commonly-used devices to circumvent the law. The rates are often low and payment so long deferred that the very purpose of the Act is often defeated. Hence the urgent necessity of this All-India Act.

NEW DELHI;
The 24th February, 1958.

RENU CHAKRAVARTTY.

FINANCIAL MEMORANDUM

Sub-Clause (3) of clause 5 of the Bill contemplates the payment of maternity benefit to women workers for certain time before and after confinement. Clause 6 of the Bill provides three weeks' leave for miscarriage with average daily earnings. Clause 7 of the Bill provides leave to a woman for illness arising out of pregnancy or confinement with average daily earnings. Clauses 8 and 9 of the Bill provide payment of medical bonus and maternity benefit in case of claimants death respectively. Clause 14 of the Bill contemplates the appointment of inspectors. The Bill, when enacted and brought into operation, would not involve appreciable expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules in respect of powers and duties of inspectors. Clause 20 of the Bill empowers the Central Government to make rules for the purpose of carrying into effect the provisions of the Act. The delegation of legislative power is of a normal character.

LOK SABHA

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BILL

to prevent the employment of women in factories, plantations and other establishments for some time before and some time after confinement and to provide for payment of maternity and medical benefits to them.

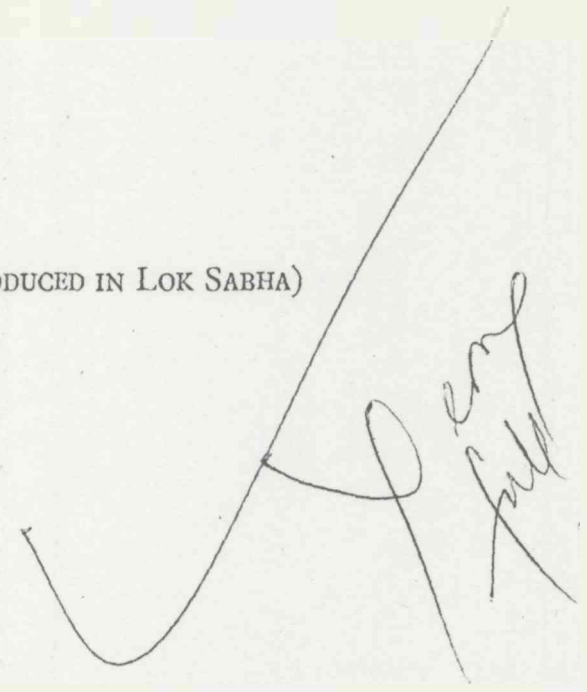
(*Shrimati Renu Chakravartty, M. P.*)

Bill No. 73 of 1957

THE EQUAL REMUNERATION BILL, 1957

By

SHRIMATI RENU CHAKRAVARTTY, M.P.



(As Introduced in Lok Sabha)

Bill No. 73 of 1957

THE EQUAL REMUNERATION BILL, 1957

(AS INTRODUCED IN LOK SABHA)

A

BILL

to introduce equal pay for equal work for women workers.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Equal Remuneration Act, 19 .

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, notify.

Definitions.

2. In this Act,—

(*1*) "appropriate Government" means—

(a) in relation to any Central undertaking, the Central Government; and

(b) in relation to all other undertakings, the State Government.

(*2*) "agriculture" means any form of farming including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees or poultry and any practice performed by the farmer on a farm as incidental to or in conjunction with farming operations, including any forestry or timber operations and the preparation

for market and delivery to storage or to market or carriage for transportation to market of farm produce.

(3) "competent authority" means the authority appointed by the appropriate Government by notification in the Official Gazette.

(4) "employer" means any person who employs, whether directly or through any person, one or more employees in any industry or agriculture.

(5) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes co-operative societies, shops and stores and any calling, service, employment or industrial occupation or avocation of workmen.

(6) "prescribed" means prescribed by rules made under this Act.

(7) "wages" means all remuneration, capable of being expressed in terms of money or kind which would if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of her employment or work done in such employment.

(8) "worker" means a person employed, directly or indirectly, in any industry or agriculture (including an apprentice), for hire or reward, to do any work, skilled or unskilled, manual, clerical or supervisory and includes any worker to whom any articles or materials are given to be manufactured, cleaned, washed, altered, ornamented, finished, repaired or adopted or otherwise processed.

Fixation of

3. Every woman worker employed in any industrial or agricul-

(2) In fixing wage deferentials and affecting classification of work in industries or agricultural undertakings where women are employed, the Government shall appoint an Expert Committee to fix the rates of wages which shall be notified in the Official Gazette.

Appointment of competent authority to decide cases under the Act.

6. (1) The appropriate Government may appoint the Commissioner for Workmen's Compensation, a Judge of a Civil Court or a Stipendiary Magistrate to be the competent authority to decide on all claims arising out of payment of less wages to women workers for equal work.

(2) An appeal against any decision of the competent authority appointed under sub-section (1), may be made before a Court of Small Causes or the District Court.

Powers of the competent authority.

7. Every authority appointed under this Act shall have all the powers of a Civil Court for the purpose of taking evidence and enforcing of attendance of witnesses and compelling the production of documents.

Penalties and procedure.

8. Any employer who does not pay equal wages to women workers for equal work or who discriminates against women workers in the matter of conditions of work or their promotions or who discriminates against married women workers or who discharges them on grounds of marriage shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Representation of Parties.

9. A woman worker who is a party to a dispute under the provisions of this Act may be represented in all proceedings under this Act, by—

(a) an officer of any trade union or peasant organisation; or

(b) a member or official of the women's organisation of

(b) prescribe the method of summoning of witnesses and production of documents relevant to the subject matter of the enquiry before the Committee and Expert Committee;

(c) prescribe the powers of the inspectors for the purposes of this Act; and

(d) provide for any matter which is to be or may be prescribed.

STATEMENT OF OBJECTS AND REASONS

The justification for statutory fixation of equal pay for women workers for equal work is obvious. Such provision exists in certain advanced countries. The principle is embodied in the Indian Constitution. The Equal Remuneration Convention of 1951 of the I.L.O. recommends the acceptance of equal pay for equal work by the member countries.

It is, therefore, necessary to enact legislation to the effect that in all industries and agriculture the lowest minimum wage for the unskilled workers both men and women shall be the same and that wage deferential shall be based only on skill, experience, efficiency and responsibility and not on sex difference.

The Bill seeks to remove the undeserved discrimination against women and to ensure equal wage for them for equal work.

RENU CHAKRAVARTTY.

NEW DELHI;

The 30th August, 1957.

FINANCIAL MEMORANDUM

Under clause 5 of the Bill, the appropriate Governments shall appoint a committee or committees of different localities for fixing wage deferentials. The expenditure in respect of the committees appointed by the State Governments will be met by the appropriate State Governments. The expenditure to be incurred by the Central Government in connection with appointment of committees for the Central undertakings, will depend upon the number of committees to be appointed. It is, therefore, not possible at present to estimate the actual expenditure to be incurred, but it is expected that the expenditure will not be substantial.

Clause 6 of the Bill contemplates appointment of competent authority to decide cases under the Act. Such appointment is not likely to cause any extra expenditure as the persons to be appointed will already be under the employment of the appropriate Government.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10(*1*) of the Bill authorises the appropriate Government to make rules for carrying out the purposes of the Act. The ancillary matters on which rules may be framed have been enumerated in sub-clause (*2*) of that clause. The rule-making power is of a normal character.

LOK SABHA

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BILL

to introduce equal pay for equal work for women workers.

(*Shrimati Renu Chakravarty, M.P.*)

GIPD—LS I—1268 LS—14-10-57—1625.

Suggestion for amendment in Com.Renu's Bill on Maternity Benefit.

- T.R.Ganesan,
General Secretary, Tamilnad TUC

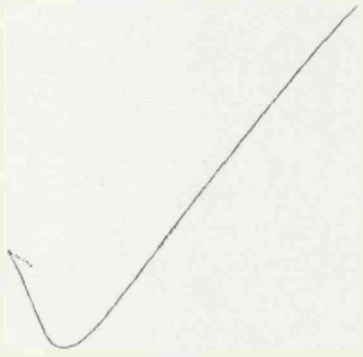
1. In Section 4, sub-section (3) (line 35 of page 3), the word "maximum" should be deleted.

   Reason: Everyone should get 12 weeks and in some cases it may happen that confinement takes place in the second or third week of notice itself. In that case, after confinement, the person should be entitled for more weeks than 8 weeks, thus making leave before and after confiment total 12 weeks.

2. Section 5 may be suitably amended in the light of above.

3. Section 12 (page 5), add at the end: "and such forfeiture shall be only for such period she has so worked."

4. On page 4, line 33, (section 8) there seems to be a printing error. After "postnatal care is provided" the word "for" ought to be "by" "the employer free of charge".



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Bill No. VI of 1958

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL, 1958

(AS INTRODUCED IN THE RAJYA SABHA)

Bill No. VI of 1958

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL, 1958

(AS INTRODUCED IN THE RAJYA SABHA)

A

BILL

further to amend the Workmen's Compensation Act, 1923.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Workmen's Compensation (Amendment) Act, 1958. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

of 1923

2. In section 2 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), in sub-section (*1*),— Amendment of section 2.

(*i*) clause (*a*) shall be omitted;

(*ii*) after clause (*f*), the following clause shall be inserted, namely:—

'(*ff*) "minor" means a person who has not attained the age of 18 years;';

& 22 ict. c. 90.

(*iii*) in clause (*i*), the words and figures "under the Medical Act, 1858, or any Act amending the same, or" shall be omitted.

3. In section 3 of the principal Act,— Amendment of section 3.

(*i*) in clause (*a*) of the proviso to sub-section (*1*), for the word "seven", the word "five" shall be substituted;

31 RS.—1.

(*ii*) for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the contrary is proved, the accident shall be deemed to have arisen out of and in the course of the employment.

(*2A*) If any disease specified in Part C of Schedule III as an occupational disease peculiar to that employment has been contracted by any workman during the continuous period specified under sub-section (*2*) in respect of that employment and the workman has during such period been employed in such employment under more than one employer, all such employers shall be liable for the payment of compensation under this Act in such proportion as the Commissioner may, in the circumstances, deem just.

(*3*) The State Government in the case of employments specified in Part A and B of Schedule III, and the Central Government in the case of employments specified in Part C of that Schedule, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-sec-

tion (2) shall apply within the State or the territories to which this Act extends, as the case may be, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.";

(*iii*) in sub-section (4), for the word, brackets and figure "sub-sections (2)", the word, brackets, figures and letter "sub-sections (2), (2*A*)" shall be substituted.

Amendment of section 4.

4. In sectoin 4 of the principal Act, in sub-section (*1*),—

(*i*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) Where death results from the injury and the deceased workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof;

(*b*) Where permanent total disablement results from the injury and the injured workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof;";

(*ii*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) Where temporary disablement, whether total or partial, results from the injury and the injured workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—a half-monthly payment of the sum shown against such limits in the fourth column thereof, payable on the sixteenth day—

(*i*) from the date of the disablement, where such disablement lasts for a period of twenty-eight days or more, or

(*ii*) after the expiry of a waiting period of five days from the date of the disablement, where such disablement lasts for a period of less than twenty-eight days,

and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter.";

(*iii*) after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—Any payment or allowance which the workman has received from the employer towards his

medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (*a*) of the proviso.".

Insertion of new section 4A.

5. After section 4 of the principal Act, the following section shall be inserted, namely:—

Compensation to be paid when due and penalty for default.

"4A. (*1*) Compensation under section 4 shall be paid as soon as it falls due.

(*2*) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case may be, without prejudice to the right of the workman to make any further claim.

(*3*) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent. per annum on the amount due together with, if in the opinion of the Commissioner there is no justification for the delay, a further sum not exceeding fifty per cent. of such amount, shall be recovered from the employer by way of penalty.'.

Amendment of section 5.

6. In section 5 of the principal Act, in clause (c), for the words "in other cases" the words, brackets and letter "in other cases [including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (*b*)]" shall be substituted.

Amendment of section 8.

7. In section 8 of the principal Act, in sub-section (*4*), for the words "twenty-five rupees", the words "fifty rupees" shall be substituted.

Amendment of section 10.

8. In section 10 of the principal Act, in sub-section (*1*), for the words "one year" wherever they occur, the words "two years" shall be substituted.

9. In section 10B of the principal Act,— Amendment of section 10B.

(*i*) in sub-section (*1*), after the word "death" wherever it occurs, the words "or serious bodily injury" shall be inserted; and the following *Explanation* shall be added at the end, namely:—

'*Explanation.*—"Serious bodily injury" means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days';

(*ii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Nothing in this section shall apply to factories to which the Employees' State Insurance Act, 1948, applies.".

10. After section 14 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 14A.

"14A. Where an employer transfers his assets before any amount due in respect of any compensation, the liability wherefor accrued before the date of the transfer, has been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property.". Compensation to be first charge on assets transferred by employer.

11. In section 15 of the principal Act, in sub-section (*2*),— Amendment of section 15.

(*a*) for the words "six months", the words "one year" shall be substituted; and

(*b*) the following poviso shall be added at the end, namely:—

"Provided that the Commissioner may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided

in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause."

Omission of section 18.

12. Section 18 of the principal Act shall be omitted.

Amendment of section 18A.

13. In section 18A of the principal Act, in sub-section (*1*), for the words "one hundred", the words "five hundred" shall be substituted.

Substitution of section 24.

14. For section 24 of the principal Act, the following section shall be substituted, namely:—

Appearance of parti- s.

"24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector appointed under sub-section (*1*) of section 8 of the Factories Act, 1948, or under sub-section (*1*) of section 5 of the Mines Act, 1952, or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the Commissioner, by any other person so authorised.".

63 of 1948.
35 of 1952.

Amendment of section 30.

15. In section 30 of the principal Act, after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) an order awarding interest or penalty under section 4A;".

Amendment of section 32.

16. In section 32 of the principal Act, in sub-section (*2*), after clause (*n*), the following clauses shall be inserted, namely:—

"(*o*) for prescribing abstracts of this Act and requiring the employers to display notices containing such abstracts:

(*p*) for prescribing the manner in which diseases specified as occupational diseases may be diagnosed;

(*q*) for prescribing the manner in which diseases may be certified for any of the purposes of this Act;

(*r*) for prescribing the manner in which, and the standards by which, incapacity may be assessed.".

17. For Schedule I to the principal Act, the following Schedule shall be substituted, namely:— Substitution of new Schedule for Schedule I.

SCHEDULE I

[*See* sections 2(*1*) and (*4*).]

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

Serial No.	Description of injury	Percentage of loss of earning capacity
1	Loss of both hands or amputation at higher sites	100
2	Loss of a hand and a foot	100
3	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.	100
4	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential	100
5	Very severe facial disfigurement	100
6	Absolute deafness	100
	Amputation cases—upper limbs (either arm)	
7	Amputation through shoulder joint	90
8	Amputation below shoulder with stump less than 8" from tip of acromion	80
9	Amputation from 8" from tip of acromion to less than 4 1/2" below tip of olecranon	70
10	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4 1/2" below tip of olecranon	60
11	Loss of thumb	30
12	Loss of thumb and its metacarpal bone	40
13	Loss of four fingers of one hand	50
14	Loss of three fingers of one hand	30
15	Loss of two fingers of one hand	20
16	Loss of terminal phalanx of thumb	20
	Amputation cases—lower limbs	
17	Amputation of both feet resulting in end-bearing stumps.	90
18	Amputation through both feet proximal to the metatarso-phalangeal joint	80
19	Loss of all toes of both feet through the metatarso-phalangeal joint	40
20	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
21	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
22	Amputation at hip	90

Serial No.	Description of injury	Percentage of loss of earning capacity
23	Amputation below hip with stump not exceeding 5" in length measured from tip of great trenchanter	80
24	Amputation below hip with stump exceeding 5" in length measured from tip of great trenchanter but not beyond middle thigh.	70
25	Amputation below middle thigh to 3 1/2" below knee	60
26	Amputation below knee with stump exceeding 3 1/2" but not exceeding 5".	50
27	Amputation below knee with stump exceeding 5".	40
28	Amputation of one foot resulting in end-bearing	30
29	Amputation through one foot proximal to the metatarso-phalangeal joint	30
30	Loss of all toes of one foot through the metatarso-phalangeal joint	20
	Other injuries	
31	Loss of one eye, without complications, the other being normal	40
32	Loss of vision of one eye, without complications or disfigurement of eye-ball, the other being normal	30
	Loss of—	
	A.—Fingers of right or left hand	
	Index finger	
33	Whole	14
34	Two phalanges	11
35	One phalanx	9
36	Guillotine amputation of tip without loss of bone	5
	Middle finger	
37	Whole	12
38	Two phalanges	9
39	One phalanx	7
40	Guillotine amputation of tip without loss of bone	4
	Ring or little finger	
41	Whole	7
42	Two phalanges	6
43	One phalanx	5
44	Guillotine amputation of tip without loss of bone	2
	B.—Toes of right or left foot	
	Great toe	
45	Through metatarso-phalangeal joint	14
46	Part, with some loss of bone	3

Serial No.	Description of injury	Percentage of loss of earning capacity
	Any other toe	
47	Through metatarso-phalangeal joint	3
48	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe	
49	Through metatarso-phalangeal joint	5
50	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe	
51	Through metatarso-phalangeal joint	6
52	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe	
53	Through metatarso-phalangeal joint	9
54	Part, with some loss of bone	3

18. In Schedule II to the principal Act,— Amendment of Schedule II.

(*i*) for clauses (*i*) to (*ix*), the following clauses shall be substituted, namely:—

"(*i*) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or

(*ii*) employed, otherwise than in a clerical capacity, in any premises wherein or within the precincts wherein a manufacturing process as defined in clause (*k*) of section 2 of the Factories Act, 1948, is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or

(*iii*) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof twenty or more persons are so employed; or

(*iv*) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or

(*v*) employed, in any mine as defined in clause (*j*) of section 2 of the Mines Act, 1952, in any mining operation

or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or

(*vi*) employed as the master or as a seaman of—

(*a*) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

(*b*) any ship not included in sub-clause (*a*), of twenty-five tons net tonnage or over, or

(*c*) any sea-going ship not included in sub-clause (*a*) or sub-clause (*b*) provided with sufficient area for navigation under sails alone; or

(*vii*) employed for the purpose of—

(*a*) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any port subject to the Indian Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessel; or 15 of 1908

(*b*) warping a ship through the lock; or

(*c*) mooring and unmooring ships at harbour wall berths or in pier; or

(*d*) removing or replacing dry dock caisoons when vessels are entering or leaving dry docks; or

(*e*) the docking or undocking of any vessel during an emergency; or

(*f*) preparing splicing coir springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of gangways, maintaining life-buoys up to standard or any other maintenance work of a like nature; or

(*g*) any work on jolly-boats for bringing a ship's line to the wharf; or

(*viii*) employed in the construction, maintenance, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof; or

(*b*) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or

(*c*) any road, bridge, tunnel or canal; or

(*d*) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

(*ix*) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard or fittings and fixtures for the same; or";

(*ii*) in clause (*xiii*), after the words "Railway Mail Service", the words "or as a telegraphist or as a postal or railway signaller" shall be inserted;

(*iii*) in clause (*xvi*), for the words "fifty" and "twenty", the words "twenty-five" and "twelve" shall respectively be substituted;

(*iv*) in clause (*xxvi*), for the word "one hundred", the word "fifty" shall be substituted;

(*v*) in clause (*xxvii*), the word "or" shall be inserted at the end, and after that clause, the following clauses shall be inserted, namely:—

"(*xxviii*) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934; or 22 of 1934.

(*xxix*) employed in farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or

(*xxx*) employed, otherwise than in a clerical capacity, in the construction, working, repair or maintenance of a tube-well; or

(*xxxi*) employed in the maintenance, repair or renewal of electric fittings in any building; or

(*xxxii*) employed in a circus.".

Amendment of Schedule III.

19. In Schedule III to the principal Act,—

(*i*) for Part B, the following Part shall be substituted, namely:—

"PART B

Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra-ethyl.	Any process involving the handling or use of lead or any of its preparations or compounds except lead tetra-ethyl.
Poisoning by phosphorus or its compounds, or its sequelae.	Any process involving the use of phosphorus or its preparations or compounds.
Poisoning by mercury, its amalgams and compounds, or its sequelae .	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene, or its homologues, their amido and nitro derivatives or its sequelae.	Any process involving the manufacture, distillation, or use of benzene, benzo, benzene homologues and amido and nitro-derivatives.
Chrome ulceration or its sequelae.	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
Poisoning by arsenic or its compounds, or its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to—	
(*a*) radium and other radio-active substances;	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
(*b*) X-rays.	
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Poisoning by halogenated hydrocarbons of the aliphatic series and their halogen derivatives.	Any process involving the manufacture, distillation and use of hydrocarbons of the aliphatic series and their halogen derivatives.
Poisoning by carbon disulphide or its sequalae :	Any employment in— (*a*) the manufacture of carbon disulphide; or (*b*) the manufacture of artificial silk by viscose process; or (*c*) rubber industry; or (*d*) any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.
Occupational cataract due to infra-red radiations.	Any manufacturing process involving exposure to glare from molten material or to any other sources of infra-red radiations.
Telegraphist's Cramp . . .	Any employment involving the use of telegraphic instruments.";—

(ii) after Part B, the following Part shall be inserted, namely:—

"Part C

Silicosis	Any employment involving exposure to the inhalation of dust containing silica.
Coal Miners' Pneumoconiosis	Any employment in coal mining.
Asbestosis	Any employment in— (1) the production of— (*i*) fibro cement materials; or (*ii*) asbestos mill board; or (2) the processing of ores containing asbestos.
Bagassosis	Any employment in the production of bagasse mill board or other articles from bagasse."

20. In Schedule IV to the principal Act, the words "of Adult" wherever they occur, shall be omitted. Amendment of Schedule IV.

STATEMENT OF OBJECTS AND REASONS

The Workmen's Compensation Act, 1923, which came into force on the 1st July, 1924, has been amended several times, the major amendments being as follows:—

Act V of 1929 *inter alia* enlarged the categories of workmen, removed the restrictions on compensation in the building trades and altered the provisions relating to the distribution of compensation. In 1933, the Act was revised extensively on the lines recommended by the Royal Commission on Labour in India in 1931; the main amendments carried out were, a considerable enlargement in the number of workmen covered by the Act, increase in the scales of compensation and reduction of the "waiting period". By the amending Act I of 1946, the wage limit of workers covered by the Act was increased from Rs. 300 to Rs. 400.

2. The working of the Act has shown that it requires to be further amended in certain respects. Some of the important amendments the Bill seeks to make relate to:—

(*a*) removing the distinction between an adult and a minor for the purposes of workmen's compensation;

(*b*) reducing the waiting period of seven days to five days for being entitled to compensation and, in cases where the period of disablement is twenty-eight days or more, providing for payment of compensation from the date of disablement;

(*c*) providing for penalty for failure to pay compensation, when due;

(*d*) enlarging the scope of Schedules I, II and III.

3. The reasons for the amendments are, wherever necessary, given in the notes on clauses attached to this Bill.

NEW DELHI;
The 16th September, 1958.

G. L. NANDA.

Notes on clauses

Clause 2.—This clause removes the distinction between an adult and a minor for the purpose of workmen's compensation. At present the Act prescribes different rates of compensation for adults and minors for death and permanent disablement on the ground that a minor will have, as a general rule, no dependants. There is not much justification for this distinction and it is reasonable that there should be uniform rates of compensation for workmen in similar wage-groups.

Though for purposes of payment of compensation the distinction between an adult and a minor is being removed, for other purposes a 'minor' will have the normal meaning, namely, a person who has not attained the age of 18 years.

Reference to a foreign Act in clause (*i*) has been omitted, being unnecessary.

Clause 3.—This clause reduces the waiting period of 7 days to 5 days as prescribed in the I.L.O. Convention on Workmen's Compensation (Accidents), 1925. It also empowers the Commissioner to apportion the liability for compensation between different employers in certain cases where the workman has been employed in the same employment for a specified continuous period under more than one employer.

Clause 4.—The amendments are mostly consequential. In clause 3(1) it has been proposed to reduce the waiting period to 5 days. No compensation will therefore be payable in respect of this period. In order, however, to reduce the hardship of a workman in case he suffers an injury which incapacitates him for four weeks or more, a provision is being made for payment of compensation for the waiting period also.

A provision is also being made that where an employer spends any sum of money on the medical treatment of an injured workman, he should not be permitted to deduct the amount from the compensation payable. The compensation is for loss of future earnings and not for getting medical treatment.

Clause 5.—This provision is being made in order to ensure that the workman is able to get whatever amount the employer is prepared to pay immediately pending a decision on the amount of compensation actually due.

This clause also provides for payment of interest if the compensation is not paid within one month from the due date and for a penalty if the Commissioner does not consider the delay to be justified.

Clause 6.—This amendment is intended to facilitate calculation of monthly wages where there are difficulties in calculating it under clause (b) of section 5.

Clause 7.—At the existing level of prices, the limit of Rs. 25 for grant of advances for funeral expenses is very low and it is accordingly being increased to Rs. 50.

Clause 8.—The limitation period of one year for preferring a claim before the Commissioner is not sufficient as the worker often fails to file a claim in time due to his remaining in hospital for treatment and then petitioning the employer for settlement of his dues with the result that by the time he thinks of legal remedies the time-limit of one year is over. It is proposed accordingly to increase the period of limitation to two years.

Clause 9.—It is proposed that accidents resulting in serious bodily injury should also be reported to the authority concerned. At present only fatal accidents are being reported under section 10B.

Clause 10.—This clause seeks to protect the interests of a workman who is entitled to compensation in the event of the employer transferring his assets before discharging his liability under the Act.

Clause 11.—This clause, like clause 8, increases the limitation period and empowers the Commissioner to extend the period of limitation in suitable cases if he is satisfied that the failure to prefer the claim was due to sufficient cause.

Clause 12.—This is consequential to the amendment proposed to section 2(1) (a).

Clause 13.—The amount of fine is too low and it is proposed to increase it to Rs. 500. This is also the limit of fine under the Employees' State Insurance Act, 1948.

Clause 14.—It is intended that an Inspector appointed under the Factories Act, 1948, or Mines Act, 1952 or any other officer specified by the State Government should be enabled to prefer claims on behalf of the workmen or the dependants concerned if authorised in writing. This will be of help to the workmen or the dependants who are ignorant of the protection afforded under the Act or are otherwise unable to set the law in motion.

Clause 15.—As a provision has been made in clause 5(3) for payment of interest or penalty for failure to pay the compensation when due, it is proposed to provide for an appeal under section 30 against such order.

Clause 16.—Display of abstracts from the Act will be of help to the workers in informing them of the protection afforded to them under the Act. This clause also enables the State Government to make rules for prescribing the manner in which diseases may be diagnosed and certified and incapacity assessed.

Clause 17.—Schedule I as a whole is outmoded and not in conformity with present day standards of assessing disabilities. The Schedule in the National Insurance (Industrial Injuries) Benefit Regulations, 1948, of the U.K. is more modern and it is proposed to adopt it.

Clause 18.— (i) Clause (*i*) A person employed on loading or unloading a vehicle may be said to be employed in connection with its operation. This is, however, proposed to be made clear beyond doubt.

Clause (*ii*).—It is proposed to cover all workmen working in power using factories irrespective of the number of workmen employed.

Clause (*iii*).—This clause relates to factories not using power. Under the Factories Act, 1948, factories employing 20 or more persons are covered. Workmen in all such factories are proposed to be covered.

Clause (*iv*).—As there is a considerable risk in the manufacturing or handling of explosives, all workmen engaged in any such work are proposed to be covered irrespctive of the number of persons employed.

Clause (*v*).—Amendments consequential to the Mines Act, 1952, having replaced the Indian Mines Act, 1923, are being made. It is also intended that all workers in mines should be entitled to the benefits of the Workmen's Compensation Act, 1923.

Clause (*vi*).—At present the master and seamen of ships of less than 50 tons are excluded unless power is used. The I.L.O. Convention on "shipowners' liability in respect of Sickness Injury or Death of Seamen" permits exclusion of boats of less than 25 gross tonnage. The tonnage limit in sub-clause (b) is accordingly proposed to be reduced to 25 tons.

In accordance with the recommendation made by the Estimates Committee in its 62nd Report on "Shipping", the Act is being made applicable to all sea-going sailing vessels.

Clause (*vii*).—Certain classes of workers in Ports engaged in hazardous occupations are not covered by the Act. It is proposed to bring such classes of workers also within the purview of the Act.

Clause (*viii*).—Workers employed in maintenance of buildings also run a risk like workers engaged in repairing and it is accordingly proposed to cover them.

The present height limit of twenty feet is high, and a demand for the removal of height limits has been made. But since the hazard is in the height at which a worker is required to work, some height limit is necessary. It is accordingly proposed to reduce the height limit to twelve feet.

Work in a canal is also hazardous and it is proposed to make it clear that workers engaged in the construction, etc., of a canal are also covered.

Clause (*ix*).—The clause as revised is intended to cover persons employed in the routine work of repairing and replacing electric cables and other fittings.

(ii) Telegraphists and postal and railway signallers are proposed to be included as their work is also hazardous.

(iii) The limit of 50 persons is too high and it is proposed to reduce it to 25. Further in accordance with the reduction in the height limit in clause (viii) from twenty feet to twelve feet, the depth limit in this clause is proposed to be similarly reduced.

(iv) The limit of one hundred persons with respect to employment in a market is too high and it is proposed to reduce it to fifty persons.

(v) In all the employments mentioned in this sub-clause there is considerable employment risk and it is accordingly proposed to cover workmen working in such employments.

Clause 19.—The Schedule requires a few modifications to bring it in line with the provisions of Convention (42) concerning Workmen's Compensation (Occupational Diseases). It also does not include some of the prevailing occupational diseases. It is proposed to remove these deficiencies.

FINANCIAL MEMORANDUM

The Workmen's Compensation Act, 1923, covers a large number of persons in Central Government undertakings such as the railways, posts and telegraphs, construction works, etc. Some of the amendments proposed in the Bill will have the effect of increasing the liability of the employers (including the Central Government) for payment of compensation. Clause 5 of the Bill seeks to provide a penalty for failure to pay compensation when due with the result that the employer will have to pay increased amounts in cases where payment of compensation has been delayed for more than a month. Clause 17 contemplates replacement of Schedule I by a more comprehensive Schedule which will increase the percentage of disablement and will correspondingly increase the rates of compensation for the various types of injuries. The amendments proposed to Schedule II to the Act will make the Act applicable to an increased number of persons in factories, mines, ports, construction works and also to persons employed in manufacture, etc., of aircraft, in farming by tractors, in construction, working, repair or maintenance of tubewells, etc. Schedule III to the Act, which contains a list of occupational diseases, is proposed to be amended and enlarged with the result that compensation will be payable in respect of the new diseases being included in that Schedule. The above proposals will thus involve increased expenditure from the Consolidated Fund of India in so far as they concern the Central Government undertakings. As compensation becomes payable only in the event of an employment injury resulting in disablement or death, it is not possible to estimate the amount of increased expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Workmen's Compensation Act is administered by the State Governments. Clause 16 of the Bill amplifies the rule-making power conferred on the State Governments by section 32 of the principal Act. The matters specified in clause 16 are of a routine and general character; they provide for requiring the employers to display notices containing abstracts from the Act and for the diagnosis and certification of diseases and for the method by which incapacity for the purposes of this Act may be assessed.

ANNEXURE

EXTRACTS FROM THE WORKMEN'S COMPENSATION ACT, 1923
(No. 8 OF 1923)

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

* * * *

CHAPTER I.—PRELIMINARY

* * * *

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years;

* * * * * *

21 & 22 Vict. c 90

(*i*) "qualified medical practitioner" means any person registered under the Medical Act, 1958, or any Act amending the same, or under any Central Act, Provincial Act or an Act of the Legislature of a State providing for the maintenance of a register of medical practitioners, or in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be a qualified medical practitioner for the purposes of this Act;

* * * * * *

CHAPTER II.—WORKMEN'S COMPENSATION

Employer's liability for compensation.

3. (*1*) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

(*a*) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding seven days;

(b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to—

(*i*) the workman having been at the time thereof under the influence of drink or drugs, or

(*ii*) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(*iii*) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workman.

(2) If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer in the same kind of employment.

(3) The State Government, after giving, by notification in the Official Gazette not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which within the State shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply within the State as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

* * * * * *

Amount of compensation.

4 (*1*) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(*a*) Where death results from the injury—

(*i*) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(*ii*) in the case of a minor—two hundred rupees;

(*b*) Where permanent total disablement results from the injury—

(*i*) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(*ii*) in the case of a minor—twelve hundred rupees;

(c) Where permanent partial disablement results from the injury—

(*i*) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(*ii*) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

Explanation.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries;

(*d*) Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

(*i*) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule

IV—of the sum shown against such limits in the fourth column thereof, and

(*ii*) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that—

(*a*) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be; and

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

Method of calculating wages.

5. In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated as follows, namely:—

(*a*) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

(*b*) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;

(*c*) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period

of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation.—A period of service shall, for the purposes of this section be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

* * * * * * *

Distribution of compensation.

8. (*1*) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

* * * * * *

(*4*) On the deposit of any money under sub-section (*1*) as compensation in respect of a deceased workman the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding twenty-five rupees and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

* * * * * *

Notice and claim.

10. (*1*) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death:

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (*2*) of section 3 are applicable, the accident shall be deemed to have occurred on the first of

the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease:

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the entertainment of a claim—

(*a*) if the claim is preferred in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed had knowledge of the accident from any other source at or about the time when it occurred:

Provided, further, that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause.

* * * * * * *

Reports of fatal accidents.

10B. (*1*) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the State Government has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(*2*) The State Government may, by notification in the Official Gazette, extend the provisions of sub-section (*1*) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.

* * * * * *

Special provisions relating to masters and seamen.

15. This Act shall apply in the case of workmen who are masters of ships or seamen subject to the following modifications, namely:—

* * * * * *

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

* * * * * *

Proof of age.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a valid certificate granted in respect of such person under section 12 or section 52 of the Factories Act, 1934, before the occurrence of the injury shall be conclusive proof of the age of such person. 25 of 1934

Penalties.

18A. (1) Whoever—

(a) fails to maintain a notice-book which he is required to maintain under sub-section (3) of section 10, or

(b) fails to send to the Commissioner a statement which he is required to send under sub-section (1) of section 10A, or

(c) fails to send a report which he is required to send under section 10B, or

(d) fails to make a return which he is required to make under section 16,

shall be punishable with fine which may extend to one hundred rupees.

* * * * * *

CHAPTER III.—COMMISSIONERS

* * * * * *

Appearance of parties.

24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner, by any other person so authorised.

* * * * * *

30. (*1*) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:— Appeals.

(*a*) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

* * * * * *

CHAPTER IV.—RULES

32. (*1*) The State Government may make rules to carry out the purposes of this Act. Power of the State Government to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;

* * * * * *

SCHEDULE I

[*See* sections 2 (*1*) and 4.]

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

Injury	Percentage of loss of earning capacity
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II

[*See* section 2 (*l*) (n)]

LIST OF PERSONS WHO, SUBJECT TO THE PROVISIONS OF SECTION 2 (*l*) (*n*), ARE INCLUDED IN THE DEFINITION OF WORKMEN

The following persons are workmen within the meaning of section 2 (*l*) (*n*) and subject to the provisions of that section, that is to say, any person who is—

(*i*) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity; or

(*ii*) employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in clause (*g*) of section 2 of the Factories Act, 1934, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or 25 of 1934

(*iii*) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed; or

(*iv*) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed; or

(*v*) employed, in any mine as defined in clause (*j*) of section 3 of the Indian Mines Act, 1923, in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground: 4 of 19

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been employed or explosives have been used, and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause; or

(*vi*) employed as the master or as a seaman of—

(*a*) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled, or

(*b*) any ship not included in sub-clause (*a*) of fifty tons net tonnage or over; or

(*vii*) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits of any port subject to the Indian Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessel; or

15 of 1908.

(*viii*) employed in the construction, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof; or

(*b*) any dam or embankment which is twenty feet or more in height from its lowest to its highest point; or

(*c*) any road, bridge, or tunnel; or

(*d*) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

(*ix*) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any over-head electric line or cable or post or standard for the same; or

(*x*) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal, pipe-line, or sewer; or

(*xi*) employed in the service of any fire brigade; or

(*xii*) employed upon a railway as defined in clause (*4*) of section 3, and sub-section (*1*) of section 148 of the Indian Railways Act, 1890, either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration; or

of 1890.

(*xiii*) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department; or

(*xiv*) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas; or

(*xv*) employed in any occupation involving blasting operations; or

(*xvi*) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty

persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet; or

(*xvii*) employed in the operation of any ferry boat capable of carrying more than ten persons; or

(*xviii*) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed; or

(*xix*) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas; or

(*xx*) employed in a lighthouse as defined in clause (*d*) of section 2 of the Indian Lighthouse Act, 1927; or 17 of 1927

(*xxi*) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or

(*xxii*) employed in the training, keeping or working of elephants or wild animals; or

(*xxiii*) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires; or

(*xxiv*) employed in operations for the catching or hunting of elephants or other wild animals; or

(*xxv*) employed as a diver; or

(*xxvi*) employed in the handling or transport of goods in, or within the precincts of,—

(*a*) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or

(*b*) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed; or

(*xxvii*) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radio-active substances.

Explanation.—In this Schedule, "the preceding twelve months" relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

SCHEDULE III

(*See* section 3)

LIST OF OCCUPATIONAL DISEASES

Occupational disease	Employment
PART A	
Anthrax	Any employment— (*a*) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs and horns ; or (*b*) in connection with animals infected with anthrax ; or (*c*) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelæ	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes.
PART B	
Lead poisoning or its sequelæ excluding poisoning by lead-tetra-ethyl.	Any process involving the use of lead or any of its preparations or compounds except lead tetra-ethyl.
Phosphorus poisoning or its sequelæ	Any process involving the use of phosphorus or its preparations or compounds.
Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelæ of such poisoning	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelæ	Any process invloving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
Arsenical poisoning or its sequelæ	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to— (*a*) radium and other radio active substances; (*b*) X-rays.	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
Primary epitheliomatous cancer of the skin	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.

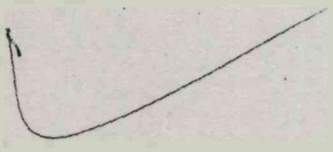
SCHEDULE IV

(*See* section 4)

COMPENSATION PAYABLE IN CERTAIN CASES

Monthly wages of the workman injured		Amount of compensation for—		
		Death of Adult	Permanent Total Disablement of Adult	Half-monthly payment as compensation for temporary Disablement of Adult
1		2	3	4
More than	But not more than			
Rs.	Rs.	Rs.	Rs.	Rs. a.
0	10	500	700	Half his monthly wages.
10	15	550	770	5 0
15	18	600	840	6 0
18	21	630	882	7 0
21	24	720	1,008	8 0
24	27	810	1,134	8 8
27	30	900	1,260	9 0
30	35	1,050	1,470	9 8
35	40	1,200	1,680	10 0
40	45	1,350	1,890	11 1
45	50	1,500	2,100	12 8
50	60	1,800	2,520	15 0
60	70	2,100	2,940	17 8
70	80	2,400	3,360	20 0
80	100	3,000	4,200	25 0
100	200	3,500	4,900	30 0
200	300	4,000	5,600	30 0
300	..	4,500	6,300	30 0

RAJYA SABHA



A

BILL

further to amend the Workmen's Compensation Act, 1923.

The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended the consideration of the Bill by the Rajya Sabha.

(Shri Gulzari Lal Nanda, Minister for Labour and Employment and Planning)

GIPND—LSI—431RS—19-9-58—1800

-7 JAN 1959

(COPY)

Government of India
Ministry of Labour & Employment
December 27, 1958

No. LR-IV-7(46)/58

From: Shri A.L. Handa
Under Secretary to the Government of India

To : The General Secretary
All India Petroleum Workers' Federation
4215 - Tel Mandi, Paharganj
New Delhi.

Sub: Industrial Disputes Act 1947 -
Reference of some disputes in M/s. Burmah-Shell Oil Storage & Distributing Company of India Ltd., Standard-Vacuum Oil Company, Caltex (India) Ltd. and Indo-Burmah Petroleum Company to a National Tribunal.

Dear Sir:

I am directed to say that in connection with your demand for referring the disputes in oil companies to a National Tribunal, it has been decided to call a Conference of the Oil Companies, the Trade Unions and the State Government concerned in New Delhi on Monday, the 19th Jan. 1959 at 10.30 a.m. to discuss the matter. The place of the meeting will be intimated later. A list of employers/trade unions invited to participate is enclosed.

I am to request that two representatives of your Federation may be deputed to attend the Conference. The representatives, may, if necessary, be accompanied by advisers, at their expense to represent the affiliated unions of the Federation.

Yours faithfully,

Sd/- A.L. Handa
Under Secretary.

The General Secretary
Petroleum Employees Union
Ismail Building, Golanji Hill Road,
Sewree, Bombay - 15.

The General Secretary
Madras Kerosene Oil Workers Union
Tiru Vottiyur High Road
Madras 1.

The General Secretary
All India Petroleum Workers - Federation
4215 - Tel Mandi, Paharganj
New Delhi.

Standard-Vacuum Oil Company
Post Box No. 181
Bombay 1.

Caltex (India) Ltd.,
Caltex House
No. 8 Ballard Road
Bombay 1.

The General Secretary
Burmah-Shell Employees Union
17 - Baker Street,
G.T. Madras.

The General Secretary
Bengal Oil & Petrol Workers' Union
3 - Commercial Buildings
1st Floor, 23 Netaji Subhas Road, Calcutta 1.

M/s. Burmah-Shell Oil Storage & Distributing Co.of India Ltd.
Burmah-Shell House, Ballard Estate, Post Box No. 688
Bombay 1.

Indo-Burmah Petroleum Co.Ltd.
Gillander House
Netaji Subhas Road
Post Box No. 383, Calcutta 1.

...ICTION OF THE WORKING OF THE WORKMEN'S COMPENSATION ACT, 1923 AND THE WORKMEN'S COMPENSATION (AMENDMENT) BILL, 1958.

(By Anj Bahadur Gour)

The Workmen's Compensation Act, 1923, was the first social security measure that was introduced in India. It was last amended in 1946.

But during the period 1923 and 1943, the Labour Investigation Committee (Rege Committee's Main Report - page 12), found that the number of factories had grown from 5,985 to 13,249. During this period, the total number of workers employed increased from 14,99,173 to 24,36,312. We also find from the report on the "Working of the Workmen's Compensation Act, 1923, during 1948" (page 8) that the number of accidents for which Compensation were paid grew from 11,371 in 1925 to 51,885 in 1946.

As regards the working of the Act, the Rege Committee found as early as in 1946 (Main Report, pages 50-54) that "the working of the Act leaves much to be desired ...." The Committee found that "minor injuries often go unreported", that "there is avoidable delay in the disposal of applications", that the workers are not aware of the benefits accruing to them under the Act.

The Report of the working of the Act during 1948 reveals (page 4) that even fatal cases are not properly reported. "In Bombay of the 907 reports of fatal accidents received during the year, only 107 were received from the employers under Section 10-A of the Act."

The Rege Committee had endorsed the views of the Bihar Labour Enquiry Committee that "All accidents should be immediately reported to the Labour Commissioner."

The Rege Committee had also endorsed the recommendation of the Bihar Labour Enquiry Committee that "Free legal assistance" should be provided to the workers and a panel of doctors should be appointed and the worker "should be assisted free of charge in

P.T.O.

getting his loss of capacity assessed by medical experts."

As regards the waiting period of 7 days, the Rege Committee concretely pointed out the case of injuries in glass factories where "the commonest accidents are those arising from cuts and burns most of which heal up within the 'waiting period' of 7 days and the employers escape all liability."

The Mysore Labour Commissioner, in his memorandum to the Rege Committee categorically suggested that "the Act requires radical improvements in favour of the workmen who do not derive as much benefit from its provisions as was intended by the sponsors of the Act, in view of the numerous technicalities introduced in it which are working great hardship to ignorant work people and the employers are benefitting therefrom at the expense of the workmen... The intentions of the Legislature are not fulfilled in practice in view of the provisions therein which cannot be strictly followed mainly owing to the ignorance of the workmen."

There is the question of strict enforcement of factory legislation and factory inspection on which depends the working of the Compensation Act in so far as the lack of safety measures and accidents, etc. are concerned.

And we see on page 43 of the Rege Committee's Main Report that in 1943 out of a total of 13,209 factories in British India of those days (including Bangalore and Coorg) only 11,053 were inspected during the year and 2,156 factories were not inspected at all.

In this background it would be seen that the 1946 amendment to the Workmen's Compensation Act, 1923, did not touch even the fringe of any of the problems stated above.

Neither was reporting of all the accidents made obligatory nor was the waiting period reduced. Neither was free legal assistance contemplated nor were the schedules of employment covered, disability involved and compensation due were improved upon to meet the requirements of the working class.

Since then the problem has further grown in scope and in

magnitude. The growing industrialisation and the accompanying mechanisation had increased the number of accidents and enlarged the scope of occupational diseases.

Shri Gulzarilal Nanda himself addressing a conference on occupational health in South-East Asia, in Calcutta on November 24,1958 said that in the existing conditions in Asian countries, there was a risk that the rising tempo of industrial development might quickly outgrow the organisation, facilities and other measures available in the sphere of industrial health and safety.

" The emerging problems," said Shri Nanda, "have to be tackled in an intensive fashion if we are to get the full collaboration from the workers and the maximum results from the process of industrialisation."(Hindustan Times, November 26,1958)

Mr.N.S.Mankikar, Chief Adviser, Factories, Government of India, in his article "Safety and Health in Industry" (Hindustan Times, November 24,1958) emphasises the fact that "the technological development leading to the introduction of newer types of machinery and the evolution of newer processes to meet fresh needs" bring in their wake "hazards which were practically unknown before."

Thus safety and health in the industry is a problem that is daily growing in complexity and requires a continued attention.

That is why if "in seeking economic prosperity it is necessary to effect saving in human efficiency and human life", the State has to see that "the organisation, facilities and other measures available in the sphere of industrial health and safety" rapidly catches up the tempo of industrial development and the accompnying 'risks' to human efficiency and human life."

Let us then examine how the problem poses itself at present in our country.

According to the statistics appended to the Labour Year

Book - 1954-55 the total number of factories submitting returns all over the country in 1954(pages 305-401) was 30,428 and the number of workers employed was 29.33,035.

But to what extent is this number deficient could be seen from the fact that the number of factories on the register in 1954 in Part A and Part C states only was 33,772(Labour Year Book 1954-55,page 43). Among them only 28,941 were inspected.

And in the Part A and C States,only the number of factories on the register had grown from 16,000 in 1948 to 33,772 in 1954. The percentage of uninspected factories in these States only was 17.4 in 1948 and 14.3 in 1954.

Thus we see that the factory inspection administration was not catching up with the growth of the industrialisation in the country.

To what extent the employers were violating the health and safety provisions of the Factories Act could be seen from the fact that "out of a total of 4,231 convictions during the year...", 275 related "to safety" and "432 to health and sanitation", etc.

And prosecutions under the Factories Act are rarely resorted to. Labour Year Book 1954-55 observes(p.44) that"as usual, they continued to adopt persuasive methods and launched prosecutions only as a last resort."

Even according to the limited data published by the Labour Year Book,1954-55(p.236), the percentage of absenteeism due to sickness and accident to total absenteeism during 1954 was as high as 45.2 in the match industry(all-India);36.3 in Tramway Workshop(all-India); 30.1 in the cement industry (all-India) and 22.4 in cotton textiles (in Madras).

According to the figures quoted by Shri Mankikar in his article cited above,the total number of injuries had increased from 93,687 in 1953 to 1,28,455 in 1956. The rate of injuries for 1,000 workers increased from 37.06 to 44.56 during the same period.

In the area covered by the Employers' State Insurance Scheme,the number of cases of permanent disabilities rose from

1141 in 1956-57 to 1574 in 1957-58. The number of deaths during the same period rose alarmingly from 58 to 69.

Shri Nankikar observes:" Our accident rate is high inspite of the fact that these figures do not include the accidents in many of the more hazardous occupations such as dock work, building work and works of engineering construction; nor do these figures take into account the occupational diseases associated with various occupations as we do not have adequate information on these aspects."

A recent survey carried out in the mica industry emphasises that mechanisation without adequate safeguards leads to deterioration of working conditions. Hand drilling operations give rise to dust concentration of about 100 million particles per cubic foot of air while in striking contrast drilling with jack hammers without any dust control device as high a dustiness as of 1000 million particles per cubic foot of air. Hence the alarming ~~concentration of~~ increase in the incidence of silicosis ~~in mica~~ among mica miners due to introduction of pneumatic jack hammers without simultaneously introducing wet drilling.

A survey of the motor car battery manufacturing industry revealed that conditions leading to ~~lead~~ lead-poisoning were widely prevalent in the industry.

A Labour Bureau report on the "Labour Conditions in Public Transport in India" reveals that inspite of the deficient data the number of accidents during the year ending September ~~19~~ 1956 were 1893 minor, 116 serious and as high as 109 fatal. And the total workers employed in the concerns covered by the data were 43,375.

The reports of the working of the Workmen's Compensation Act,1923,for the years 1955 and 1956(Indian Labour Gazette, September 1957 and April 1958 respectively) reveal the following rates of accident per 1,000 workers.

Accident Rate per 1,000 workers

Industry	1954	1955	1956
1.Factories	19.41	21.67	20.52
2.Plantations	6.13	7.00	1.87
3.Mines	26.50	31.37	46.76
4.Railways	17.24	23.43	15.50
5.Docks & Ports	23.43	32.47	82.19
6.Tramways	22.55	30.23	14.04
7.Posts & Telegraphs	0.19	2.92	10.96
8.J.P.W.D.	0.35	1.06	0.59
9.Building & Construction	22.47	13.85	4.85
10.Municipalities	1.21	0.65	0.32
11.Miscellaneous	12.82	14.64	24.18
Total All Industries -	17.64	19.37	18.03

These figures could hardly be called exhaustive. Even though Section 16 of the Workmen's Compensation Act requires that the employers should furnish to the State Governments annu data about the accidents and cases of occupational diseases for which compensation was paid the returns supplied are very defective.

Firstly, all the accidents are not to be reported even under law.

Secondly, they do not include injuries involving disabilit for less than the waiting period.

Thirdly, they do not include cases where compensation is payable but is not paid by the employers.

Fourthly, notwithstanding statutory obligations a larger number of employers do not submit returns.

In the year 1943 out of the returns called for from 5,770 establishments in Madras only 4339 submitted the returns. In Bombay, out of 3,218 employers approached 2,871 submitted the

In the year 1955, out of 9,243 establishments in Madras covered by the Act, only 5,982 submitted the returns; in Bombay 5,059 out of 6,572 and in Andhra 3,048 out of 5,012 submitted the returns.

In the year 1956, for example, out of 3,315 returns issued to employers in West Bengal only 860 were received back.

Such are the grave deficiencies in these statistics.

Even then we can see the alarming rise in the accident rate in the mines from 26.50 per 1,000 in 1954 to 46.76 in 1956; in the docks and ports from 23.43 in 1954 to 72.19 in 1956; in the posts and telegraphs from 0.19 in 1954 to 10.96 in 1956 and in the miscellaneous group from 12.82 in 1954 to 24.18 in 1956.

This apart, there is no proper arrangement, firstly, to diagnose and secondly, to report the cases of occupational diseases. According to a U.P. report of as early as 1948 "there was no suitable agency for reporting occupational diseases and no compensation is paid in deserving cases merely because the cause of the disablement or death is not properly diagnosed."(Report on the working of the Workmen's Compensation Act,1923 during 1948 pages 3-4).

Has the situation improved since then? No. Mr.Mankikar himself admits in his article cited, that "we do not have adequate information" concerning "the occupational diseases associated with various occupations."

Then there are other experiences of the working of the Act that have cost the workmen heavily. Under Section 27 of the Act, the workmen's Compensation Commissioner himself could refer a matter to the High Court. And under Section 30 the parties could go to the High Court, of course, only if any point of law is involved. But the experience is that while very few cases are referred to the High Courts under Section 27, more are referred to the High Courts by the employers

litigations.

Then High Courts have held that even though they could not go into points of facts, if the Workmen's Compensation Commissioner in deducing facts has "not adhered" to the principles of natural justice, then the Courts are not "bound by such facts" and the findings could be revised.

Calcutta High Court has held in one case that a person employed outside the premises to cut grass in the fields for stocking in the premises is not covered by the Act. Courts have also held that disability of slow onset arising out of an injury is not covered by the Act and the employer is not liable to pay any compensation in such cases.

The list of the employments covered was very defective. Such employments like cardamom plantations, hotels, restaurants and establishments and many other establishments and clerks in all the cases were outside the scope of the Act. Many occupational diseases were excluded.

The list of injuries in Schedule 1 was far from complete and the loss of earning assessed was very low. For example, the percentage loss of earning in permanent total loss of hearing was assessed at 30 per cent only.

The rate of compensation payable even though related to wages was less in the case of minors even though they had to live longer at reduced or lost capacity to earn. The rate of compensation itself was very low.

The wage computed for the purposes of the calculation of compensation did not include the employer's contribution to Provident Fund.

The procedure and red-tape involved in securing the compensation was so cumbersome that many cases went by default. In many cases, the addresses of the workers ~~xxxxxx~~ or their dependents were not available and there was no rule that employers should possess up-to-date record of it.

And the waiting period of 7 days was the worst that hit workmen and they were deprived of both earnings and

compensation for partial disablement involving less than the waiting period.

It was in May 1953 that the Gove nment of India circulated certain amendments to the various State Governments for eliciting opinion.

In 1954, the Calcutta session of the AITUC demanded that the waiting period should go. The schedules should be revised and the administration should be improved.

In 1955, Com.Renu Chakravarthy moved a non_official Bill in the Lok Sabha to amend the Workmen's Compensation Act,1923. The Government promised a "comprehensive Amending Bill" on the basis of discussions that were already on.

After having got all the suggestions from the various State Governments, trade union centres and the employers' organisations, the Government drafted certain amendments and again circulated them in September 1956.

In the year 1958, Com.T.B.Vithal Rao,M.P., Treasurer of the AITUC again raised a discussion in the Lok Sabha lashing out against the delay in bringing the amending Bill. As a result, an amending Bill was introduced in the Rajya Sabha on the last day of the session in September 1958 and it was debated in November ~~this year~~ 1958. The Bill is now pending in Lok Sabha.

Twelve years after the last amendment and five years of discussions and consultations have produced this amending Bill. But the Bill is neither comprehensive as it was promised nor does it meet the vital requirements of today.

The Bill originally sought to reduce the waiting period from 7 to 5 days. But a united battle put up by all the Trade Unionists in the Parliament forced the Government to reduce it to 3 days. The other major amendments proposed are:

1) Removing the distinction between an adult and a minor for the purposes of workmen's compensation;

2) Revision of Schedule 1 and increase in the number of injuries and the percentage of loss of capacity resulting from them.

3) Improvement in Schedule 2 by the inclusion of certain employments like aircraft construction,etc., farming by tractor, tube-wells, electrical works in a building , circus,etc.; and improving the scope of certain other employments such as construction and so on;

4) Improvement in Part B of Schedule III by adding certain occupational diseases and imoroving on the scope of certain others like lead poisoning,and creation of Part C to this Schedule inclusive of such diseases like silocosis and miner's pneumoconiosis etc. in whose case if the worker has worked under more than one employer,then all such employers shall be liable to pay compensation in such proportion as the Commissioner may deem just;

5) Making the employer liable to report under Section 16 not only fatal accidents but also those involving "serious bodily injury."

6) Failure of an employer in paying the compensation in a reasonable time makes him liable to be charged with interest and fine to be remitted to the workman or his dependent as the case may be;

7) The fine that could be levied on any employer for non-compliance of any provision of the Act is now doubled;

8) Money spent on the treatment of the workmen during the period of sickness is not to be deducted from the amount of compensation; and

9) Factories inspectors could be authorised by workmen to appear on their behalf before the Workmen's Compensation Commissioner.

But the most important deficiencies that continue are as follows:

1) The rates of compensation continue to be the same irrational ones as the old;

2) The suggestion that the compensation paid to the young workers should be more because of the longer period for which they would have earned normally has been turned down;

3) The wage ceiling remains at Rs.400/- and the proposal to raise it to Rs.500/- is reported to be under the examination of a committee of actuaries to go into the financial liabilities involved;

4) Many occupational diseases such as writers' cramp, miners' nystagmus, cellulitis, omitis,etc. peculiar to miners have not been included;

5) Cardamom plantations are not covered;clerks continue to be excluded;and the suggestion that in the case of mining, in view of the hazards involved,all the employers should be covered, has been turned down;

6) Employer's contribution to Provident Fund is not included in the definition of wages;

7) the demand that all the accidents should be reported has been rejected;

8) The proposal that even in the case of an accident due to alleged negligence on the part of the worker,compensation should be paid only in the case of death as the present Act itself provides,but also in the case of "serious and permanent disablement" as provided for in the British Act has been turned down;

9) The demand that employers should be made liable to provide treatment to the injured workers free of cost(especially in view of the apprehension that as the amending Bill does not permit the employer to deduct the cost of treatment from the compensation,the employers would refuse to make any arrangement for treatment of the injured workmen);that they should supply artificial limbs and aids and that above all,should provide alternative lighter employment to the disabled workmen; has been rejected;and

10)The suggestion that the definition of employment should be so enlarged as to include not only workers working on any premises but also those working outside but in connection with the manufacturing process or the business and trade has not

We thus see the refusal of the Union Labour Ministry to realise that the tempo of industrial development has already out-grown either the provisions of safety or the provisions of compensation afforded by the law to the workmen of our country.

The Labour Ministry took 12 years and among these, 7 full years of consultation and consideration, to produce an amending Bill that lags so much behind the vital requirements of the workers.

The trade unions shall have to get up and bring pressure on the Government and see that the Lok Sabha amends the bill to catch up with the needs of the working class.

ON AMENDMENTS TO WORKMEN'S COMPENSATION ACT, 1923

Speech by Dr.Raj Bahadur Gour, M.P., Secretary, AITUC,
in Rajya Sabha
on November 24, 1958
(Summary)

The question of amending the 1923 Act on workmen's compensation was before the Government for many long years. In December, 1955, a non-official amending Bill was introduced in the Lok Sabha and the speeches on that Bill then revealed the anxiety of many Members that the amendment should not be delayed. Members of Parliament had raised this question time and again by way of questions, half-an-hour discussions, etc. The abnormal delay in introducing the much-needed amendments to this Act on the part of the Government thus stands in bold relief.

The Indian Labour Year Book, 1954-55, stated that as early as May, 1953, a detailed memorandum showing the various proposals for amendment was circulated for comments. . . . . As some of the proposed amendments were of far-reaching importance, it was considered advisable to further circulate them to the State Governments and others concerned. These were circulated in September 1955..."

While thus the introduction of the bill for amending the Act has been unduly prolonged, the way in which the present amending Bill has been framed and is now sought to be rushed through is improper. It is necessary that a Joint Select Committee should be set up which should scrutinise the provisions of the amending bill and improve them in the light of the suggestions received from various central organisations.

It is clear that many of the proposals made in the Government memorandum of 1955 have been omitted in the present amending bill. The Government should explain why these proposals are not included in the present Bill.

The amendments that the Bill is proposing fall short not only of the requirements of the case but also of the Government's own memorandum circulated in 1955. It has to be realised that the workmen's compensation problem, arising out of the problem of accidents in our industries is a problem that has to be attended to daily, is a problem that is changing in magnitude daily with the rising tempo of industrialisation in our country.

As Mr.Mankiker, the Chief Adviser, Factories, pointed out in an article in the Hindustan Times (Nov.24), with the introduction of new processes and new machines, new accidents come into being, new forms of occupational diseases come into being and therefore this question of accidents and detection of diseases is one of tackling the problem in its day-to-day developments. A research section has, in fact, to be organised in order to look into this.

Another point has been brought very emphatically that we cannot depend on the experience accumulated in the advanced capitalist countries in assessing our problems. Industrial Advance insofar as Great Britain or France was concerned, was a gradual advance. There mechanisation took a gradual process and form, whereas in our country, we are programming for a rapid industrial advance.

The number of accidents have obviously increased. In 1939, injuries per thousand workers employed was 20.56 and in 1956, it was 44.56.

In 1956-57, the amount of compensation paid for accidental deaths was Rs.82,667; and for all cases, it was Rs.2,73,180. In 1957-58, the figure is Rs.4,42,425.

It was stated in the Indian Labour Gazette that we could not adopt Convention 17 of the ILO concerning workmen's compensation for accidents because our law lagged behind the requirements of the Convention. To give an instance, we provided in our old Act for a waiting period of 7 days whereas the Convention requires that it should be only 3 days. In the Government memorandum of September 1955, the Government had accepted three days as the waiting period. Now we find in the present amending Bill that the waiting period will be five days.

The Trade Union movement is agitating for the abolition of the 'waiting period'. To quote the Rege Committee, "in the glass factories, the commonest accidents are those arising from cuts and burns, most of which heal up within the waiting period." Obviously, these accidents will not be covered under the Act.

According to medical findings, a clean ordinary cut which cuts through the epithelium requires 24 hours for healing. That is why we see cuts in shaving vanishing in 24 hours. If at all there should be a waiting period, let it be for 24 hours - I will not mind it as a medical man, because, an ordinary clean cut, not infected and not gone beyond the epithelial line does not cause any disfigurement.

How did the Government stipulate five days as the waiting period? Did any State Government ask of them to do so? Or any workers' or employers' organisation? All these things should be examined by a select committee.

Now, let me draw the attention of the House to the administration of the Workmen's Compensation Act. It forms part of the Bill from the point of view of the rule-making powers under the Bill.

It is open knowledge that the employers do not notify the accidents even according to the Factories Act which is obligatory on them. Here you state that employers have to notify only fatal accidents but accidents of serious bodily injuries. But the Rege Committee had recommended as early as 1946 that not merely fatal accidents but all accidents should be notified so that it will be easier to administer the Workmen's Compensation Act or the safety measures. Otherwise, many employers do not respond and we have this information on the authority of the Government:

"Secondly, in spite of the statutory obligations, a number of employers do not submit annual returns and to that extent the statistics are incomplete." This is from the publication "Working of the Workmen's Compensation Act,1923, during the year 1948." Now to quote 1948 report of the working of the Act: "In Madras, although returns from 1948 were called for from 5770 establishments, they were received from 4339 only."

Has the situation improved since 1948? The Indian Labour Gazette of April 1958 said that: "Many State Governments however cannot be said to be reflecting the true position regarding industrial accidents during any year because (1) they do not include a large number of minor accidents in which the disability

(3) notwithstanding the statutory obligations, a fairly high proportion of employers do not submit their returns to the State Governments. For example, in W.Bengal, out of 3315 returns issued to the employers, only 860 were received back during the year under review."

That is the position. Therefore, why leave any loophole in the Bill in the matter of reporting accidents?

You speak of "serious bodily injury". What is a serious bodily injury? You have to define it.

It is necessary that provision should be made for reporting all accidents, irrespective of whether they are minor or major ones, whether they be serious bolidy injury or not.

In fact, this suggestion was there in the Government's memorandum of 1955. I should like to know ~~it~~ why it has been omitted now?

Under the scheme of the Bill, the Factory Inspectors should take up the claims of the workers. Now let us see the position of the inspection of factories.

The Rege Committee stated in 1946: In the year 1939, the total number of factories inspected was 9,046, out of 10,466 factories. In 1942, out of 12,527, only 10,160 factories could be inspected. I am including even those factories which were inspected only once. If you go into the question of how many were inspected once, how many twice and how many three times, then you will find a steep fall in the figures.

Has the position improved since then? The Indian Labour Year Book (1954-55) stated: In the year 1954, out of 33,772 factories, they inspected only 24,941. If you take a state-wise break-up of the figures, the position is alarming. Of 449 factories in Orissa, only 210 were inspected; in Punjab, inspection was done in 1,22[illegible] out of 2,137, in W.Bengal, out of 3,018 registered factories, only 1,906 were inspected.

If this is the position about factory inspection, how then are you going to improve the working of the Workmen's Compensation Act?

Now, let us take the question of detection - early detection of occupational diseases. You do not have staff for the early detection of these diseases. The question is not only of enlarging the Schedule of occupational diseases but also having such rule-making powers under the Act as would permit you to appoint whole-time medical officers for the arly detection of~~f~~ occupational diseases. You should have powers for appointing specialists for inspection and for detection of occupational diseases. That was the suggestion made to you by many State Governments and that was your suggestion in your 1955 Memorandum. You have not included even this suggestion.

Then there is the question of accidents occurring outside ~~the factories~~ the factory premises. The Bombay Government had raised this question in the 1955 Memorandum. Why don't you increase the scope of the definition of a factory and the premises, to include the Bombay Government's proposal. There is the instance of the soda water factory employee who met with an accident while on duty outside the factory premises. There is also the case decided by the Calcutta High Court relating to a farm worker who had to go out and

Then the question of disablement of slow origin has to be considered. We know that in the case of factory employment, a person is exposed to certain predisposing factors that may not give rise to diseases but accentuate them. Disablement arises after a very long time but the definition of disablement does not give any scope for giving any compensation in cases where the disablement is of slow origin.

How is it that you have not touched sections 21 and 22 of the original Act? Under section 21, you have given jurisdiction to the Commissioner of the local area in which the agent or the owner of the ship resides or carries on business. Now the State Governments have asked for giving the same facility to the Railwaymen. For example, the offices of the Central and Western Railways are in Bombay. An accident may take place in some corner. You could give the same concess on and allow the case to be taken up in the same manner as you have done in the case of a ship.

It was suggested that all the employees of mining concerns might be brought under the scope of this Act. In your definitions, you remove the clerk from the picture, although he is drawing less than Rs.400 per month. He is not an underground worker but he goes undergr und and works. He meets with an accident there but he cannot claim any compensation under the Act. Similarly, the employees in shops and establishments should also be covered under the Act.

I now come to the amendments to the Schedules.

In Schedule II, has it not been brought to your notice that there are plantations other than cinchona, tea, rubber and coffee? When you have brought the plantation labour under the purview of the Act, you have categorically and specifically said that plantations of cinchona, rubber, coffee and tea will come into the picture. Why not cardamom plantations? Such plantations are there in Mysore, Madras and Kerala.

The list of diseases covered in the Act should be amended, not only in the light of diseases that we are coming up against, but also in the light of the Government's memorandum circulated in September 1955.

You have included diseases like Bagassosis, correctly, because the workers who come in contact with bagasse develop this disease. But there is another disease which is more frequent. In the carding department, in the blow room or even in ginning and baling sections in textile mills, the workers who have to deal with cotton fibre and cotton dust are prone to a disease called byssinossis. This byssinosis makes the worker vulnerable to tuberculosis. When you find a lot of cases of tuberculosis anywhere, in Kanpur, Nagpur or Bombay where there are textile mills in good number, you will find on examination that many have this byssinossis.

The textile trade unions have been demanding that tuberculosis should be included as an occupational disease. You may argue that textile industry cannot cause tuberculosis but you cannot advance the same argument in the case of byssinosis. You have yourself accepted this in your memorandum of 1955. Why don't you do it now?

The miners who work unde ground at places poorly illuminated or not illuminated, develop nystagmus. Why don't you include this in the list of occupational diseases, as was suggested in the earlier memorandum. Then there are diseases like writers' cramp in the case of working journalists, shorthand writers, etc., described in the earlier memorandum.

Let us go to the last Schedule, Schedule IV. You yourself had asked this question whether the rate should be increased. I do not understand the argument that as the cost of living has increased, the D.A. for the worker must have increased and as the D.A. is included in the definition of the wage under this Act, the rate is linked up with the wage, and obviously the rate must increase with the rise in wage. But when we see the real wage structure in the country, we find that the D.A. is not linked to the cost of living. The cost of living rates and the D.A. rates are unable to catch up and so there is a case for improvement in the rate of compensation.

Then there was the question - which you yourself had circulated in your 1955 memorandum - whether the rate should not the linked up with the age of the workman concerned. There is no case for cutting down the rate of compensation in the case of workers of advanced age groups, but there is a case for increasing the rate of compensation in the case of lower age groups.

As a last word, I would only put it to the hon. House that after all that I have placed before you for your kind consideration, do you or do you not feel that there is a case for scrutinising every amendment that has been brought and also of seeing whether the sections of the original Act could be further improved.

Com.J.V.R.VALLABHA RAO, M.P.,
Member, Working Committee of the AITUC,
in his speech said:

After twelve years of independence, we bring in an amendment to an Act passed in 1923 and there is a genuine case for referring the Bill to a Select Committee.

My hon. friend, Mr.Patil, has made out a case for educating the workers, on accidents and all that. I agree with him that the people who are in the factories should be educated but with this amendment, that it is the owners who should be educated first. I know this for certain and I have got evidence with me. I do not want to name the persons. They are having factories in and around Delhi, without any regard to the factories Act, they run huge cycle factories. The Punjab Labour Department's reports have given innumerable cases of accidents occurring through the negligence of the management who do not know that a Factories Act exists according to which certain minimum precautions have to be taken.

The other day, there was a conference to find out ways and means of avoiding accidents in mines. Those of us who were present, including some hon. Members of this House, could see very well who were responsible for the accidents. At every stage, it was the management representatives who did not agree to points raised regarding inspection.

When a worker is put in the hospital due to some accident, formerly the employer used to deduct the expenses that were incurred, from the total compensation that was being paid. Now there is an amendment proposed here saying that such deductions should not be made. I have my own suspicions, if this amendment is adopted as it is, whether the worker will be put at all in the hospital, by the employers. So I want a provision for compulsory medical treatment. When a worker meets with an accident, he should be taken to the hospital and should be given compulsory medical treatment which should be paid for by the employer.

On the question of dependants, here the definition is not complete. Among the dependants should be included step-parents and step-brothers. The worker may have a mother who is not his own mother but his step-mother. Now, if she is a step-mother, she cannot get compensation. Then according to the present provisions, only the workers' minor dependants will get compensation. In some cases - though rare - the major dependants may be incapacitated or they may be deaf or dumb or they may have some diseases. So dependants must be defined in a proper way to include not only the step-parents but also major dependants when they are incapacitated in any way.

We know in some cases when the parties go to the court, the worker is denied the benefit because some lacuna or other is there in the definitions.

Then about occupational diseases, I want to add two more things from the Government memorandum of 1975. Firstly, there is manganese poisoning, which is contacted by constant handling of manganese ore. This disease eats away the skin.

Secondly, I would like to include cataract in the list. In glass factories, because of the glare and other things, the eye sight is affected and people get cataract. Sometimes, it becomes a permanent disease.

There is another very important suggestion for which a case is made out in the Government memorandum itself and also at the various meetings of the trade unions. That is, where a worker is incapacitated or disabled, then if he is in a position to do some other work, he should be put on that work. Suppose there is a spinner or a weaver in a mill who is incapacitated. He cannot be, because of his incapacity, a spinner or weaver but he can be employed in some other capacity in the same mill. That is what we call rehabilitation of the disabled and we must make it obligatory on the part of the employer, whether in the private sector or public sector. That will enable the worker to make both ends meet and it will also help the State to avoid increase in unemployment.

There was also a good suggestion in the Government memorandum that a list of the worker's nearest relatives should be maintained. This list would be helpful in case an accident occurs in a factory. Supposing a worker dies while carrying a bale, his relatives must be notified so that they can claim compensation. The nearest relatives must be informed. This practice should be so, especially in the context of the greater movement of labour force in these days because of developmental activities.

As previous speakers have pointed out, various changes have taken place in the set up of industries, in the nature of accidents and in the nature of the work itself, since the Act was passed in 1923. Therefore it is essential that the ~~xiii~~ present amending Bill is referred to a Joint Select Committee to consider in all its aspects, instead of hurrying it through in two or three hours.

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EXTRAORDINARY
PART II—Section 1
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MINISTRY OF LAW

(Legislative Department)

New Delhi, the 31st March, 1959/Chaitra 10, 1881 (Saka)

The following Act of Parliament received the assent of the President on the 20th March, 1959, and is hereby published for general information:—

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 1959

No. 8 OF 1959

[*20th March, 1959*]

An Act further to amend the Workmen's Compensation Act, 1923

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Workmen's Compensation (Amendment) Act, 1959.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

8 of 1923.

Amendment of section 2.

2. In section 2 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), in sub-section (*1*),—

(*i*) clause (*a*) shall be omitted;

(*ii*) for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "dependant" means any of the following relatives of a deceased workman, namely:—

(*i*) a widow, a minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(*ii*) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(*iii*) if wholly or in part dependent on the earnings of the workman at the time of his death,

(*a*) a widower,

(*b*) a parent other than a widowed mother,

(*c*) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate if married and a minor or if widowed and a minor,

(*d*) a minor brother or an unmarried sister or a widowed sister if a minor,

(*e*) a widowed daughter-in-law,

(*f*) a minor child of a pre-deceased son,

(*g*) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(*h*) a paternal grandparent if no parent of the workman is alive.';

(*iii*) after clause (*f*), the following clause shall be inserted, namely:—

'(*ff*) "minor" means a person who has not attained the age of 18 years;';

(*iv*) in clause (*i*), the words and figures "under the Medical Act, 1858, or any Act amending the same , or" shall be omitted. 21 & 22 Vict. c. 90.

Amendment of section 3.

3. In section 3 of the principal Act,—

(*i*) in clause (*a*) of the proviso to sub-section (*1*), for the word "seven", the word "three" shall be substituted;

(*ii*) for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months (which period shall not include a period of service under any other employer in the same kind of employment) in any employment specified in Part B of Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, or if a workman whilst in the service of one or more employers in any employment specified in Part C of Schedule III for

such continuous period as the Central Government may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the contrary is proved, the accident shall be deemed to have arisen out of, and in the course of, the employment.

(2A) If any disease specified in Part C of Schedule III as an occupational disease peculiar to that employment has been contracted by any workman during the continuous period specified under sub-section (2) in respect of that employment and the workman has during such period been employed in such employment under more than one employer, all such employers shall be liable for the payment of compensation under this Act in such proportion as the Commissioner may, in the circumstances, deem just.

(3) The State Government in the case of employments specified in Part A and Part B of Schedule III, and the Central Government in the case of employments specified in Part C of that Schedule, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply within the State or the territories to which this Act extends, as the case may be, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.";

(*iii*) in sub-section (4), for the word, brackets and figure "sub-sections (2)", the word, brackets, figures and letter "sub-sections (2), (2A)" shall be substituted.

4. In section 4 of the principal Act, in sub-section (1),— Amendment of section 4.

(*i*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) Where death results from the injury and the deceased workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof;

(*b*) Where permanent total disablement results from the injury and the injured workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof;";

(*ii*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) Where temporary disablement, whether total or partial, results from the injury and the injured workman has been in receipt of monthly wages falling within limits shown in the first column of Schedule IV—a half-monthly payment of the sum shown against such limits in the fourth column thereof, payable on the sixteenth day—

(*i*) from the date of the disablement, where such disablement lasts for a period of twenty-eight days or more, or

(*ii*) after the expiry of a waiting period of three days from the date of the disablement, where such disablement lasts for a period of less than twenty-eight days,

and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter.";

(*iii*) after the proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—Any payment or allowance which the workman has received from the employer towards his medical treatment shall not be deemed to be a payment or allowance received by him by way of compensation within the meaning of clause (*a*) of the proviso.".

Insertion of new section 4A.

5. After section 4 of the principal Act, the following section shall be inserted, namely:—

Compensation to be paid when due and penalty for default.

"4A. (*1*) Compensation under section 4 shall be paid as soon as it falls due.

(*2*) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case

may be, without prejudice to the right of the workman to make any further claim.

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner may direct that, in addition to the amount of the arrears, simple interest at the rate of six per cent. per annum on the amount due together with, if in the opinion of the Commissioner there is no justification for the delay, a further sum not exceeding fifty per cent. of such amount, shall be recovered from the employer by way of penalty.".

Amendment of section 5.

6. In section 5 of the principal Act, in clause (c), for the words "in other cases", the words, brackets and letter "in other cases [including cases in which it is not possible for want of necessary information to calculate the monthly wages under clause (b)]" shall be substituted.

Amendment of section 8.

7. In section 8 of the principal Act, in sub-section (4), for the words "twenty-five rupees", the words "fifty rupees" shall be substituted.

Amendment of section 10.

8. In section 10 of the principal Act, in sub-section (1), for the words "one year" wherever they occur, the words "two years" shall be substituted.

Amendment of section 10B.

9. In section 10B of the principal Act,—

(i) in sub-section (1), after the word "death" wherever it occurs, the words "or serious bodily injury" shall be inserted; and the following *Explanation* shall be added at the end, namely:—

'*Explanation.*—"Serious bodily injury" means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb, or the enforced absence of the injured person from work for a period exceeding twenty days.';

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Nothing in this section shall apply to factories to which the Employees' State Insurance Act, 1948, applies.". 34 of 1948.

Insertion of new section 14A.

10. After section 14 of the principal Act, the following section shall be inserted, namely:—

Compensation to be first charge on assets transferred by employer.

"14A. Where an employer transfers his assets before any amount due in respect of any compensation, the liability wherefor accrued before the date of the transfer, has been paid, such amount shall, notwithstanding anything contained in any other law for the time being in force, be a first charge on that part of the assets so transferred as consists of immovable property.".

Amendment of section 15.

11. In section 15 of the principal Act, in sub-section (*2*),—

(*a*) for the words "six months", the words "one year" shall be substituted; and

(*b*) the following proviso shall be added at the end, namely:—

"Provided that the Commissioner may entertain any claim to compensation in any case notwithstanding that the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient cause.".

Omission of section 18.

12. Section 18 of the principal Act shall be omitted.

Amendment of section 18A.

13. In section 18A of the principal Act, in sub-section (*1*), for the words "one hundred", the words "five hundred" shall be substituted.

Substitution of new section for section 24.

14. For section 24 of the principal Act, the following section shall be substituted, namely:—

Appearance of parties.

"24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or by an official of an Insurance Company or a registered Trade Union or by an Inspector appointed under sub-section (*1*) of section 8 of the Factories Act, 1948, or under sub-section (*1*) of section 5 of the Mines Act, 1952, or by any other officer specified by the State Government in this behalf, authorised in writing by such person, or, with the permission of the Commissioner, by any other person so authorised.". 63 of 1948. 35 of 1952.

Amendment of section 30.

15. In section 30 of the principal Act, after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) an order awarding interest or penalty under section 4A;".

Amendment of section 32.

16. In section 32 of the principal Act, in sub-section (2), after clause (*n*), the following clauses shall be inserted, namely:—

"(*o*) for prescribing abstracts of this Act and requiring the employers to display notices containing such abstracts;

(*p*) for prescribing the manner in which diseases specified as occupational diseases may be diagnosed;

(*q*) for prescribing the manner in which diseases may be certified for any of the purposes of this Act;

(*r*) for prescribing the manner in which, and the standards by which, incapacity may be assessed.".

Substitution of new Schedule for Schedule I.

17. For Schedule I to the principal Act, the following Schedule shall be substituted, namely:—

"SCHEDULE I

[*See* sections 2(*1*) and (*4*)]

LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT

Serial No.	Description of injury	Percentage of loss of earning capacity
1	Loss of both hands or amputation at higher sites	100
2	Loss of a hand and a foot	100
3	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot.	100
4	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential	100
5	Very severe facial disfigurement	100
6	Absolute deafness	100
	Amputation cases—upper limbs (either arm)	
7	Amputation through shoulder joint	90
8	Amputation below shoulder with stump less than 8" from tip of acromion	80
9	Amputation from 8" from tip of acromion to less than 4 1/2" below tip of olecranon	70
10	Loss of a hand or of the thumb and four fingers of one hand or amputation from 4 1/2" below tip of olecranon	60
11	Loss of thumb	30
12	Loss of thumb and its metacarpal bone	40
13	Loss of four fingers of one hand	50
14	Loss of three fingers of one hand	30
15	Loss of two fingers of one hand	20
16	Loss of terminal phalanx of thumb	20
	Amputation cases—lower limbs	
17	Amputation of both feet resulting in end-bearing stumps.	90
18	Amputation through both feet proximal to the metatarso-phalangeal joint	80

Serial No.	Description of injury	Percentage of loss of earning capacity
19	Loss of all toes of both feet through the metatarso-phalangeal joint	40
20	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
21	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
22	Amputation at hip	90
23	Amputation below hip with stump not exceeding 5" in length measured from tip of great trenchanter	80
24	Amputation below hip with stump exceeding 5" in length measured from tip of great trenchanter but not beyond middle thigh	70
25	Amputation below middle thigh to 3 1/2" below knee	60
26	Amputation below knee with stump exceeding 3 1/2" but not exceeding 5"	50
27	Amputation below knee with stump exceeding 5"	40
28	Amputation of one foot resulting in end-bearing	30
29	Amputation through one foot proximal to the metatarso-phalangeal joint	30
30	Loss of all toes of one foot through the metatarso-phalangeal joint	20
	Other injuries	
31	Loss of one eye, without complications, the other being normal	40
32	Loss of vision of one eye without complications or disfigurement of eye-ball, the other being normal	30
	Loss of—	
	A.—Fingers of right or left hand	
	Index finger	
33	Whole	14
34	Two phalanges	11
35	One phalanx	9
36	Guillotine amputation of tip without loss of bone	5
	Middle finger	
37	Whole	12
38	Two phalanges	9
39	One phalanx	7
40	Guillotine amputation of tip without loss of bone	4
	Ring or little finger	
41	Whole	7
42	Two phalanges	6
43	One phalanx	5
44	Guillotine amputation of tip without loss of bone	2
	B.—Toes of right or left foot	
	Great toe	
45	Through metatarso-phalangeal joint	14
46	Part, with some loss of bone	3

Serial No.	Description of injury	Percentage of loss of earning capacity
	Any other toe	
47	Through metatarso-phalangeal joint	3
48	Part, with some loss of bone	1
	Two toes of one foot, excluding great toe	
49	Through metatarso-phalangeal joint	5
50	Part, with some loss of bone	2
	Three toes of one foot, excluding great toe	
51	Through metatarso-phalangeal joint	6
52	Part, with some loss of bone	3
	Four toes of one foot, excluding great toe	
53	Through metatarso-phalangeal joint	9
54	Part, with some loss of bone	3"

18. In Schedule II to the principal Act,— Amendment of Schedule II.

(*i*) for clauses (*i*) to (*ix*), the following clauses shall be substituted, namely:—

"(*i*) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of a lift or a vehicle propelled by steam or other mechanical power or by electricity or in connection with the loading or unloading of any such vehicle; or

(*ii*) employed, otherwise than in a clerical capacity, in any premises wherein or within the precincts whereof a manufacturing process as defined in clause (*k*) of section 2 of the Factories Act, 1948, is being carried on, or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used; or

63 of 1948.

(*iii*) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof twenty or more persons are so employed; or

(*iv*) employed in the manufacture or handling of explosives in connection with the employer's trade or business; or

(*v*) employed, in any mine as defined in clause (*j*) of section 2 of the Mines Act, 1952, in any mining operation

or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground; or

(*vi*) employed as the master or as a seaman of—

(*a*) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled; or

(*b*) any ship not included in sub-clause (*a*), of twenty-five tons net tonnage or over; or

(c) any sea-going ship not included in sub-clause (*a*) or sub-clause (*b*) provided with sufficient area for navigation under sails alone; or

(*vii*) employed for the purpose of—

(*a*) loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or handling or transport within the limits of any port subject to the Indian Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessel; or 15 of 1908.

(*b*) warping a ship through the lock; or

(c) mooring and unmooring ships at harbour wall berths or in pier; or

(d) removing or replacing dry dock caisoons when vessels are entering or leaving dry docks; or

(*e*) the docking or undocking of any vessel during an emergency; or

(*f*) preparing splicing coir springs and check wires, painting depth marks on lock-sides, removing or replacing fenders whenever necessary, landing of gangways, maintaining life-buoys up to standard or any other maintenance work of a like nature; or

(*g*) any work on jolly-boats for bringing a ship's line to the wharf; or

(*viii*) employed in the construction, maintenance, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof; or

(*b*) any dam or embankment which is twelve feet or more in height from its lowest to its highest point; or

(c) any road, bridge, tunnel or canal; or

(*d*) any wharf, quay, sea-wall or other marine work including any moorings of ships; or

(*ix*) employed in setting up, maintaining, repairing or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard or fittings and fixtures for the same; or";

(*ii*) in clause (*xiii*), after the words "Railway Mail Service", the words "or as a telegraphist or as a postal or railway signaller" shall be inserted;

(*iii*) in clause (*xvi*), for the words "fifty" and "twenty", the words "twenty-five" and "twelve" shall respectively be substituted;

(*iv*) in clause (*xxvi*), for the words "one hundred", the word "fifty" shall be substituted;

(*v*) in clause (*xxvii*), the word "or" shall be inserted at the end, and after that clause, the following clauses shall be inserted, namely:—

"(*xxviii*) employed in or in connection with the construction, erection, dismantling, operation or maintenance of an aircraft as defined in section 2 of the Indian Aircraft Act, 1934; or 22 of 1934

(*xxix*) employed in farming by tractors or other contrivances driven by steam or other mechanical power or by electricity; or

(*xxx*) employed, otherwise than in a clerical capacity, in the construction, working, repair or maintenance of a tube-well; or

(*xxxi*) employed in the maintenance, repair or renewal of electric fittings in any building; or

(*xxxii*) employed in a circus.".

Amendment of Schedule III.

19. In Schedule III to the principal Act,—

(*i*) for Part B, the following Part shall be substituted, namely:—

"PART B

Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra-ethyl.	Any process involving the handling or use of lead or any of its preparations or compounds except lead tetra-ethyl.
Poisoning by phosphorus or its compounds, or its sequelae.	Any process involving the use of phosphorus or its preparations or compounds.
Poisoning by mercury, its amalgams and compounds, or its sequelae .	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene, or its homologues, their amido and nitroderivatives or its sequelae.	Any process involving the manufacture, distillation, or use of benzene, benzol, benzene homologues and amido and nitro-derivatives.
Chrome ulceration or its sequelae.	Any process involving the use of chromic acid or bichromate of ammonium potassium or sodium, or their preparations.
Poisoning by arsenic or its compounds, or its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to—	
(*a*) radium and other radio-active substances;	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
(*b*) X-rays.	
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Poisoning by halogenated hydrocarbons of the aliphatic series and their halogen derivatives.	Any process involving the manufacture, distillation and use of hydrocarbons of the aliphatic series and their halogen derivatives.
Poisoning by carbon disulphide or its sequelae.	Any employment in— (*a*) the manufacture of carbon disulphide; or (*b*) the manufacture of artificial silk by viscose process; or (*c*) rubber industry; or (*d*) any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.
Occupational cataract due to infra-red radiations.	Any manufacturing process involving exposure to glare from molten material or to any other sources of infra-red radiations.
Telegraphist's Cramp.	Any employment involving the use of telegraphic instruments.";

(*ii*) after Part B, the following Part shall be inserted, namely:—

"PART C

Silicosis	Any employment involving exposure to the inhalation of dust containing silica.
Coal Miners' Pneumoconiosis . . .	Any employment in coal mining.
Asbestosis	Any employment in—
	(1) the production of—
	(*i*) fibro cement materials; or
	(*ii*) asbestos mill board; or
	(2) the processing of ores containing asbestos.
Bagassosis	Any employment in the production of bagasse mill board or other articles from bagasse."

Amendment of Schedule IV.

20. In Schedule IV to the principal Act, the words "of Adult" wherever they occur, shall be omitted.

G. R. RAJAGOPAUL, Secy.

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#75-B

UNION LABOUR MINISTER TO WAIT-AND-WATCH -- MADRAS MOVE TO AMEND INDUSTRIAL DISPUTES ACT -- ALL-PARTY ACTION COUNCIL'S WARNING

MADRAS, MARCH 20: The Union Labour Minister, Sri Gulzarilal Nanda, has favoured "for the time being" a wait-and-watch" attitude in the matter of amending the Industrial Disputes Act, as suggested by the Madras Government, it is understood here.

The State Government wrote to the Union Labour Minister urging him to amend the Act immediately to give relief to the workers from the effects of the Madras High Court judgement, which made it impossible for the Government to refer adjudication cases of dismissal under the Standing Orders. While the Union Labour Minister has personally expressed the view that "something" should be done in the matter, he is understood to have favoured the idea of further examining the matter before taking the next move.

This is due, it is learnt, to the Law Commission's recommendation for further expanding the appellate jurisdiction of the Supreme Court under Article 136 of the Constitution, vesting the Supreme Court with power to review decisions given by a court or tribunal. That any amendment of the Industrial Disputes Act should not appear to circumvent any judgement is conceded, while it is true that the judgements affecting the very scope of labour legislation contain passing observation of the judges -- liable to be mistaken for the operative portion of the judgements themselves -- there is likely to arise some confusion or misunderstanding if legislative amendments are brought about immediately.

IPA understands from an unimpeachable source that the Madras Government does not share the views of the Union Labour Ministry in the matter. They are understood to favour immediate action to stop the tendency to dismiss workers on flimsy grounds. Being denied the opportunity to have such dismissals adjudicated upon by labour courts, the workers would have no alternative except to act in consort for a strike or some form of demonstration. This development would not be desirable from the point of view of the nation's interests during the Plan period, the State Government seems to feel.

Consequently, the State Government has taken a decision to bring, on their own, amendments to the Central Act as applicable to Madras in the [illegible]

...UR MINISTERS' CONFERENCE
15TH SESSION
MAY 1958

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...DIAN LABOUR CONFERENCE
16TH SESSION
MAY 1958

ITEM NO.4 ON THE AGENDA

Subject:- Amendments to the Industrial Disputes Act, 1947.

M E M O R A N D U M

(c) Note from the Indian National Mine workers Federation.

Amendment of sub-clause 3 of Section 24 of the Industrial Disputes Act, 1947.

Substitute the Section by the following:

" A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal action of the employer shall not be deemed to be illegal".

This amendment is necessary because the question of a strike in consequence of a lock-out does not arise. The workers often have no constitutional remedy left but that of resorting to a strike when an employer resorts to illegal action. The strike itself is a kind of punishment to the workes. Very often the strikes are justified but for technical reasons are declared illegal and in consequence the workers are deprived of a number of privileges like privilege leave with pay etc. and in the case of coal-mining industry railway fares and bonus. Instances can be given when strikes have been declared illegal for no fault of the workmen and thus depriving them of privileges and exposing them to victimisation, one such case is reported in 1953I-LLJ-190.

The question has become all the more important as the workers have no other remedy in case of non-implementation of

awards. In the Coal Industry, for instan[ce employers] have not implemented the Award of the All India [Tribu]nal (Colliery Disputes)as modified by the Labo[ur A]ppellate Tribunal of India dated 29th January, 1957. The Industrial Relations machinery has pleaded helplessness in getting these awards implemented as the appeals against the Award in the Supreme Court have not been withdrawn and so technically the Award is not binding on the Employers. Thus the employers who have been given an increase in the price of coal for implementation of this decision are allowed to flout it with impunity and there is no legal remedy left. Even normally the Industrial Relations Machinery is not in a position to force the Employers to implement decisions of Tribunals. Punishment for non-implementation is not sufficient to act as a deterrent; rather it works as an incentive sometimes.

Often during pendency of proceedings before the Tribunal, employers have discharged workmen or retrenched them without taking the permission of the Tribunal as provided in the Act. A strike in consequence of such an illegal action of the employer under the present provisions in the Act is deemed illegal.

A number of instances can be given where strikes though justified and resorted to after exploring all constitutional remedies have been declared illegal and the workers have had to suffer additional loss of privileges and sometimes continuity of service. We, therefore, feel that the above amendment is very necessary in the interest of good industrial relations.

PRESS INFORMATION BUREAU

GOVERNMENT OF INDIA

PARLIAMENT
RAJYA SABHA

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AMENDMENT OF WORKMEN'S COMPENSATION ACT

SHRI ABID ALI MOVES BILL FOR CONSIDERATION

New Delhi, Agrahayana 3,1880.
November 21, 1958.

Moving for consideration the Workmen's Compensation (Amendment) Bill, 1958, in Rajya Sabha today, the Union Deputy Minister for Labour, Shri Abid Ali, said:

The Workmen's Compensation Act was first enacted in 1923 and has since undergone a number of important amendments. The basic structure of the Act, however, has remained more or less the same and a comprehensive amendment of the Act has been for long under consideration. The basic points relating to such an amendment were: a revision of the current rates of compensation and extension of its coverage by raising the present wage limit from Rs.400 to Rs.500. These two important matters are, however, now before an Actuarial Committee, which will go into the question of the financial burden any such proposal would impose on the industry. We propose to take up these amendments when the Committee's findings are available. Meanwhile, we have thought it proper to go ahead with other amendments which have been duly processed by an inter-departmental Committee. I will deal with some of these amendments very briefly.

ADULT AND MINOR

The present Act makes a distinction between an adult and a minor for purposes of payment of compensation. While a minor gets a relatively small fixed amount in the event of death or permanent total disablement resulting from injuries,

the rates of compensation for adults in similar contingencies are calculated on the basis of his monthly wages. The reason for making this distinction was that a minor would not ordinarily have any dependant. As the House will agree, there is little justification for making such a distinction. We, therefore, propose to remove it through an amendment.

Another amendment relates to the waiting period before which a temporarily disabled worker is not entitled to compensation. The waiting period at present prescribed is 7 days from the date of disablement. We propose to bring it down to 5 days. The amendment also provides that if the disablement lasts 28 days or more, there will be no waiting period and compensation would be payable from the date of disablement itself.

The present Act does not contain any provision to discourage delays in payment of compensation. The result is that workmen have often to suffer undue hardship. He may have to deny himself even the basic necessaries of life or borrow money at high rates of interest. We are, therefore, providing that if the payment of compensation is delayed for more than one month from the date it fell due, interest at the rate of 6% per annum would be payable by the employer on the amount due. Further, the Commissioner may also award penal compensation upto 50% of the amount due if the delay for payment is not justified. It is hoped that these provisions will go a long way in ensuring prompt payment of compensation and thus remove much of the hardship caused by delays in such payments.

FILING CLAIMS

The time limit for filing a claim at present is one year. It is possible that due to ignorance or illiteracy or by long detention in hospitals, a worker may fail to file a claim within this period. It is, therefore, proposed to raise

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the limitation period to two years. Similarly, the limitation period of 6 months applicable in the case of masters and seamen is being increased to one year. Further, the Commissioner for Workmen's Compensation is being given powers to condone delays in preferring claims in suitable cases.

In order to protect the interest of a workmen entitled to compensation, a provision is being made to the effect that if the employer transferred his assets during the pendency of compensation proceedings or before any amount payable has been actually paid, such amounts would be a first charge on the assets of the employer.

By another amendment, the present provision for penalty up to Rs.100 for failure on the part of the employer to carry out important provisions of the Act is being increased to Rs.500.

In order to enable the workmen and their dependants to set the process of law in motion, we propose to amend it in such a way that Factory Inspectors and Mine Inspectors also would be in a position to prefer claims on their behalf if authorised to do so in writing.

AMENDMENT OF SCHEDULES

We are also amending the schedules to the Act. Schedule I contains, at present, a list of 14 injuries deemed to result in permanent partial disablement. The extent of disablement is expressed in percentage of earning capacity. This schedule has become rather out of date and we propose to replace it by a more comprehensive schedule, which has been taken from National Insurance (Industrial Injuries) Benefit Regulations, 1958, of the U.K. This would contain a list of 54 injuries as against 14 of the present one.

Schedule II to the Act gives a list of persons included in the definition of workmen. We are amending this schedule by enlarging the scope of some of the existing entries and adding some new ones.

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The important amendments relate to the extension of the Act to all workers in power-using factories irrespective of the number of workers employed; all workers employed in the manufacture or handling of explosives; all workers in mines as defined in the Mines Act; and a large number of workers employed in various capacities in the ports. The height limit in the case of workers working in the construction, repair or demolition of buildings is being reduced from twenty feet to twelve feet. A similar reduction is being made in the depth limit in the case of persons working on drains, embankments and excavations. The new entries will bring within the purview of the Act persons employed in circus and in connection with the construction and operation etc. of aircraft; in farming by tractors; in construction and working of tube wells etc.

Schedule III contains a list of 12 occupational diseases for which compensation is payable under the present Act. This is also being appropriately amended.

WIDENING SCOPE

I do not propose to enter into the details of all the proposed amendments. As the Honourable Members will see, we have made an attempt to broaden the scope of the Act, remove certain anomalies, improve its procedure and make compensation more easily available to the workmen. The aim throughout has been to leave as little scope for litigation as possible and, in consequence, the Act is markedly rigid in character. The compliance with its provisions will not need much help of expert legal knowledge. Moreover, mutual settlement is encouraged in preference to legal proceedings before the Workmen's Compensation Commissioner. I hope the House will appreciate that we are moving in the right direction.

SKD/GLNR.
PKM

Government of India
Ministry of Home Affairs

Rajya Sabha
Starred Question No.229

(To be answered on the 19th February 1959)

INDUSTRIAL DISPUTES CASES FILED IN SUPREME COURT

* 229 Shri Bhupesh Gupta / J.V.K.Vallabhrao.

Will the Minister of Home Affairs be pleased to state:

(a) the number of cases relating to industrial disputes admitted in the Supreme Court in the years 1956, 1957 and 1958.

(b) the number of such cases disposed of during each of these years;

(c) the number of cases referred to in part (a) above which are pending at present; and

(d) the number of cases in which stay orders (i) against labour and (ii) against management are in force at present?

Shri Govind Ballabh Pant:

(a) the number of such cases admitted by the Supreme Court during the years 1956, 1957 and 1958 was respectively 24, 115 and 109.

(b) the number of cases disposed of out of the above during the three years 1956, 1957 and 1958 was respectively 4, 32 and 40.

(c) out of the number of cases mentioned in part (a) above, a total number of 172 cases was pending on 1.2.59. Out of these, 5 cases were of the year 1956, 75 cases were of the year 1957 and 92 cases were of the year 1958.

(d) the information is not readily available.

Shir Bhupesh Gupta: May I know, Sir, in how many of these cases in each year the Attorney General appeared for the employers?

Shri Pant: I do not know.

Shri Bhupesh Gupta: May I know, Sir, whether the Hon. Home Minister's attention has been drawn to the fact that in a large number of cases the Attorney General and his Assistants are appearing on behalf of the employer, whereas the juniors work on behalf of the working people and the employees?

Shri Pant: I do not know if the Attorney General is appointed to appear on behalf of the employers. I think he is free to enter into any such arrangements. I have no control over his private practice.

Shri Bhupesh Gupta: May I know Sir, whether in that case the hon. Minister's attention has been drawn to any proposal suggesting that this practice of the Attorney General appearing on behalf of the employer should be put a stop to in the interest of industrial relations, let alone our socialist standards?

Shri Pant: I do not think it has anything to do with socialism.

Shri Bhupesh Gupta: Having regard to the fact that we are supposed to be living in a State of socialism, I wonder whether the Attorney General must inevitably appear on behalf of the employer. May I know, Sir, why there is so much delay in the disposal of cases and whether the hon. Minister has any proposal to expedite the disposal of cases?

ShriP Pant: Our socialism is democratic and every individual retains his freedom about the selection of his own vocation.

Mr.Chairman: He also wants to know what steps are being taken to expedite the disposal of cases?

Shri Pant: I think the Supreme Court is making an effort in this direction. A large number of cases are ready for hearing, and I hope the Supreme Court will try to dispose of them as speedily as it can.

Pandit S.S.N.Tanka: It is true that it is not possible to place any restrictions on the private practice of the Attorney General, but, may I know, Sir, if the Government will consider it feasible or proper to appoint a lawyer to conduct the cases on behalf of the employees?

Shri Pant: Whenever any request is made to the proper authorities -- the Labour Minister either of the State concerned or hereat the Centre -- it will be for him to decide the matter.

Shri Bhupesh Gupta: Here is another good lawyer, the Law Minister. How can he find lawyers?

Mr.Chairman: Order, order.

Shri Bhupesh Gupta: May I know, Sir, whether the hon. Minister is aware that it has been one of the methods and techniques of the employer to prolong the cases, to have the cases dragged on in courts in order to harass the workers and the employees?

Shri Pant: I think the conduct of cases in courts is controlled and regulated by the courts.

Government of India
Ministry of Home Affairs

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(b) the number of cases disposed of out of the above during the three years 1956, 1957 and 1958 was respectively 4, 32 and 40.

(c) out of the number of cases mentioned in part (a) above, a total number of 172 cases was pending on 1.2.59. Out of these, 5 cases were of the year 1956, 75 cases were of the year 1957 and 92 cases were of the year 1958.

(d) the information is not readily available.

Shir Bhupesh Gupta: May I know, Sir, in how many of these cases in each year the Attorney General appeared for the employers?

Shri Pant: I do not know.

Shri Bhupesh Gupta: May I know, Sir, whether the Hon. Home Minister's attention has been drawn to the fact that in a large number of cases the Attorney General and his Assistants are appearing on behalf of the employer, whereas the juniors work on behalf of the working people and the employees?

Shri Pant: I do not know if the Attorney General is appointed to appear on behalf of the employers. I think he is free to enter into any such arrangements. I have no control over his private practice.

Shri Bhupesh Gupta: May I know Sir, whether in that case the hon. Minister's attention has been drawn to any proposal suggesting that this practice of the Attorney General appearing on behalf of the employer should be put a stop to in the interest of industrial relations, let alone our socialist standards?

Shri Pant: I do not think it has anything to do with socialism.

Shri Bhupesh Gupta: Having regard to the fact that we are supposed to be living in a State of socialism, I wonder whether the Attorney General must inevitably appear on behalf of the employer. May I know, Sir, why there is so much delay in the disposal of cases and whether the hon. Minister has any proposal to expedite the disposal of cases?

ShriP Pant: Our socialism is democratic and every individual retains his freedom about the selection of his own vocation.

Mr.Chairman: He also wants to know what steps are being taken to expedite the disposal of cases?

Shri Pant: I think the Supreme Court is making an effort in this direction. A large number of cases are ready for hearing, and I hope the Supreme Court will try to dispose of them as speedily as it can.

Pandit S.S.N.Tanka: It is true that it is not possible to place any restrictions on the private practice of the Attorney General, but, may I know, Sir, if the Government will consider it feasible or proper to appoint a lawyer to conduct the cases on behalf of the employees?

Shri Pant: Whenever any request is made to the proper authorities -- the Labour Minister either of the State concerned or hereat the Centre -- it will be for him to decide the matter.

Shri Bhupesh Gupta: Here is another good lawyer, the Law Minister. How can he find lawyers?

Mr.Chairman: Order, order.

Shri Bhupesh Gupta: May I know, Sir, whether the hon. Minister is aware that it has been one of the methods and techniques of the employer to prolong the cases, to have the cases dragged on in courts in order to harass the workers and the employees?

Shri Pant: I think the conduct of cases in courts is controlled and regulated by the courts.

Government of India
Ministry of Home Affairs

Rajya Sabha
Starred Question No.229

(To be answered on the 19th February 1959)

INDUSTRIAL DISPUTES CASES FILED IN SUPREME COURT

* 229 Shri Bhupesh Gupta / J.V.K.Vallabhrao.

Will the Minister of Home Affairs be pleased to state:

(a) the number of cases relating to industrial disputes admitted in the Supreme Court in the years 1956, 1957 and 1958.

(b) the number of such cases disposed of during each of these years;

(c) the number of cases referred to in part (a) above which are pending at present; and

(d) the number of cases in which stay orders (i) against labour and (ii) against management are in force at present?

Shri Govind Ballabh Pant:

(a) the number of such cases admitted by the Supreme Court during the years 1956, 1957 and 1958 was respectively 24, 115 and 109.

(b) the number of cases disposed of out of the above during the three years 1956, 1957 and 1958 was respectively 4, 32 and 40.

(c) out of the number of cases mentioned in part (a) above, a total number of 172 cases was pending on 1.2.59. Out of these, 5 cases were of the year 1956, 75 cases were of the year 1957 and 92 cases were of the year 1958.

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EXPRESS

1) MOHAN KUMARAMANGALAM
ADVOCATE
NUNGAMBAKAM
MADRAS

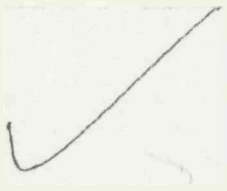
2) MOHAN KUMARAMANGALAM
PETROLEUM WORKERS UNION
12/13 ANGAPPANAICKEN STREET
MADRAS

DANGE DESIRES YOU APPEAR SUPREME COURT JANUARY 12 ONWARDS

BONUS CASES ON BEHALF AITUCONG STOP WIRE ACCEPTANCE

SRIWASTAVA

S. MOHAN KUMARAMANGALAM
B. A. (Hons.) (CANTAB)
BARRISTER-AT-LAW
ADVOCATE, SUPREME COURT
46 LAW CHAMBERS, HIGH COURT, MADRAS



Residence:
8 Nungambakkam High Road
MADRAS-6
PHONE: 84369

Dear

S. MOHAN KUMARAMANGALAM
B. A. (Hons.) (CANTAB)
BARRISTER-AT-LAW
ADVOCATE, SUPREME COURT
46 LAW CHAMBERS, HIGH COURT, MADRAS

Residence:
8 Nungambakkam High Road
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PHONE: 84369

BY EXPRESS DELIVERY

10th January, 59.

Dear Com. Srivastava,

I received your letter of January 9th. I could appreciate your difficulties but other people should appreciate mine!

If the general bonus case is only due to start after the bank bonus case is over and the bank bonus case will continue virtually for the whole of next week that means that the general bonus case will not be taken up before the 19th.

The week beginning the 19th, I have got heavy work and I shall not be able to come to Delhi.

In any case I am not able to understand why I am also needed if Com.Chari is appearing in the bonus case. No doubt, a number of ~~civil~~ lawyers will be appearing on behalf of the employers but that also is unnecessary and only because they want to get extra fees. So far as we are concerned, if Com.Chari is appearing then along with the assistance of Sule, Jangadhar Gupta and Sadan Gupta, we shall be very competently represented and I do not see any need why I should also come to Delhi for that case.

I would request you to send copy of this letter to Com.Dange as I would like him to appreciate the position in this regard.

It is very difficult ~~for~~ ordinarily for people like myself who are in regular practice in Madras to get away for any length of time. We have our cases in the High Court and in the Sub-ordinate courts, Tribunals etc. and to adjust all that is not easy. Hence unless it is essential that I should

come to Delhi to argue the case because there is nobody else competent to appear in the case on behalf of the workers I would request that you(AITUC) should not press for my appearance.

I received a telegram from Com.Acharya from Calcutta also about a week ago regarding this case but since it was a telegram which neither preceded nor followed a letter I could not make head or tail of it. Now looking back on that telegram, it would appear that he was also informing me that I should make myself available for the bonus case.

My own feeling is that the A.I.T.U.C. should find out who are all definitely appearing in the case on behalf of the workers and then decide whether the representation by lawyers already fixed is enough to defend the case of the workers or whether any other lawyers need be drafted in for supported. My own opinion is if Com.Chari is appearing there i no need for any of us to come there particularly when Sule and others are there to assist Chari.

I have not received any letter from Com.Dange.

Finally, I am sure you will appreciate that it is impossible for me also to be of substantial assistance in the case unless I have the papers at least a week or 10 days earlier before the case starts; questions of principle at stake in these bonus cases are not minor ones but major ones and require substantial discussion if a person like myself is going to be in a position to make an effective contribution. This may also be kept in mind.

With greetings,

Yours fraternally,

Smohanakumaramangalam

Sri K.G.Sriwastava,
All India Trade Union Congress,
New Delhi.

SLC MEETING

Item 1 - Action taken on conclusions of previous session

COMMENTS ON "ACTION TAKEN"

1. (i) & (ii). The E&I MACHINERY -

Relying on central organisations, particularly of employers' alone, to screen cases has not produced the desired results. What is needed is, as the AITUC has repeatedly demanded, tripartite screening committees as an adjunct of E&I Committees at all levels.

(iii) The Bombay xGovernment has not as yet set up a tripartite Implementation Committee.

Our Bombay Committee writes:

"We had received a letter from Secretary, Labour and Social Welfare Dept., Govt of Bombay dated 24th September 1959 expressing their intention to constitute a State E&I Committee and asking us to nominate our representative on the same. The constitution of the Committee was: EMPLOYERS - 5; LABOUR - 5 and GOVT - 5.

Out of the 5 seats for Labour, 3 were given to INTUC, one to HMS and one to AITUC. We protested against this unfair discrimination in respect of AITUC and pointed out that such discrimination was not shown in constituting the Central E&I Committee. We however nominated our representative on the Committee.

I understand that HMS also protested against the manner in which the Committee was set up and decided not to participate in its work.

Subsequently, the Secretary of the Labour and Social Welfare Department fixed a meeting of INTUC, HMS and AITUC representatives with Labour Minister on 13th November 1959. This was cancelled at the eleventh hour. Another meeting was fixed on 12th December 1959. This too was cancelled. Now the meeting is again fixed on 9th January 1960 at 2.30 P.M."

(iv) E&I Committees in States are not as fully representative as Central E&I Committee. Apart from the instance of Bombay cited above, weightage is given in favour of INTUC in Orissa, U.P., etc. In Orissa and Punjab, federations affiliated to INTUC were also given representation thus doubling the representation to INTUC. (Orissa - Mines, Punjab - Transport).

In M.P., the Labour Advisory Board is itself the E&I Committee, and the Labour Commissioner himself will act as E&I officer. This is too unwieldy and it is learnt that the M.P.Labour Minister is unwilling to form a proper E&I Committee, with representation for all Central TU organisations.

In U.P., the AITUC nominee was included in the Committee only after protests.

(v) Information as to the position in States regarding appeals in High Courts should be asked for. It seems none of the State Govts have seriously tried to implement this recommendation.

2. WORKERS' PARTICIPATION IN MANAGEMENT

The fact that only in 23 units, out of 50 selected the scheme could be tried is eloquent enough. The reason is mainly the opposition of the employers.

Even in Public Sector undertakings, the scheme has made no headway.

On the other hand, the Joint Management Council in Hindustan Machine Tools, Bangalore, which had such a fine record of work in the first year of its existence has now been completely wrecked solely due to the anti-labour policies adopted by the management. Not only the Joint Council has been wrecked, the management has encouraged formation of a rival union and recent reports indicate that physical violence is also being organised against leaders of the majority union. Workers had to go on a spontaneous token strike in protest against the physical violence and the tension created by anti-social elements. Pious platitudes about associating workers in management sound completely hollow when this is the situation in a Public Sector undertaking.

In Kerala Transport, on the Transport Board, workers had representation as per steps taken by the Communist-led Government. The two seats for workers were till recently held by the AITUC union which has the majority following. However, recently the Advisory Regime changed the election procedure by adopting a single transferable vote system with a view to giving a seat to the minority INTUC union. Such pernicious practices cannot but undermine the very spirit in which the scheme of workers' participation in management is to be implemented.

3. LEGISLATION FOR ROAD TRANSPORT WORKERS

This has indeed become a classic scandal as far as Government promises in implementing tripartite decisions are concerned. It is now over five years since the Standing Labour Committee recommended formulation of suitable legislation for Road Transport Workers. In the Bombay Session of the Committee, the disputed points were referred to Government for decision. The laconic statement of the Ministry that "further necessary action is being taken" is no assurance the legislation will come up soon. The record of Government in this connection deserve severe condemnation insofar as interests of over four lakhs of workers in a strategic industry have gone by default all these years.

4. AMENDMENT OF INDUSTRIAL DISPUTES ACT

Even after one year since the meeting of the sub-committee, i.e., since January 1959, the Ministry states "necessary action" has been "initiated". Leaving the controversial issues apart, the Ministry could have long ago introduced an amending Bill in Parliament on agreed points.

5. SUPERANNUATION ~~OF~~ AGE OF INDUSTRIAL WORKERS

This question has now been linked to the Integrated Social Security Scheme. The AITUC stand on the Report of the Study Group on Social Security has been that its recommendations need not be taken up at present till existing social security measures have been properly implemented. (See Resolution of Working Committee and introduction to book ESI, PF & PENSION SCHEMES).

6. NO COMMENT

7. STUDY OF MAJOR STRIKES FROM POINT OF VIEW OF CODE

The question of publication of reports by Enquiry Bodies was raised in Parliament recently. Abid Ali tried to make out that the unions are against publication of such reports. He ~~xxx~~ specifically tried to plant the blame for non-publication of the report on Jamshedpur on the AITUC. Our stand was clarified in a letter we sent to the Labour Minister in which it was demanded that reports of all such inquiries should be published.

In this connection, the report of Shri Mehta on the Premier Automobile strike which was circulated to members of the Central E&I Committee as a "confidential" document deserves close study. Shri Mehta has gone much beyond what could be an objective study of the events and has made certain remarks extremely derogatory to the TU movement. If the trend of the inquiries should develop in this manner, the trade unions may well have to consider afresh their whole attitude to the Code of Discipline.

The irresponsible statements made by Abid Ali on the floor of the House (see correspondence with Labour Ministry) in connection with publication of Inquiry Reports may serve as illustration of Govt's practices in this regard.

Re. inquiry into Kerala Plantation Strike, Govt might try to put the blame on the AITUC although this is not stated in the "action taken" document. Our union has not submitted its memorandum. Com.P.R., our assessor, wrote to Mr.Mehta that the union should be supplied with memoranda submitted by others so that a suitable reply may be sent.

8. REVIEW OF ESI SCHEME -

(i) Govt's statement re. the progress of the scheme does not warrant any revision of our standpoint of criticism in relation to the present working of the ESI Scheme. The question of family coverage and construction of hospitals remain largely unimplemented.

(ii) Dr.Mudaliar was asked to review the Scheme in January 1959. How many months more he will take to complete his work is not known. Nor are we aware as to the manner in which Dr.Mudaliar goes about his work. It seems he has addressed some trade unionists asking for comments (Com.Siddhant was approached, and he sent some comments, as far as we know). The AITUC has not been officially approached.

Since the Scheme has been continuously subjected to vehement criticism, a review when ordered should be done speedily enough.

(iii) The AITUC representative has not been formally elected to the Standing Committee of ESIC. After his walk out from the ESIC General Meeting, it was agreed that he will be invited to participate in meetings though not a regular member. This discrimination should be pointed out.

9. GRANT OF EXEMPTION UNDER E.P.F.SCHEME

Since Govt itself has dropped the proposal, no comment is needed. Even otherwise, when the question of extending the P.F.Scheme to factories employing 20 workers and over is being examined by Govt (as per Minister's statement in Lok Sabha), the very demand for exemptions to "newly restarted" factories looks rather odd.

LEGISLATION RE. CONSTRUCTION WORKERS - APPENDIX II

Govt document maintains that present labour legislations provide sufficient protection to construction workers and hence there is no need for separate legislation. But as the document admits for workers under contractors (who by and large form the bulk of construction workers), barring CPWD contracts, workers have no protection. The position of workers in State PWD contractors also might be no better.

Since the country is planning for development, the role of construction workers become all the more important and their special disabilities will have to be looked into. Apart from the question of payment of wages, accident compensation, etc., by the very nature of the industry, there should be some special consideration of a demand for better retrenchment compensation. The question of laying down certain norms regarding housing too should be considered. Separate legislation guaranteeing adequate protection to the construction workers

would lead to accelerated tempo of development since as experience shows, a number of disputes affecting hundreds of thousands of workers have arisen in recent times in the construction industry, particularly working on Plan projects. The present tendency has been that the demands of construction workers have been largely ignored. Separate legislation would also help to bring about some amount of uniformity so highly desired in this industry.

PTO

LEGISLATION TO PROVIDE FOR ESTABLISHMENT OF

WAGE BOARDS

Comments on official draft

III (1) - Number of members -

Com.Vittal Rao suggests: "For 'six members', substitute 'four to six members'. Equal representation being given to employers and workers, there is absolutely no need for independent members. As the powers to appoint such members vests with the Government, they cannot but fall in line with the general policy of the Government."

There is another suggestion that instead of "independent", it may be put as "economists".

Yet another suggestion is that instead of "independent" members, have one economist member and one Member-Secretary, the latter being the Govt official who anyway does the main job though at present remaining outside the Board.

III (6) - Removal of members from office - sub-clause (b) gives Govt arbitrary powers of interfering with the personnel of the Board and hence may be deleted.

III (7) - page 2-3 - Filling of vacancies - ADD after "Government may appoint another person", the following: "in the same manner as defined in III(2) and (3)."

III (11) Temporary or Association of Persons - It may be clarified that such persons have purely an advisory status.

V (5) - page 4 - Period of operation of Awards - ADD on line 3, after the words "the said period" the following: "in consultation with the representatives of employers and workers."

V (9) (a) & (b) - page 6 - delete sub-clauses (a) and (b) (i) (ii) and (c) and re-write as follows:

(a) by an officer of a registered trade union of which he is a member;

(b) by an officer of a Federation of trade unions to which the trade union referred to above is unaffiliated;

(c) where there is no such trade union, by any other employee employed in the same establishment and authorised in the prescribed manner.

(WE DO NOT WANT ANY REFERENCE TO "CERTIFIED BARGAINING AGENT".

V (10) Power to withdraw references - ADD at the end, "in consultation with interests concerned and provided that such dissolution is ratified by the legislature concerned".

VI. PRINCIPLES FOR DETERMINATION OF FAIR WAGES

(pages 6-7)

Add at the end of the para, "and taking into account the norms laid down by tripartite agreements".

VII. ENFORCEMENT OF AWARDS

Clause 4(e) - DELETE THE SUB-CLAUSE - If this sub-clause is retained it will prevent employees from invoking the authority for payment of claims. It should be clearly understood that the employees or the TUs prefer claims only when they are satisfied that an injustice has been done to them. Malicious and vexatious cases are few. Therefore, there is no need for a statutory provision for preventing such claims (T.B.V.)

VIII. PENALTIES

The fine of Rs.500 may be raised to at least Rs.1,000 as a better deterrent.

IX. MISCELLANEOUS

Clause (3) - Restrictions of strikes and lock-outs.

This is a virtual ban on strikes in all those industries in which Wage Boards are constituted. Such a sweeping sanction of powers cannot be accepted. The clause should be amended to state only that "there shall no strike or lockout without notice".

Clause (4) Failure to turn out fair load of work - DELETE THIS CLAUSE. The fair load of work at present is determined by the employer. The worker or the TU is never consulted. There is reluctance on the part of employers to do so! Until and unless norms of workers are properly determined by bipartite agreement, workers cannot take the responsibility to perform the quantum of work laid down arbitrarily by employer. This again assumes that conditions of work are uniform. Any slackness or lack of attention by employers may disturb adversely the working conditions. The worker has no control on them. Worsening of working conditions will undoubtedly result in lower output. The employer taking advantage of this clause can dismiss any employee. This clause vests autocratic powers on the employer. In other words, it tantamounts to negation of the very idea of promoting industrial democracy - though a distant prospect at the moment. (T.B.V.)

Clause 5 - para 3 - "Contracting Out"

PTO

Clause 5, para 3, may be amended as follows:

(i) Instead of "thirty percent" (lines 4-5), say "15%" as this is the percentage stipulated for recognition purposes under the Code. (T.B.V.)

(ii) Add at the end of the para "and such agreement should be ratified by a majority of the workers in the establishment/industry concerned".

Clause 9 - Power to Exempt - (page 11)

ADD at the end of first para, "provided the workers or the trade union representing them agree and the terms of agreement are registered as required under the provisions of Industrial Disputes Act, 1959." (T.B.V.)

ADD on page 13, "All the Rules and Regulations framed under clauses 14 and 15 shall be laid on the table of the Parliament/State legislature." (T.B.V.)

PART I

BEFORE THE STRIKE

*

CHAPTER 1

The Engineering Mazdoor Sabha

The Engineering Mazdoor Sabha is affiliated to Hind Mazdoor Sabha (HMS). It is the majority union in the Premier Automobile. It was never been formally recognized, though it has represented the workers in negotiations with the Company since 1952. The Company has, from time to time, signed agreements with it.

Past record

Shri Asoka Mehta is its President and Shri R.J.Mehta, its Secretary and Treasurer. Shri Asoka Mehta is seldom in Bombay and never for any length of time. Shri R.J.Mehta, therefore, functions as also the de facto President of the Sabha. Not only in day-to-day matters, but also in major issues like giving a strike notice, signing an agreement, launching a strike or calling it off, he acts independently of all authority. When so much power is concentrated in a single person, the plural society which a trade union represents perishes to give way to the monolithic. This partly explains Shri R.J.Mehta's hold on the workers of Premier Automobile, who number about 5,000.

The Sabha has had many disputes with the Management. Some of these disputes were referred to adjudication and others settled through private arbitration. There are also small settlements affecting sections or groups of workers. All these disputes involved agitation by the workers. The agitation took various forms. Some times demonstrations continued for a whole week[1] during which practically no work was done. Sometimes

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[1] "A week of demonstrations was observed by the workmen from 29th October to 5th November 1953. During the week, the Secretary (Shri R.J.Mehta) and other representatives of the workmen used to address workmen inside the plant during the recess hours". (Statement filed by Shri R.J.Mehta).

token strikes were organised[1] and sometimes threats of strikes were given[2].

CHAPTER 2.

Events Leading Up To The Strike

Arbitration refused

The present dispute began in February 1958 when the Sabha asked for the settlement of its claim for bonus for 1956-57 and demanded private arbitration. In the past the Sabha had rarely sought the help of the conciliation machinery of the Labour Department of Bombay. In this dispute too it relied on its own strength to deal with the Management /"No direct approach or request was made by the Sabha to the Commissioner of Labour for his intervention in the dispute" (Shri R.J.Mehta's letter No. S/M/PA/614 dated October 31, 1958)/. On March 12, it reduced to writing its demands and asked for an early reply. The demands included a request for private arbitration. On March 29 the Management replied that they could not accept the Sabha's request. The reply is laconic. It does not give any reasons for not entertaining the Sabha's demands. At that time some other matters raised by the Sabha earlier were also pending consideration by the Management, e.g., re-classification of the monthly-rated clerical staff and daily rated workmen, the non-grant of annual increments which had been due for some time, non-provision of uniforms which had been promised to be issued to members of the Traffic Department by the end of January 1959 and so on. To settle these matters and the bonus issue, the Sabha sought an appointment with the Management and April 5, I p.m. was fixed for a meeting with the General Manager.

The letter of April 5

In the meantime, the Management decided that they would have nothing more to do with Shri R.J.Mehta. Accordingly, on April 3, the Staff Manager warned Shri R.J.Mehta that the General Manager would not be able to see him on April 5. Shri R.J.Mehta

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1. "A successful strike of all daily-rated and monthly-rated staff on Sunday, the 29th September 1957, gave a rude shock to the Company". (Statement filed by Shri R.J.Mehta).

2. "The Company was not willing to have private arbitration, but accepted the same when work-men threatened to resort to constitutional agitation". (Statement filed by Shri R.J.Mehta).

replied that the warning notwithstanding, he would keep his appointment with the General Manager at the pre-arranged time and should the promised interview be refused, he would bring out the workmen and stage a demonstration. In a letter the Management explained to Shri R.J.Mehta why they could not see him any more. This letter was delivered to him as he arrived at the gate of the factory on April 5. It bans Shri R.J.Mehta's entry into the premises of the Company and withdraws the facilities hitherto given to him to negotiate with the Management on behalf of the workers. Among the reasons it sets forth for this decision are Shri R.J.Mehta's abuse of the privileges granted to him, his policy of keeping alive an atmosphere of restlessness and discontent among the workers by following one set of demands and grievances by another, his habit of playing to the gallery by shouting abuses at the Management and threatening to let loose hell at the slightest provocation. All this, the Management alleged, was calculated to undermine discipline and respect for the Management and make workmen feel that Shri R.J.Mehta and not the management were in control of the factory. The letter gives one or two instances of the use of foul language by Shri R.J. Mehta. He is alleged to have called an officer of the Company "a bastardly person". Reference is made to an pamphlet issued by him on March 27, 1958 in which he is stated to have described another officer as a pigmy whose "type may bark like street dogs". For officers in general his description in this pamphlet is "heinous plotters and clique-wallahs. Plotters pledge themselves as true Congressmen. But when the time comes for action, they forget all except money". A few more scurrilous and defamatory innuendoes contained in this pamphlet are mentioned. In view of this behaviour of Shri R.J.Mehta the Management said that they had decided not to have anything more to do with him or even the Sabha, so long as he was its leader. But, this, the letter added, did not mean that the workmen's elected representatives could not discuss with the Management "in a proper spirit of co-operation any grievances that the workers may have."

Simultaneously with the delivery of this letter of Shri R.J.Mehta, the workmen's representatives were explained why Shri R.J.Mehta's entry into the premises of the Company was prohibited. A Marhatti translation of the letter was read out to them.

The sit-down strikes

As soon as Shri R.J.Mehta received this letter he rang up the Staff Manager from the gate and threatened a lightning strike if he was not allowed in immediately. He even talked of bloodshed. The Management paid no heed to these threats.

Shri R.J.Mehta was as good as his word. Within an hour began a sit-down strike. Reason: the Management's refusal to allow Shri R.J.Mehta to enter the premises of the Company.

By 3 p.m. work in the plant was at a standstill. This strike continued for two more days. On April 8, it was withdrawn and, in the words of Shri R.J.Mehta "a regular notice was served on the Company". This notice was for 21 days at the end of which the Sabha would go on strike if by then "all their outstanding demands including demands for restoration of recognition of the Union and the demand for strike pay (that is, from April 5 to April 8) were not met".

Incidentally, "restoration of recognition of the Union" really meant the restoration of Shri R.J.Mehta as the sole bargaining agent on behalf of the workers since, as already said, the Sabha was never formally recognized by the Management. Anyhow, the strike notice was not allowed to run its full course. On April 11, at 5 p.m., the Company served discharge notices on ten workmen for absenting themselves on March 21 and 29. The next morning, April 12, began another sit-in strike. Its immediate cause was the discharge of ten workmen.

Certain departments closed

On April 14, the Management put up a notice appealing to workmen to resume work immediately. On April 15, under Standing Order No.19, "as a security measure" the Management closed down certain departments of the factory in view of the "striking workmen either sitting inside the departments or squatting on the premises of the factory or loitering inside the factory premises". The order clarified that "this notice of closure under Standing Order 19 is only intended to prevent the strikers coming in and squatting inside the departments or on the premises of the factory and this notice by itself shall not have the effect of terminating the contracts of employment of the striking workmen". The order also promised that "a notice will be put up as to when work will be resumed".

Various notices from time to time were put up urging workers to resume duty. A few workers - but only a few - answered the call. In the main the strike continued till July 29 when it was withdrawn unconditionally. A detailed account of what happened during the strike will be found in Chapter 4.

CHAPTER 3

Responsibility For These Events

In the recital of the events leading up to the strike in the last Chapter, I have not analysed the responsibility of the parties concerned.

R.J.Mehta - a union in opposition

From a perusal of the statements filed by the Sabha and

the Management and from listening to the witnesses who deposed before me, including Shri R.J.Mehta and the top officials of the Management, I feel that though the Engineering Mazdoor Sabha enjoyed de facto recognition from 1952, all along it behaved like a union in opposition. For instance, early in April 1957, the Management drew Shri R.J.Mehta's attention to the threatening tone of his letter to Seth Lalchand Hirachand, the Chairman of the Company. In reply, Shri Mehta wrote:-

> "For your information we may state that it is not the policy of the Sabha to threaten any one. If it finds that direct and militant actions were necessary in any dispute the Sabha resorts to the same without giving threats to any one".

Again, during the same month, the Company complained about go-slow tactics of some workmen, their unpunctuality and indiscipline. Shri R.J.Mehta wrote back:-

> "Party which submits the demand should go to the other for discussions. We are, therefore, to request you to call at our office at any time convenient to you with all facts and figures to substantiate your demands which have been termed as complaints by you".

On July 9, 1957 Shri Mehta held a meeting in the Company's premises without first obtaining permission from the Management. When this irregularity was brought to his notice, he replied:-

> "A serious view has been taken by us on your introducing a new rule for the Sabha by asking it to take permission in writing before holding any meeting... we make it clear to you that we shall not do the same in future too".

Writing to the Labour Officer of the Company during the month, Shri R.J.Mehta said:-

> "We feel that you should refresh your memory which seems to have weakened due to innumerable problems that you are to resolve in the Company. We only wish that we should not be made victim of your weak memory".

On October 6, a notice in Marhatti was put up by the Sabha in the traffic garage stating that:-

> "all traffic colleagues are hereby informed that when Mr. R.J.Mehta is coming on 11th October 1957 at 3.30 p.m. they should remain present - BY ORDER".

On November 3, 1957 the Sabha staged a demonstration in front of the house of Shri P.M.Shah, the Deputy Staff Manager, and shouted, "P.M.Shah Mordabad". When this impropriety was brought to Shri Mehta's notice, he wrote back:-

"The demonstrations staged at the residence of Shri P.M. Shah have nothing to do with conditions of service in your factory and/or with any other industrial disputes. Hence you have no business whatsoever to address the letter to the undersigned on this subject matter and much less to hold out the threat on behalf of Shri P.M.Shah that if any untoward incident takes place, the undersigned shall be made responsible. The writer takes a serious view of your letter and reserves the right to take necessary action against you".

On March 8, 1958 in a heated discussion in the office of the Labour Officer Shri R.J.Mehta called the Labour Officer and Shri P.M.Shah "scoundrels" within the hearing of the latter who sat next door.

R.J.Mehta's attitude towards Management

Shri R.J.Mehta hailed the settlement of February, 1954 reached after three months of bitterness, suffering and loss on both sides, as "a victory over management" (Statement filed by Shri R.J.Mehta). One would have normally expected an all-round eagerness for better relations after a long period of mutual recrimination and unrest. One wonders if remarks like the one quoted above, did not ruin whatever chances of rapprochement a settlement offered. To take another example, immediately after the bonus settlement for 1955-56 Shri R.J.Mehta claimed that he had "bullied down" the Management. The Management complained that this kind of attitude put them on the horns of a dilemma. If they did not yield to his demands, they were dubbed as "heartless capitalists adamant in their attitude towards workers". If, on the other hand, they accepted his demands, they were supine creatures who were easily browbeaten.

Demands in quick succession

No sooner was settlement reached over one set of demands than another set was put forward. 1953 is a typical year in this regard. Early in the year there was agitation over lay-off in certain departments. Soon after a dispute over paid holidays, allowances, overtime payment, etc., was raised. No sooner was it referred for adjudication than "a strong agitation for securing bonus for the year 1951-52 and 1952-53 (Statement filed by Shri R.J.Mehta)" was started. "A week of demonstration was observed by the workmen from 29th October to 25th November 1953 (Statement filed by Shri R.J.Mehta)". This was followed by a strike and a lockout from November 8, 1953 to February 6, 1954. Thus it went on from year to year. Conflict between the Sabha and the Management seems to have become an immutable law of nature.

Some good may have accrued to workers from these non-stop disputes. But it is the kind of thing that can be overdone.

If there is no respite from agitation in a factory, production is bound to suffer and there is the risk of the goose that lays the golden egg being starved.

R.J.Mehta's inclusion in the Works Committee

Sometimes agitation was organised on less important matters. For instance, so far back as 1952, Shri R.J.Mehta got the Members of the Works Committee of the factory to agitate for his presence in all its meetings. The Management yielded to pressure and thenceforward Shri Mehta participated in all the deliberations of this Committee. This was an unusual concession. It struck at the root of the basic idea of Works Committee as the first step towards participation in management by workers. An efficient Works Committee tends to bring the workers and the management together and helps to build an atmosphere of mutual trust. But by becoming their spokesman and advocate in the Works Committee, Shri Mehta reduced participation by workers to participation on their behalf by a non-working official of the union, a professional trade unionist. The first step in a joint adventure by the Management and the workers became another trade union activity - a travesty of what Works Committees are meant to be. But Shri R.J.Mehta's comment on this "achievement" is:

> "Sometime in August, 1952 elected representatives of the workmen on the Works Committee secured the right of calling the Secretary of the Sabha to the Works Committee meetings."

"Secured the right"!

The boss of the bosses

A good deal of evidence was adduced before me in the course of the inquiry to show that in his personal contact with the management Shri R.J.Mehta was always brusque. Every time he went to see one of the Management, he would be accompanied by a large number of workmen. In their presence he would argue his point not only loudly, but in a language in which threats, innuendoes and even contumely were indiscriminately mixed. The presence of workers, the Management alleged, was meant to serve two purposes - to overawe the Management by numbers [illegible] and to overawe these numbers by the tone and the content of the language used. The Management were not to be allowed to forget that Shri R.J.Mehta had the backing of workers and the workers were meant to see for themselves that Shri Mehta was the boss of the bosses. Even when he came to see me for the first time in the course of the enquiry, Shri Mehta was accompanied by a number of workers. The size of the room and the limited number of chairs in it, however, kept most of them out. But Shri R.J.Mehta saw to it that they heard most of the conversation - at least Shri Mehta's part of it.

The use of provocative language in correspondence and personal dealings with the Management, demands in quick succession and interference with problems which concern the administration of the factory engendered a perpetual state of war. When it was not a shooting war, it was a cold war - a war of nerves. Such a state could not last long. It made relations so strained that they were bound to snap sooner or later. When they did, Shri R.J.Mehta was caught napping; he made mistakes.

The mistakes

When he suddenly found on the morning of April 5, that he was denied admission to the factory in which he had held unquestioned sway for five years, he called a lightning sit-down strike, little realising that a strike on a personal matter - to rehabilitate himself with the Management - had no meaning as an industrial dispute. This was his first mistake. It took him two days to see it.

When he withdrew the strike on April 8, he revised his old charter of demands to include his own rehabilitation in it and served it on the Management. Three days later on April 11, 10 workmen were discharged for repeated absence from duty. Without first moving the machinery provided by Government for resolving disputes between employers and workers Shri Mehta called another strike. Not to have invoked the relief machinery provided for the purpose was Shri Mehta's second mistake. He never recovered from it. In fact, it led to other mistakes, which eventually cost him his leadership.

The main weakness of the Management

The main weakness of the Management in dealing with the situation as it developed till the eve of the strike lay in the flabbiness of the intermediate level of its administration. Under the Staff Manager and the Deputy Staff Manager there is only one Labour Officer - a very junior person both in status and salary and comparatively young. He has three Welfare Officers to assist him. But one of them does other than welfare work. Thus, the actual day-to-day handling of a working force of about 5,000 men was left to a Labour Officer and two Welfare Officers. This staff too was not appointed till a few months before the strike began. Till then there was practically no welfare personnel. No wonder, therefore, the Management did not know their men nor their pulse. While dealing with the Management Shri R.J.Mehta disregarded the Labour Officer and his Assistants and they, taking the line of least resistance, did nothing to assert themselves or otherwise make their presence felt. Yet, in every encounter with the Sabha, the Management first pushed forward the poor Labour Officer. When I pointed to the Management the folly of having so weak a vanguard in their dealings with the Union, they suggested that something was better than nothing, little realising that to encourage a gardener to tackle a wild elephant with an air gun on the plea that something is better than

nothing is the best means of getting rid of not the elephant, but the gardener.

In matters concerning labour-management relations it is the officer in direct touch with workers who counts. If this contact is weak, or if the officer is unable to pull his weight, his advice is neither dependable nor is it respected. In the administrative set-up of Premier Automobile, both these weaknesses are obvious and explain the mistakes made by the Company in handling the situation. These mistakes were: (a) in pursuance of a policy of appeasement, the Management went so far as to make any change in this policy impossible; (b) when the Management decided to give up its policy of peace-at-any-cost and to get tough with the Sabha, it did so in a manner that a head-on collision became inevitable; and (c) the Management unnecessarily delayed fulfilling their commitments with the union.

Its policy of appeasement

Earlier in this Chapter I have quoted extensively from Shri R.J.Mehta's letters to the Management to show that he treated them with scant courtesy. Occasionally they whimpered or lodged a mild protest. But, by and large, they put up with insults, threats and even braggadocio for a number of years. They explained this by saying that they did so in an attempt to buy peace. They had the same explanation for yielding on the question of Shri R.J.Mehta's presence at the meeting of the Works Committees. But gradually they discovered that giving in to pressure in the form of offensive language and insulting behaviour in pursuit of a policy to appease brought them neither respect nor mercy from the Sabha. The peace thus bought, they found, was expensive in the long run. It was the peace of the timid and the frightened. Its price increased at each encounter till they realized that they could afford it no longer. So they decided on a volte face early in April 1958.

A head-on-collision became inevitable

I am inclined to agree with the Management that when they made up their mind on April 3 to break with the past, the break had to be complete and sudden. No half measures can succeed in a matter like this. I cannot, therefore, take exception to the Management's letter of April 5 to Shri R.J.Mehta forbidding his entry into the factory. And, as it was, the Management won the first round. The strike that was launched in consequence of this letter was hurriedly withdrawn after two days, and a 21-days notice served. Here I think was an opportunity to pause and to take stock of the situation and not to rush things for a second round. There was enough time to bring in the conciliation machinery of the State Government or to open direct negotiations with the workers. This was certainly not the time to precipitate matters by discharging ten workmen, unless the Management were anxious

for a show-down. If they were, then they must share with the Sabha the responsibility for the strike and what followed. If, on the other hand, they did not want a show-down, they must take the blame for an untimely and unwise act. Whatever the justification for the discharge of these ten men - this is discussed in the Chapter on the Code of Discipline - the time chosen for the issue of the discharge notices was wrong. Feelings were running high. A 2-day strike had just ended. Bad blood engendered during these two days had not yet had time to cool down. To churn it up again so soon, unless deliberate, was a mistake. Anybody could have guessed that the Sabha's reply to this move of the Management would be another strike. So it was.

Delay in fulfilling commitments

Atmosphere had been further vitiated by delays on the part of the management in implementing their obligations under various settlements with the Sabha. In the course of the inquiry the following instances of avoidable delays were brought to my notice. The Management had no satisfactory explanation for them.

(1) In January 1958, the Company agreed to provide three sets of uniforms to the members of the Traffic Department. These uniforms, however, had not been supplied even in March.

(2) In January 1953, an award had made certain recommendations regarding acting allowance. These recommendations were not being implemented fully.

(3) The question of re-classification of certain daily-rated workmen had been pending for long. A large number of workmen who were designated as "helpers" were actually doing the work of skilled men. Similarly many employees called 'number takers' were working as clerks, but not being paid as such. There were also discrepancies in the basic wages of some other workmen doing identical work.

In sum, its weak personnel department was all right so long as the Management followed a policy of buying peace. The moment it tried to get tough its 'appeasing' chickens came home to roost, and added to the discontentment caused by delays in implementing agreements and the refusal to refer the claim for bonus for 1956-57 to private arbitration. A head-on collision was inevitable.

PART II

DURING THE STRIKE

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CHAPTER 4

The Sequence of Events

Events during the first strike

The first strike which lasted from April 5 to April 8 was not without ugly scenes. In the afternoon of April 6 workers lay in front of the main office, thus preventing officers from going home for two hours. The tyres of the cars of the Deputy General Manager and the Staff Manager were deflated and they (the Manager) were subjected to a good deal of hooting and jeering.

On April 7 a procession marched to the Deputy Staff Manager's house, shouting "P.M.Shah Mordabad". The same day the Management appealed to the workers through a notice to desist from squatting and loitering inside the factory and asked them to resume work. They did not listen to this appeal but later in the day when Shri S.M.Joshi advised them to end the strike, they did.

The second strike

The course of the second strike was long. It ran for 110 days, from April 11 to July 29, 1958. Its record of acts of violence, assault, coercion, and intimidation, therefore, is proportionately long. According to my calculations acts of major violence and rioting number about 30; occasions on which workers were incited in public speeches to resort to direct action are at least 7; speeches in which undignified and provocative language was used are numerous; obstruction was caused to others on several occasions; on 3 occasions demonstrations were organised which resulted in violence. The statement filed by the Engineering Mazdoor Sabha is silent on these activities. When I pointed this omission to Shri R.J.Mehta he promised to let me have his version of acts of violence. It has not come yet. My report on these incidents, therefore, is based on police records, the files of Bombay Government and the information collected from the witnesses examined by me. All these sources tell the same tale. In addition, I listened to tape-recordings of some of Shri R.J.Mehta's speeches.

A few typical incidents

A brief account of a few typical incidents is given below:-

(1) On April 15, officers and monthly rated staff were

prevented from attending office and factory. Stones and brick-bats were thrown at the police posted at the gates. Eight officers and 18 men were injured. Two police vehicles and one private car were damaged. The windows of the Deputy General Manager's car were smashed and Shri S. . Bhagwe, a driver-cum-mechanic, who was driving the car was pulled out and badly belaboured. The police resorted to a lathi charge and arrested five persons for rioting.

(2) On April 19, the milk supplier to the canteen was assaulted and his milk pot thrown away. This provoked the milk-men who lived in a nearby colony. In a body they attacked the union office at Kurla later in the day and beat up, among others, Shri Dayanand Suvarna. Shri R.J.Mehta escaped through the back door. Shri Suvarna died five days later in a hospital. Fourteen milk-men were arrested.

The Sabha's statement on this issue enlarges on the attack on the union office and Shri Suvarna's death, but is completely silent on its genesis - the assault on the milk supplier to the canteen.

(3) Led by Shri R.J.Mehta and Shri S.M.Joshi, a procession of strikers was going towards Kamgar Maidan, Parel, for a meeting on May 1. On the way some processionists entered "cafe Amrit", which is owned by the canteen contractor of Premier Automobile. The processionists picked up a quarrel with the Manager over not getting drinking water promptly. Then the inevitable happened. Glasses and soda-water bottles were broken and furniture damaged. A boy was injured.

(4) On the morning of June 3, the strikers threw acid bulbs and stones on two vehicles carrying workmen to the factory. Eleven workmen sustained acid burns. Three of these were serious.

(5) On June 7 the strikers dragged out the driver of a car of the Company which was parked on the G.B.Road to pick up some officials of the factory. Stones were also pelted at the car smashing the wind-screen and the rear window. The driver and the occupant were injured.

(6) At 10 p.m. on June 13, the police were subjected to a barrage of stones from the strikers. As soon as the police arrested 3 workers, about 300 strikers made a determined effort to overpower who police under cover of stones. The lights at the gates of the factory and the approach roads were smashed and the road barricaded with boulders and tree trunks, making reinforcements impossible. An attempt was made to set fire to the police jeep; the policemen's beddings were burnt and acid bulbs thrown at them. The police had to open fire. Not till nine rounds had been fired did the mob disperse.

(7) At about 2.30 a.m. on July 28 the police got a wireless message that there was heavy barricading to the approach road to the factory and that there was persistent stone-throwing.

As the approach to the factory is a public thoroughfare, the police cleared off the barricade despite a continuous shower of brickbats. Eleven members of the police, including one Deputy Commissioner and one Inspector were injured.

In addition to the above incidents, there were many instances of stray assaults on supervisory and clerical staff of the Company, way-laying of workers not on strike, coercion, intimidation andviolent picketing and incitement to violence.

Abuses and threats

The use of undignified language in the speeches made by labour leaders was also common. These speeches were made at the daily meetings of workers. A few extracts are given below:-

1. "P.M.Shah has arranged to bring goondas and he himself is a thief... Col. Ajit Singh (in charge, Watch and Ward and Traffic Department) is a fat pig which should be minced..." (Shri Janardhan Gunde (member of the Works Committee and a turner in the Machine Shop of the Factory), June 10).

2. "P.M.Shah desires a split in our camp. This scoundrel does not know that all workmen and their wives are out today". (Shri Janardhan Gunde, May 6).

3. "Seth Lalchand is a poisonous serpent..." (Shri R.J.Mehta June 2.)

4. "Meswani (General Manager) is a goonda No.1... We also have goondas on our side. These goondas may have a battle of Panipat inside the factory and also finish off Mr.Meswani... We shall look forward to seeing this... We shall see that Lalchand will fall on our feet. Today he holds his head high on account of his riches but tomorrow he may come to our houses to cleanse our utensils". (Shri R.J.Mehta, June 5).

Occasionally, threats were also held out, e,g.,

1. "Those who are trying to take such signatures (signature of workers on a typed application to return to work) are warned that they are working against the union and for that they would have to face consequences". (Shri R.J.Mehta, July 12).

2. "One person was observing us through binoculars yesterday. Let him know that one day the binoculars will not remain in his hands; the glasses will be thrust in his eye sockets." (Shri R.J.Mehta).

3. "Nowadays the Congress Party is fast weakening and if Lalchand will not make an early settlement, he will be no more, just like the Congress Party in Kerala". (Shri R.J.Mehta, May 21).

4. "Pradhan (The Labour Officer) should leave aside his dirty tactics, as he also has a family". (Shri Janardhan Gunde, May 24).

5. "If Mr. Payde (A Police Officer) does not mind his own business, he will meet the same fate as Bhagwe (The driver who was beaten up badly on April 15)". (Shri Janardhan Gunde, June 9).

The Bombay Labour Minister was arraigned at these meetings almost every day for, what they called, his anti-labour, pro-capitalist and partisan policy, e.g.,

"Shri S.M.Joshi has said that he would urge in Delhi that Shri Shantilal Shah should change his policy. But I said to him that that was not necessary. He (Shri Shantilal Shah) is worthless... So long as he will not go away several strikes will occur. The dog would never change his policy". (Shri R.J.Mehta, July 21).

"So long as Shantilal Shah will remain our Labour Minister, workers are never to get any benefits. He is a very mean-minded man and I have never seen such a man. He is not fit for this post." (Shri S.G.Patkar, July 21).

"Shri Shantilal Shah has long hair on his ears. So he cannot hear us. We shall have/go to the sixth floor of the Sachivalaya and bring him down and make him listen to us." (Shri R.J.Mehta).

Aid from outside

As soon as on April 15 the factory was closed down except for essential services and the Works Committee was told that the Management was determined not to submit to any pressure this time, the Sabha realised that they were in for a prolonged struggle. But, they knew that alone they could not sustain it. Assistance from outside was necessary. There were only two sources: The All-India Trade Union Congress (AITUC) and the Samyukta Maharashtra Samiti (SMS). They had both shown active interest in the strikers fairly early in the struggle.

SMS and CPI enter the fray

So early as April 15 Shri M.D.Mokashi, the Secretary of the Kurla branch of the Samyukta Maharashtra Samiti, addressed the strikers and promised Samiti's support in their struggle by suggesting a general token strike in Greater Bombay. The idea of a token strike appealed to the strikers. A gesture in their favour by other workers, they thought, should advance their cause. But, according to various witnesses who appeared before me, it seems that for the Samiti leader, a general token strike carried a different meaning. He thought that if the workers in Bombay who are mostly Maharashtrians could be brought under one banner even for a day, their support could, in

due course, be enlisted for the establishment of a Samyukta Maharashtra State. So the Samiti mooted the idea of a token strike and the Engineering Mazdoor Sabha took it up as early as April 15 - but for different reasons. The point, however, is that the idea caught on immediately. This encouraged Shri R.B.Malwada and Shri Korpade, both from the Kurla branch of the Samyukta Maharashtra Samiti, also to address the strikers on two consecutive days - April 18 and 19. In fact, on April 19, Shri Malwade was in the chair and the meeting was organised under the auspices of the Samiti. An open attempt was made to shift the emphasis from the Premier Automobile as the villain of the piece to the Bombay Government by alleging that the Bombay Labour Minister was responsible for the adamant attitude of the Management. Shri Datta Deshmukh, MLA(SMS), who also addressed the workers, stressed this point.

On April 23 the Communist Party of India* (CPI) also entered the fray. A meeting of the strikers was organised by the Chembur branch of CPI. Among other speakers Shri V.R.Deshpande MLA (CPI), addressed the audience. The Management were blamed for adopting backdoor tactics to support a company union in the factory. No one asked how these allegations were likely to help the strikers - their demands, the reinstatement of discharged workers, the restoration of Shri R.J.Mehta as the recognised leader of the members of the Engineering Mazdoor Sabha. The quarrel was being broadened far beyond the workers' comprehension and new leaders were taking over. The initiative was passing out of the hands of Shri R.J.Mehta.

On April 29, Shri Subhabrao Ganacharya (CPI & SMS) alleged that the Labour Minister of Bombay was pursuing an anti-labour policy, which he condemned. Next day, Shri Bapurao Jagtap,MLA (CPI), also criticized the Bombay Labour Minister. On May 1, Shri P.K.Kurane (SMS), a Municipal Corporator, blamed the Bombay Government for being pro-capitalist.

On May 8, the Samyukta Maharashtra Samiti party, which dominates the Bombay Municipal Corporation brought a resolution in the corporation supporting the struggle of the strikers.

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*The Communist Party and the Jana Sangh are active members of the Samyukta Maharashtra Samiti

Soon after the meeting of the Corporation, Shri B.S.Dhume (CPI & SMS), Shri S.S.Tawde (SMS) and Shri M.Harris (SMS) told the workers that the only opposition they feared to their resolution in the Corporation was from the Congress members of the Corporation. This, according to some witnesses was meant to draw workers closer to the Samiti and estrange them from the Congress.

On May 12, Shri S.A.Dange (CPI) speaking to the workers criticised the Bombay Governmentand announced a donation of Rs.500/- on behalf of AITUC. By now the workers were beginning to feel more enthusiastic about fighting the Bombay Labour Minister than the Management of the Premier Automobile, more anxious to have a Samyukta Maharashtra State than the satisfaction of their demands; the slogans at the daily meetings were now not only against the Management and/or the demands, but also for the establishment of a Samyukta Maharashtra State in Bombay and against the policy of the Bombay Labour Minister.

Both the Samyukta Maharashtra Samiti and AITUC leaders continued to speak to the workers almost every day on the twin subjects of a general token strike and the anti-labour policy of the Bombay Government. Shri S.S.Tawde (SMS) spoke again on May 13, Shri Gajanian Bagwe (SMS) on May 15 and Shri Prabhakar Kunte (SMS) on May 16, Shri V.R.Tulla, MLA(SMS) on May 19, Shri V.G.Deshpande, M.P. (Hindu Mahasabha and Pro-SMS) on May 29, Shri B.S.Dighe (SMS) and Shri Ramdas Kalaskar (Jan Sangh and Pro-SMS) on June 2.

I have not so far mentioned Shri S.M.Joshi though he entered the lists on the side of the workers fairly early in the struggle because, in addition to being a well known Samiti leader, he is also a leading trade unionist. To begin with, his support of the Sabha was purely from the trade union point of view. Later, however, when he saw other possibilities he too acquiesced in the use of strikers for political purposes.

On July 2, Shri Dutta Deshmukh, MLA (SMS), returned to the charge that Bombay Government was in collusion with capitalists. In fact, from now on he and Shri S.G.Patkar (CPI) took as leading a part in guiding the strike as Shri S.M.Joshi (SMS). The three of them among others, addressed the workers on July 21 and their attack on the Bombay Labour Minister was more vehement than before. Things were coming to head. Ranks had to be closed and the propaganda machinery geared for the final onslaught. The combined oratory of Shri Datta Deshmukh (SMS) and Shri S.G. Patkar (CPI) was again brought to bear upon the workers the next day. The burden of the song was the general token strike to demonstrate the unity of the workers against the Bombay Government and disapproval of the partisan and anti-labour attitude of the Bombay Labour Minister. The Bombay Branch of the Communist Party of India which met at Dalvi Building

privately on July 21 evening also decided to give full support to the token strike.

Preparations for the Token Strike

On July 22 the Mill Mazdoor Union (Red Flag) organised a meeting where Shri Gulabrao Ganacharya (SMS) and others spoke about the token strike and its objectives. Along with the Mill Mazdoor Union (Red Flag) came in many other labour organisations controlled by AITUC or having SMS leanings to support the idea of a token strike. Some of them were the Insurance Employees' Federation; the Bombay State Bank Employees' Federation, the BEST Workers' Union and the Municipal Mazdoor Union. A joint meeting of the first two was addressed, among others, by Shri S.M.Joshi and Shri M.G.Kotwal (PSP) on July 23. The same day the BEST workers heard Shri Dutta Deshmukh (SMS), Shri S.M.Joshi, Shri S.G.Patkar (CPI) and others. There was complete unanimity on the question of a general token strike to bring home to Government that labour could no longer tolerate what they called "the oppressive partisan labour policy of Shri Shantilal Shah". By now the support of the Transport and Dock Workers had also been enlisted and July 25 fixed for the token strike. An Action Committee had been formed earlier and volunteers enrolled. Street corner meetings were held all over and leaflets distributed. The Mill Mazdoor Union (Red Flag) alone organised 6 such meetings in the mill areas. Batches of volunteers visited different factories and warned them that they could remain upon on July 25 at their own peril. It was made out that all trade unions in Bombay except those controlled by INTUC were prepared to come to the rescue of the Premier Automobile Workers. Appeals were made to the textile workers, particularly of the Swadeshi Mill Co. (Kurla) to participate in the proposed strike. To leave nothing to chance it was arranged to send batches of 50 men in the early hours of the 25th morning to see that no buses left theKurla Bus Depot, no shops opened and no industrial concern functioned. In a speech on July 23 Shri S.M.Joshi cast all caution to the winds and made public the real purport of this agitation. He declared:

"Since the issue involved in the strike is the labour policy of the Bombay Government, there is nothing wrong if the strike is motivated by political ends".

The labour dispute had now openly become a political issue.

On July 24 the excitement and preparations for the strike reached their peak. A rally of 10,000 Workers was held under the auspices of the Action Committee. At Nare Park where it converged in the evening, it was addressed by Shri S.M.Joshi (SMS), Shri George Fernandes (HMS), Shri S.G.Patkar, MLA (CPI)/General Secretary, Mill Mazdoor Union (Red Flag)/, Shri Krishan Desai (SMS), Shri P.B. Donde (BEST Union), Shri S.A.Dange (CPI) and others.

While most speakers spoke about the anti-labour policy of the Bombay Government, Shri S.A.Dange, the General Secretary of the AITUC declared that the INTUC was planning to take up the challenge against the decision of the working class to stage a token strike and had decided to run some factories at Worli and oil installations at Sewri and exhorted the audience to see that the INTUC plans were frustrated.

How transport was paralysed on July 25

As arranged beforehand, from early hours of the morning of July 25, picketing began at the gates of the various BEST Depots. From about 12.30 A.M., 30 to 50 workers owing allegiance to the H.M.S. controlled BEST Workers' Union and the AITUC-controlled BEST Workers United Front Union staged continuous demonstrations in front of the various depots. They shouted slogans and intimidated and obstructed others from going in. Some non-strikers were even obstructed others from going in. Some non-strikers were even manhandled.

The president of Municipal Workers Union, had warned BEST workers in a speech on July 23 that whoever went to work on July 25 would be beaten up. Their women folk were also told that if they desired the safety of their men, they should not let them go out to work on July 25. The Bombay Municipal Corporation which owns the BEST had also advised the Management not to run any buses or trams on July 25. The Management, however, decided to run a skeleton bus service, but no trams, as possibility of sabotage in trams by interference with brakes, is greater. Besides, being track-bound, they are easily immobilized by unruly elements. Only 281 buses fitted with weld-mesh or expanded metal guards all round its passenger saloon and driver's cabin were available on July 25, against the usual complement of 714 in the morning peak hours and 732 in the evening peak hours. More than enough men to run this skeleton service turned up for work, in fact 11,718 out of the total strength of 18,593. A large number of them had slept in the depots/as to escape picketers in the morning. But while intimidation, coercion and even violence were perpetrated against them, the unarmed police that was provided on request generally held a watching brief. Out of the 160 buses that were turned out in the morning some returned after running for about 100 yards because of stone throwing and obstruction; others were damaged so badly or their drivers so incapacitated by injuries that they had to be abandoned. Operation staff were freely assaulted and passangers forcibly evicted from the buses. Satyagraha was also offered from about 9 A.M. outside the exits of the different depots. This prevented the turning out of more buses in service and also rendered impossible the sending out of relief crew to the buses already in service. At places the situation got out of control. Shri Dutta Deshmukh rang up the Chairman of BEST from Dadar that if the Chairman did not promise immediately to

take the buses off the road, Shri Deshmukh would not be responsible for what might happen.

Thus, the attempts of the Management to run even a skeleton bus service were thwarted*. By 1 P.M., all buses were stopped.

Success of the Token Strike

A good deal of the success of the token strike must be attributed to the paralysis of all road transport brought about by picketing and violence in which workers from AITUC and HMS controlled unions, including the Transport and Dock Workers Union, freely indulged. To a large extent they were encouraged by the helplessness of unarmed police who witnessed breaches of law and order being committed under their very nose but could not do much to stop them. As the stoning of buses was greater in the labour areas viz. Parel, Lalbaug, Sewree and Worli, the few buses out of the skeleton service meant to run in these places could do so only spasmodically. A large number of workers who were not on strike did not stir out of their houses for fear of being molested; those who did failed to report for duty for lack of transport.

Other means were adopted in those factories in which absence of transport was not likely to keep workers from going to work. In the textile industry which employs the bulk of labour in Bombay, intense propaganda in favour of the strike had been carried on for days. The Mill Mazdoor Union (Red Flag) and the Cotton Mill Mazdoor Sabha (HMS) had posted pickets at the gates of various mills. The majority of the Mills were, therefore, closed. In some, workers came out because of persistent pressure from agitators inside or stone-throwing from outside. The mills which had to be closed because of stone-throwing were the Bradbury Mills, the Dawn Mills and the Century Mills. Only the Sassoon Spinning and Weaving Co., Mazgaon, and the Shree Ram Cotton Mills worked with a fair complement.

Similarly the Banks and Insurance companies in Greater Bombay were affected. So were the Silk Mills, the Engineering Industry and the petroleum installations. Most of the port and dock

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* For one day's absence from duty the Engineering staff of BEST dealing with transport lose 4 paid offs. Fearing that the General Manager may apply this rule to absentees on July 25, the Corporation passed a resolution asking the General Manager to consider the desirability of seeing that nobody who absented himself on July 25, loses more than one day's wages.

workers too abstained from work as also did the employees of the Bombay Municipal establishments. But both the refineries at Trombay worked normally. So did the railways.

Having got the various industries closed the strikers moved in processions in their respective areas. They shouted slogans in support of the token strike and Samyukta Maharashtra and against the Labour Minister, Bombay. Little was heard about the demands of the workers of Premier Automobile or ejectment therefrom of Shri R.J.Mehta. When they converged on the Oval Maidan, the processionists numbered about 5,000. Apparently a number of processions from the mill areas did not go to Oval Maidan. They dispersed earlier.

The strikers were addressed by Shri S.Y.Kolhatkar, /Docks (PSP)/, Shri B.Jagtap/(CPI), Mill Mazdoor Union (Red Flag)/, Shri M.G.Kotwal (PSP), Shri Datta Deshmukh (SMS), Shri S.A.Dange /AITUC (CPI)/, Shri S.M.Joshi (SMS), Shri S.H.Deodhar, Shri S.R. Kulkarni (PSP) and Shri R.J.Mehta. The speakers denounced the labour policy of the Bombay Government and claimed success for the token strike. A deputation saw the Chief Minister who advised them to call off the strike in the Premier Automobile in order to create a favourable atmosphere for the settlement of the demands of the workers.

The workers went home.

Acts of violence on July 25

The day passed off, but not without ugly scenes. There was a serious case of stone-throwing near the Stock Exchange Building. Several other incidents of stone-throwing, intimidation, obstruction (by lying prostrate in front of buses etc.) which necessitated intervention by police were reported. In a few cases a mild cane charge was also made. In all 124 persons were arrested.

July 26 - an anti-climax

On July 26 all the workers of Greater Bombay went back to work except the workers of Premier Automobile. They felt like shorn lambs. Most of the AITUC and SMS leaders who had led the strike of the previous day went their different ways. The short alliance between them and the Premier Automobile workers seemed to have ended.

In the meantime the workers who had deserted the ranks of the strikers and had rejoined Premier Automobile and the new recruits had organised themselves into the Premier Automobile Workers' Representative Samiti. On July 27 they brought out a leaflet informing the strikers that the Management had conceded majority of their demands and withdrawn some of the show-cause notices served on the strikers. The leaflet also said that the factory would open soon.

For this reason and to stop more fresh recruits from entering the factory there was a serious clash between the strikers and the police in the early hours of the 28th morning. Later in the day the Premier Automobile Workers' Representative Samiti announced that the factory would reopen on July 29.

Unconditional surrender

On July 29 the strikers announced an unconditional withdrawal of the strike. The next day 3,000 of them swarmed the factory gates wanting to be admitted all at once. It was, however, explained to them that it takes a few days for all sections of a factory which has been closed for so long to pick up full production and that they would be taken in section-wise. That day 656 workers were admitted. The rest despersed peacefully.

Shri Asoka Mehta

The bringing in of CPI and SHS leaders was one of the many ways in which the Sabha tried to prop up the sagging morale of the strikers. The others were introduction of women into the struggle and when things looked particularly gloomy, playing with the magic name of Shri Asoka Mehta to raise hopes of the promised land. Wives of workers and other women were brought in to participate in professions, to picket and even to preside over meetings. The moral was obvious. If women could do this why not men.

During his brief visits to Bombay in the course of the strike, Shri Asoka Mehta addressed the workers only once - May 20 - and that was to clear a misunderstanding created by Shri R.J.Mehta. The latter had accompanied Shri Asoka Mehta to one of his meetings with Shri Tulsidas Kilachand to negotiate a settlement of the dispute. Shri Tulsidas Kilachand did not know Shri R.J.Mehta by appearance and came to know of his presence at the meeting only when he heard a garbled version of its deliberations given at a meeting of workers by Shri R.J.Mehta. Shri Lalchand Hirachand, therefore complained to Shri Asoka Mehta that Shri R.J.Mehta had made improper use of the discussions they had had together and at which Shri R.J.Mehta was present without his knowledge. Shri Asoka Mehta felt it his duty to clear thismiunderstanding. So he addressed the workers. On the day of the token strike - July 25 - Shri Asoka Mehta again happened to be in Bombay. He was approached to address the workers. He refused to do so.

These incidents bring out in sharp relief the difference of approach towards the Premier Automobile dispute between Shri Asoka Mehta and Shri R.J.Mehta and pose the eternal problems of ends and means, of rectitude and expediency. They also show that though he is the President of the Engineering Mazdoor Sabha, Shri Asoka Mehta does not generally

interfere in its affairs. Nonetheless he met Shri Lalchand Hirathand, the Bombay Labour Minister and even the Union Labour Minister quite a few times in an attempt to find a settlement of the dispute. Shri R.J.Mehta made use of these meetings in his speeches to workers to keep up their morale. Though these references always helped to tide over an immediate crisis, sometimes when they were not very tactful they had the effect of queering Shri Asoka Mehta's pitch in his negotiations. For instance, talking about an impending meeting between Shri Asoka Mehta and the Bombay Labour Minister and Shri Lalchand Hirachand, Shri R.J.Mehta said that if a settlement was not reached in Bombay, he would get one from New Delhi. These constant allusions to New Delhi in a dispute which was the concern of the local Government, must have caused unnecessary irritation in Bombay and made settlement more difficult.

The Balance Sheet

Though the Management lost production and sales worth Rs.5 crores, the loss to workers in wages and salaries was also considerable Rs.30 lakhs. Loss of business to ancillary industry is difficult to calculate. On the credit side there is nothing for the strikers. Their surrender was unconditional; even Shri R.J.Mehta agreed to give up the offices of Secretary and Treasurer of the Engineering Mazdoor Sabha, if that would rehabilitate the Sabha with the Management. The new alliance between Shri S.A.Dange and Shri S.M.Joshi and the formation of the Mumbai Girni Kamgar Union are direct outcomes of the token strike of July 25.

CHAPTER 5

The Code of Discipline

Discipline is essential to the well-ordered conduct of any activity, even if that activity be a strike. In the Premier Automobile, however, indiscipline bedevilled industrial relations long before the strike was launched. It became worse during the strike and did not improve even after it was called off. In this Chapter an attempt is made to fix responsibility for acts which are banned under the Code of Discipline. Since the Code of Discipline became effective from June 1, 1958 strictly speaking only events that took place after that date can come within the purview of the Code. In this connection, however, the following extract from a letter of October 4, 1958 from Shri Bagaram Tulpule, General Secretary, Hind Mazdoor Sabha is relevant:

> " I would state that on technical grounds we could side step any inquiry under the Code by claiming that the whole episode started prior to the Nainital session of the ILC,

and is therefore outside the purview of the Code. However, we are anxious that the authority and spirit of the Code should be established and in that spirit we are not raising any technical grounds against the inquiry. We trust that the other parties to this inquiry will also approach it in the same spirit. If, however, any of them are inclined to plead merely technical reasons for wriggling out of their obligations or consequences of their actions, it will only mean that they do not really accept the spirit of the Code."

Infringement of the Code Before the Strike

As already indicated in Chapter 2, long before the strike began, in his correspondence, interviews and negotiations with the Management, Shri R.J.Mehta undermined respect for them and their officers and kept up a spirit of discontent and restlessness among the workers. In doing this he breached Clause IV (iv) (e) of the Code of Discipline.

The Management, on their part, "for the sake of buying peace and goodwill tried to placate the Sabha". But when they found that this policy did not yield results, on March 29 they refused to refer the bonus dispute for 1956-57 for arbitration. This was a departure from previous practice. Bonus disputes for 1954-55 and 1955-56 were settled by arbitration. For this departure the Management gave no reasons. It is possible that Shri R.J.Mehta had exhausted the patience of the Management, that they had come to the end of their tether and were longing for a show-down. But the main purpose of the Code is to reduce to the minimum possibilities which lead to show-downs; they are expensive hobbies - expersive for the nation, for the workers and for the employers. That is why the Code bans unilateral action in industrial matters and recommends the utmost expedience in the utilisation of the existing machinery for the settlement of disputes. This machinery includes mutual negotiations, conciliation and voluntary arbitration. The Management's summary dismissal of the Sabha's request to allow arbitration on the bonus issue disregarded the provisions of Clauses II (i), (ii) and (iv) of the Code, and was responsible for further deterioration in their relations with the Sabha.

In this connection the Management raised the question that considering the unhelpful attitude of Shri R.J.Mehta, they had no alternative but to refuse to have anything more to do with him. The answer to this is that, to begin with, they should not have leaned over backwards as they did to appease Shri R.J.Mehta even if the purpose was "to buy peace". Secondly, when they decided to swing to the other direction, they should have done so after weighing all the pros and cons of their action. The letter of April 5, served this purpose well. But to refuse arbitration on this score, in contravention of an established practice is to create suspicion in the minds of the workers and

make them ar easy prey to agitation. Why the Sabha did not make an issue of this refusal is not easy to understand.

The First Strike

The strike of April 5 was against the Code. The Code prohibits stay-in and sit-down strikes in particular. [Clause II(vi)]. It was also illegal, for it was without notice and was over a personal issue - disciplinary action taken by the Management against the Union's Secretary for his behaviour towards the Company's officials and not over any industrial question of wages or bonus or similar claim. Besides at that time an adjudication reference was pending before a Bombay Industrial Tribunal.

Shri R.J.Mehta argued before me that the Sabha was forced to go on strike when the Company refused to have anything to do with its representatives. The answer to this argument is contained in the last paragraph of the Company's letter to Shri R.J.Mehta:-

> "We would like to make it particularly clear however that if there are any genuine grievances felt by the workmen, their own representatives are at all times free to approach the management in proper spirit of presentation and negotiation and consistently with discipline and respect. Further, the ordinary peaceful channels and machinery of conciliation etc., provided by the law for the express purpose of maintaining industrial peace will naturally remain open, and therefore there will be no justification whatsoever for the workmen to adopt anything but a peaceful approach whenever necessary either to the Management or to the Government as the case may be".

The Company refused to deal with Shri R.J.Mehta, but not with the workers; its refusal to have anything to do with the Sabha was only so long as Shri R.J.Mehta was its leader. A peaceful approach could still be made to solve the dispute.

The Second Strike

The strike which began on April 12 was also illegal. The notice for 21 days which Shri R.J.Mehta served on April 8 had run for 3 days only. And the strike had nothing to do with the demands contained in the notice. Besides as already stated, an adjudication reference was at that time pending before a Bombay Industrial Tribunal - reference No.172 of 1955 made at the instance of the Sabha. This strike was also against the Code not only because it was illegal, but also for other reasons. The immediate reason for calling it was the dismissal, on April 11, of 10 workmen. The justification or otherwise of this discharge order is discussed later, but an immediate strike on this account cannot be justified under the Code.

The machinery which the Code would like to see used "with the utmost expedition" was completely ignored. The only weapon that was used "with expedition" was strike which, according to the Code, should be resorted to only when everything else has failed. If "mutual negotiations" were not possible, the aid of the conciliation machinery of the State Government could have been invoked or an appeal against the discharge order made to the Management under the Standing Orders. By deciding on direct action the Sabha violated clause II(ii) of the Code.

Discharge of 10 workmen

The daily-rated workmen in the Premier Automobile Factory have 5 paid holidays in a year, as against 12 for the monthly-rated staff working in the office of the Company. The daily-rated staff attached to the office thus lost 7 working days as compared with their counterparts in the factory. Therefore, they asked for, and were allowed, to work on certain Sundays and holidays.

The monthly-rated office workers choose their own 12 holidays. For 1958 they did not include March 21 (Gudi Padra) and March 29 (Ram Naumi) in this list. So, on March 21 and March 29 the following departments, among others, were working:-

(1) Service Maintenance,

(2) Parts, Stock Room, and

(3) Sales, Storage.

The rest of the factory was closed. The daily-rated workers of these three departments were told to come to work on these days. On March 18 Shri R.J.Mehta wrote to the Company suggestion that the daily-rated workers be allowed holidays on these two days and substitute work be arranged for them on Sundays. The Management argued that since these departments are attached to the office the daily-rated workers of these departments could work only on days when the office was open and not on Sundays or weekly holidays when the office was closed. The company, therefore, advised the daily-rated workers attached to these departments

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*Shri R.J.Mehta's reason for not doing so was two-fold, as he explained in his evidence. Firstly, the State conciliation machinery takes inordinately long to decide an issue and, secondly, there was no hope of this machinery taking up the Sabha's cause because of the illegal strike from April 5 to April 8. It seems that the practice in Bombay is that if you go wrong once, you are out of court for a year or so. In any case no reference was made to the State Government, to help resolve the dispute.

to report for work on both these days by a letter addressed to Shri R.J.Mehta and by notices put up on the notice boards. Accompanied by some of the workmen of these departments, Shri R.J.Mehta saw the Staff Manager, tore to pieces his letter and threw it on the Manager's table and told the workers not to report for duty on March 21 and March 29. The workers absented themselves on March 21. They were warned. On March 29 they repeated the offence. On April 11, at about 5 p.m. the Company served discharge notices under Standing Order No.21(1) on 10 workmen out of about 200 who were guilty of absence on these two days. I think the Company was right in insisting on the workers turning up for work on March 21 and March 29 and Shri R.J. Mehta wrong in inciting them to flout the Company's orders. If daily-rated workers in departments attached to the office want additional work, they obviously can have it only on days on which the office functions and since the office staff have the choice of their holidays the daily-rated workers in departments attached to the office must sink or swim with them. They cannot have it both ways - ask for more work and also dictate the days on which they will do it. Shri R.J.Mehta's stand on this issue was wrong and his manner of making it known to the Management, objectionable. He is guilty of encouraging insubordination among workers and thereby infringing clause IV(iv) of the code.

Of the 200 workers involved in this episode, only 10 were discharged. Invariably Managements succumb to the temptation to use such occasions to weed out those who have been thorns in their side and leave the rank and file alone. As discriminatory disciplinary action always leads to trouble on a wide scale, I do not see the advantage of it. Discharge may be symbolic or exemplary. Trouble is never so. Coercion and intimidation turn a partial strike into a complete strike over-night. On the other hand, symbolic or exemplary action smacks of victimization, particularly if no charge-sheets are served and no opportunity afforded to workers to explain their case. Therefore, a fair number of delinquents should have been charge-sheeted and after enquiry those found seriously involved discharged. Since this was not done, the Management must be held guilty under clauses III(ii)(b) and (c) of the Code. In fact, in this case the Management admit victimization. In their letter of November 1, 1958 addressed to me, they say:

> "Regarding 10 discharged workmen, when we decided to take action against some of the workmen to make an example we decided to take such action against 10 workmen out of a total of about 200 men.
>
> "In consultation with the departmental heads, these 10 workmen were selected as undesirable from the point of view of work and behaviour".

So these 10 workmen were discharged not so much because they

disobeyed orders, as because they were "undesirable from the point of view of work and behaviour". Through their own mouth the Management stand condemned on this issue.

If disciplinary action leading to discharge is not "subject to an appeal", it would attract clause III (v) of the Code. But in this case there was provision for appeal. Standing Order 26 says "any question arising out of or in connection with or incidental to these Standing Orders shall be subject to an appeal to the authority superior to the Manager notified on this behalf". By not taking advantage of this procedure, the Sabha infringed clause 11(ix) of the Code.

R.J.Mehta and the Code

It is hardly necessary to repeat here the indisciplined behaviour of Shri R.J.Mehta during the strike and the encouragement to indiscipline and violence he gave to workers by his speeches and otherwise, which again render him guilty under clause IV(iv) (e) of the Code.

Indiscipline during the First Strike

During the first sit-down and stay-in strike from April 5 to April 8, there was no question of the Management importing fresh workers or the police giving them protection. Despite absence of any provocation the strikers indulged in rowdy demonstrations, picketing, coercion and intimidation of willing workers among the monthly-rated staff and officers.

When, on April 8, work was resumed, there was a definite and deliberate attempt at go-slow*. All this involves breaches of various clauses of the Code, e.g., IV(ii) (rowdyism in demonstrations), II(v) (a) and (b) (coercion and intimidation), II(v) (d) (Go-slow).

Indiscipline during the Second Strike

The first two days of the second strike were uneventful. On April 14, the Management appealed to the workers to resume work immediately. On their failure to do so, they were virtually locked out on the morning of April 15. Anticipating breach of peace, the police was present at the factory gates. The strikers prevented officers and monthly-rated staff from entering the factory. The police intervened. The strikers retaliated by

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*Shri Janardhan Gunde who admitted 'go-slow' in the course of his evidence before me, explained it by saying that the Management deliberately supplied wrong material. To spite their cheek they cut their nose!

throwing stones. Some policemen were injured. A lathi-charge followed. Among the persons manhandled was an officer of the Company, Shri P.G.Patel. Among the property damaged was Deputy General Manager's car. A monthly-rated machanic-cum-driver, Shri Bhagwe, who was driving the car was dragged out and beaten up.

In indulging in other acts of indiscipline, coercion, assult, etc. the Sabha breached the Code in various ways. The Management had given no provocation, nor had the police unless it be by its presence. But had the police not been present, the law and order situation would have taken an uglier turn.

Such incidents were frequent throughout the strike. Some of them have been described in Chapter 4. There was no justification for any one of them. Cars were stoned, individual workers waylaid and assaulted, and acid bulbs thrown at new recruits and old willing workers. Officers attending to essential services were interned and monthly-rated staff prevented from attending office. Roads were blocked and tyres of cars deflated. Rowdy demonstrations and rallies were convened at which often undignified language was used. About 60 persons were injured by acid bulbs and about 125 by stones. All this violence, physical duress, coercion, intimidation, rowdyism and the use of undignified language, are condemned by the Code.

Fresh recruits

The Sabha, however, contended that a good deal of this violence was forced on them by the Management trying to engage fresh recruits to run the factory. Even if it is conceded for the sake of argument that the Management was wrong in engaging fresh recruits (among whom must be included deserters from among the strikers), there is still a good deal of violence which was unprovoked and for which the Code must condemn the strikers unequivocally. After all, the Management did not bring in fresh recruits till May 16 and by then many ugly demonstrations had been held, much abuse hurled at the Management and the Bombay Government and many non-strikers assaulted, intimidated and obstructed and others, including policemen, hurt by stones and acid bulbs and so on.

Coming now to the Sabha's argument that the Management's attempt to engage fresh recruits was enough justification for strikers to take law into their own hands, I find that it does not carry conviction. The facts are that on the evening of May 14, the Management put up a notice informing the strikers attached to the Service Maintenance and Assembly Inspection Departments that none of them had resumed work so far despite the notice of April 30 asking them to do so. The Management further informed them to resume work within 7 days, failing which their vacancies would be filled up by new hands and they would lose their jobs. An earlier notice had also said that the Management had decided to start work from May 15 in the Assembly Line Department

and its allied sections in view of some of the old workers having expressed willingness to resume work. The strike had been going on for over a month and there was yet no sign of its being given up in the near future. Matters were further complicated by the Sabha not having so far sought the assistance of the Labour Department of Bombay Government to resolve the tangle. In fact, the general policy of the Engineering Mazdoor Sabha all along had been to try direct negotiations with the Management, and when these failed, to take the matter to private arbitration without the intervention of the conciliation machinery of the State Government. To this must be added another complication, the declared policy of the Bombay Labour Department that if a union ignores the conciliation machinery of the Government and resorts to a trial of strength, Government do not interfere. In this case Government had declared the strike illegal. It is too much to expect the Management to sit back and watch the enforced idleness of the factory. The Management's attempt to engage fresh recruits was, therefore, justified. After all, there is nothing to stop the strikers from taking up temporary or part-time work while on strike. In fact, many do. Others go home to their fields. Why shouldn't the Management then engage fresh hands and, with the assistance of non-strikers and those who are willing to return to work, re-start the factory. To condemn them for doing so would be wrong, particularly when it is borne in mind that the strike had been declared illegal and there were no signs of its being called off in the near future.

The Code of Discipline and the State Government

In addition to laying down rights and responsibilities for workers and Management, the Code required the Central and State Governments to "arrange to examine and set right any short-comings in the machinery they constitute for the administration of labour laws". In pursuance of this directive the Central Government has set up an Evaluation and Implementation Division. It is an official organisation that functions unofficially and is particularly useful in situations in which the formal official machinery cannot or does not operate. The Division is assisted in its work by a tripartite committee. Most State Governments have also set up similar organisations. Bombay has not so far. It had not even nominated an officer to deal with cases of non-implementation when the strike in the Premier Automobile began or while it lasted. Quite a few State Governments had done so by then. As discussed already the avowed policy of the Labour Department of Bombay is not to intervene in a labour dispute in which the parties have already entered upon a trial of strength. Nor does it volunteer its service if they are not specifically asked for. In the present case neither party had sought the assistance of the Labour Department for conciliation. Arbitration through official agency required that both parties sign an agreement under section 10(a) of the Industrial Disputes Act and forward copies of it

to Government and the Conciliation Officer. Neither party had done this or anything else to stir the Labour Department. The proposal for voluntary arbitration had been turned down by the employers. Thus, while the Labour Department was hors de combat because of its declared policy and the Sabha, complacent in the conciousness of its strength, stood on prestige and refused to make a formal approach for the intervention of Government, the implementation machinery, particularly its tripartite committee, had one been set up, would have at once taken cognizance of the dispute and stepped in. Whether it could have resolved the dispute it is difficult to say, but it would have certainly provided a forum for a discussion of the problem and possible imposition of a cease-fire. Thus the stalemate would have been broken and further deterioration of the situation arrested. A senior official of the Bombay Labour Department, in charge of the State Implementation and Evaluation machinery, would have taken the matter in hand and saved it from being exploited by other parties. But, unfortunately, no such machinery has so far been set up in Bombay and so long as it is not established, the Bombay Labour Department can be blamed for not "setting right shortcomings in the existing arrangements for the administration of labour laws" as required by the Code of Discipline.

The Union Labour Minister

This is, however, not to suggest that nothing was done by either Delhi or Bombay to resolve the dispute. As early as the second week of May the Union Labour Minister invited Shri S.M.Joshi and others for consultations to Nainital. The Bombay Labour Minister was already there for the meetings of the Indian Labour Conference. This effort averted the one-day token strike in Greater Bombay which had been fixed for May 19, but it did not end the main strike in Premier Automobile. Further efforts continued to be made by the Union Labour Minister to solve the tangle and on a number of occasions he conferred with Shri Asoka Mehta and with Shri Nath Pai and the top management of the Company. He also spoke to the Bombay Labour Minister on trunk telephone a few times.

The Bombay Labour Minister

Similarly the Bombay Labour Minister, in his personal capacity, tried to resolve the dispute. On April 30 a meeting was held at his residence where Shri Asoka Mehta and Shri Tulsidas Kilachand, a Director of the Premier Automobile, were present. The meeting was abortive. Various permutations and combinations to resolve the dispute were discussed, but none seemed acceptable to both Shri Asoka Mehta and Shri Tulsidas Kilachand.

On May 20, 1958 in reply to a speech made by Shri Asoka Mehta, the Bombay Labour Minister wrote to him:-

"Though in my opinion the strike is illegal and the

" Government should not intervene, I am still willing personally to do what I can to find a solution".

Again on May 27, the Labour Minister met representatives of the Sabha and the Management at Poona in an attempt to resolve the dispute.

On June 27, a tentative agreement was drawn up between Shri Asoka Mehta and the Management in the presence of the Bombay Labour Minister. The terms of the agreement are given below:-

" (A) There will be no victimisation of workers.

(B) The Management will be free to take appropriate action under the Standing Orders against those who have indulged in violence e.g.

(i) Attacks on supervisory and other members of the staff and workers of the Company including obstructions, insults and surroundings.

(ii) Obstruction or so-called 'Satyagraha' near the factory and threats to officers, staff and workers at their homes and on the way.

(iii) Speeches by workers in support of or inciting or justifying any of the above acts.

(C) In case any worker has a grievance against the management for action taken against him, the same may be discussed between Shri Asoka Mehta and Shri Tulsidas in the same way as in the case of other matters.

(D) Shriyut Asoka Mehta and Tulsidas may, if they so agree ask the Company and the Union to refer to arbitration or adjudication such of the matters in the dispute including those under (C) as are agreed upon between them".

There are two versions why this agreement did not go through. According to Shri Asoka Mehta and Shri R.J.Mehta, the agreement came to nothing because of the wrong interpretation put on clause (B) by the Management. In his letter No.S/ML/PA/786 dated December 17, 1958, Shri R.J.Mehta says:-

"Before the Sabha could put the terms of the Agreement before the workmen for their approval, the Company sent charge-sheets dated 30th June 1958 to more than sixty-five workmen.

"This act on part of the Company created grave doubts about its bonafide. Clause B of the tentative agreement provided for punishment under Standing Orders in respect of those who were charge-sheeted prior to the agreement being reached. That is how we interpreted the agreement. The act of serving charge-sheets after 27th June 1958 was an afterthought".

The Management on the other hand, say that though acceptable to Shri Asoka Mehta, the agreement was not acceptable to Shri R.J.Mehta. Seeing in it an appeaser he quickly backtracked and sabotaged it. The fact, however, is that the tentative agreement remained a dead letter.

The Code and the General Strike of July 25

The incident of July 25 was an interlude in the tragedy which the strike in the Premier Automobile was; it was a play within the play to serve a particular end. The ostensible reason for the token strike of July 25 was to express sympathy for the Premier Automobile workers. But, as already discussed, the Premier Automobile workers got nothing out of it. Sympathy for them was merely a cloak to serve other ends. Two questions, therefore, arise: (i) How far in a planned economy the dislocation caused by such "sympathetic" strikes is justified? (ii) How far are workers on strike entitled to commit all sorts of penal offences against others, in the act of picketing?

One can understand the "right to strike" if it is for the redress of one's legitimate grievances after the machinery provided by Government for the purpose has failed. But, if this "right" is exercised to gain an advantage over a rival party under the guise of "sympathy" for some one else, then it is not only abuse of the "right" but also an infringement of the Code of Discipline.

Secondly, the "right to strike" is invariably interpreted to include a right to prevent others from working. The right to work according to a contract accepted on either side, is a right guaranteed by the Constitution in Article 19, Those who infringe this right by preventing non-strikers from going to work by intimidation, coercion and violence not only breach the Code of Discipline, but also act against the law of the land. Finally, it is waste of national resources to allow any organisation to disrupt production wherever it likes by twisting round its little finger the greatest single element among all that go to make production, viz., man-power. The whole idea of token strikes like the one organised on July 25 is against the letter and the spirit of the Code. The propaganda and the agitation organised for it were undemocratic.

So far as the Premier Automobile workers are concerned, the token strike made no difference to them. It solved nothing. On the other hand, it inveigled them and others, particularly the BEST Workers' Union, into committing serious acts of violence. These have already been described in detail and these must be condemned under the Code, as the Code must also condemn the workers for their last scene of violence enacted in the early hours of July 28.

After the Management put up a notice on July 29 that the factory would re-open by stages, Shri R.J.Mehta and Shri S.M. Joshi addressed the workers. Shri S.M.Joshi explained why the strike was being called off and exhorted the workers not to view the end of the strike as a defeat. Shri R.J.Mehta, however,

sounded his usual note:

> "The Action Committee of the Engineering Mazdoor Sabha is not in favour of calling off the strike. But we are bowing to the decision of the leaders who have all along been supporting our cause".

To Sum Up

Thus it would appear that though both the Management and the Sabha infringed the various provisions of the Code, the Sabha's share of the infringements is greater. The Management must be blamed for not providing enough staff for looking to the day-to-day problems of the workers and for not implementing agreements with expedition. They are also guilty under the Code for refusing arbitration. But they were perfectly justified in withdrawing from Shri R.J.Mehta the facilities which they had given him. It was wrong on Shri R.J.Mehta's part to advise the Factory Committee (consisting of representatives of workers of various departments) to launch a strike on this account. The strike was illegal as well as against the Code and so were the various acts of indiscipline, rowdyism, etc., committed by the strikers during the few days it lasted. The discharge of 10 workmen, coming when it did, was an indiscreet step. Besides, to make an example of "10 workmen out of a total of about 200" was against the Code. But an instantaneous strike was not the answer to this. Two wrongs do not make a right. The discharged workers could have appealed to higher authorities; they could have sought redress by approaching the conciliation machinery of the State Government. Strike should have come after all these steps had been tried and found wanting. What followed infringed almost all canons of the Code. In the end, to keep up the sagging morale of the strikers, the leaders of all the parties opposed to Government were brought in at a very heavy cost. The demands of the workers were bartered away for a demand for a Samyukta Maharashtra State and an attack on the Bombay Labour Minister. This trading of labour interests is an unfair practice which both the letter and the spirit of the Code condemn. After reaping their harvest on July 25, these leaders left the strikers to their own fate. The strikers reverted to their old ways. Like the last flicker of the lamp before it goes out altogether, on July 28 the strikers staged a grand finale in which they reconstructed on a miniature stage all they had done during the 110 days the strike had lasted - stone throwing, obstruction, barricading fighting the police and so on. Then the strike died of sheer exhaustion; the workers surrendered unconditionally.

In gratitude

Before I conclude this report I feel I must express my gratitude to the Bombay Government who agreed to my undertaking this study and provided facilities for it. I am also grateful to H.M.S., A.I.T.U.C. and I.N.T.U.C. and their unions for their

courtesy and co-operation. To the General Manager and other officials of the B.E.S.T. Undertaking I am particularly obliged for bearing with me while I interrogated them and their workmen. The Management of the Premier Automobile were good enough to take me round their factory and let me examine their files and listen to tape-recordings of some of the speeches of Shri R.J.Mehta during the strike. I am thankful to them also. Lastly, though this debt is the greatest of all, I am grateful to Shri Asoka Mehta for the frankness with which he gave me his version of this marathon strike and to Shri R.J.Mehta the main actor in this drama, for the efficiency and patience with which he compiled for me almost a book which gives an account of the events connected with the strike from his point of view. But for the assistance received from all these quarters my task would not have been so pleasant as it was.

Sd/--
(R.L.Mehta)
22-4-59

The table given in the book shows that Messrs.Begg Sutherland & Co., as managing agents, earned 7½% on gross profits in the case of Cawnpore Sugar, Samastipur Central Sugar and Ryam Sugar Commpanies; 7½% on net profits in the case of Partabpur Co., and 2½% on sale proceeds of sugar and molasses in the case of Champaran Sugar Co. (p.89)

Shri Basu also records the fact that certain other managing agents took as much as 10% of the gross profits of the companies under their control.

Describing the dual commissions earned by the managing agency houses, i.e., commission on sales and commission on profits simultaneously, the book lists Birla Bros. collecting 10% commission on profits plus 2% on gross sale proceeds in the case of Upper Ganges Sugar Mills. (page 91).

In addition, the managing agents take large amounts as "office expenses". It is also seen that "in the case of sugar mills started under European Managing Agents. . . there was a general tendency to charge a commission on purchase of machinery and mill stores." (page 123). In the case of Raza Sugar Cpl, it is stated that Govan Brothers, the managing agents charged a commission of 1% on the total cost of factory including cost of erection. Messrs.Begg Sutherland & Co., James Finlay & Co., and others are stated to be following this practice.

If, in spite of these colossal payments being made to the managing agents, the sugar companies could declare large dividends to the shareholders, it is easy to imagine the inhuman exploitation of the workers and the loot of the consumer and the canegrowers who have contributed to the phenomenal growth of this industry.

The income per employee is said to be Rs.904 (Commerce, May 31, 1958). But out of Rs.10.97 crores