TRADE UNION RECORD

(FORTNIGHTLY)

Vol. XV, No. 18
July 20, 1959
Price :
20 naye Paise

WORKERS SUPPORT KERALA GOVT.

INTUC UTUC HMS Strike Call Ends In FIASCO

"The Congress Hig Command and the Union Government should know that the organise working class in Kerala will not stand as idle spectators to the conspracy of subverting the democratically elected Government of the Stat", said Com. P. Balachandra Menon, General Secretary, Kerala Committee of the AITUC, in a statement issued on July 7.

Com. Menon addd that "the democratic facade of election as suggested by the Congess Parliamentary Board is a mere cover for Central intervention." Ie appealed to the workers to realise the sinister implications of tls trap laid by the Parliamentary Board of the Congress Party.

The working class in Kerala firmly rebuffed attempts of the State units of the INTUC, HMS and UTUC to call a General Strike on Jue 29, as part of the so-called "Liberation Struggle" being waged by opposition parties in Kerala. Hardly 10,000 out of 5 lakh workers in organised industries in Kerala responded to the strike-call.

This was but natural. In a memorandum submitted by the Kerala Committee of the ATUC to the Prime Minister on June 24, the Committee had pointed out that the workers in Kerala have made many significant gains since the present Government was formed.

The memorandum stated that in almost every industry in Kerala, workers have obtained wage increases and bonuses.

The Education Act guaranteed security of service, better conditions of work and increased pay for about 70,000 teachers in the State.

In various unorganised and small industries, industrial cooperatives have been set up. More than 10,000 toddy tappers have been organised into cooperatives, 42 labour contract societies are now functioning in the road construction department and about a dozen cooperatives in the beedi industry have also been formed.

In the coir industry employing more than 5 lakh workers, steps are being taken to bring entire workers into cooperative field. Till now cooperatives in the coir industry have been dominated by merchants and even by big feudal interests. Recently, an inquiry was conducted into the working of these coir cooperatives set up earlier by the Congress Government and the inquiry revealed that the enormous amounts allotted by the Government of India and advanced to these cooperatives were squandered. The inquiry committee therefore recommended the abolition of these cooperatives. The new cooperatives set up by the present Government belong to the entire coir workers and so far about 17,000 workers have been brought into such cooperatives.

In the cashew industry which employs about 70,000 workers, attempts are now being made to start the Cashew Trading Corporation, in order to re-organise the crises-ridden industry.

The KSTUC memorandum pointed out that "all these steps while benefitting the workers, have created insecurity for the middle-men and the contractors" who have prospered so far at the cost of working people.

The Agrarian Relations Bill, and the New Plantation Rules which seek to assure medical aid and better housing etc., to the plantation workers have infuriated the landlords and plantation owners. All those who

(Contd. on page 2)

AITUC WORKING COMMITTEE MEETING ON AUG. 8-9

The Working Committee of the AITUC has been convened in Delhi, on August 8 and 9, 1959.

The meeting will discuss the conclusions of the 17th Indian Labour Conference, verification of membership, grant of new affiliations and other organisational matters.

(Contd. from front page)

are affected by these policies of the Kerala Government are making use of the opposition political parties to create a state of tension and insecurity in the State, the memorandum pointed out.

The KSTUC said that the workers in Kerala have remained aloof from all the turmoil because they have been able to register the following gains:

—Last year in almost all industries, workers have got bonus and in no industry has it gone below 6 per cent of the total wages. In some industries such as rubber factory, rayon, aluminium, paper, etc., the bonus paid was 20 to 30 per cent of total wages.

— 13 long-term agreements between management and unions, with the help of the Government have been arrived at in certain major industries, which have gone a long way in assuring stable industrial peace, while at the same time safeguarding the vital interest of the workers concerned. As a result of these agreements and the minimum wages fixed by the Government, the workers in most of the industries have received wage increases ranging from 2 to 120 per cent.

— Labour legislation enacted by the Government so far include the Maternity Benefit Act, which contains many provisions advantageous to the women workers.

— The Shops and Establishments Bill now before the Select Committee allows 36 holidays with pay. The Payment of Wages Act is made applicable to employees in shops and commercial establishments. Most important provision in the bill is the right of an employee whose services are dispensed with, to appeal to a prescribed authority who can direct either reinstatement or payment of compensation.

—The Beedi and Cigar Act and the National and Festival Holidays Act are the other two important trade union legislations enacted by the Kerala Government.

—The new Draft Industrial Relations Bill seeks to empower the Works Committees for settlement of certain grievances at the factory or plant level. Industrial Relations Committees consisting of equal number of employers and employees take such issues which are to be handled on industry basis. All trade unions under certain conditions are entitled to be recognised by the employer. The purpose of the Bill is to encourage collective agreement and for settlement of disputes by negotiations.

In this connection, the memorandum also pointed out that in the innumerable Industrial Relations Committees, Minimum Wages Committees, etc., set up by the Government of Kerala, all national Trade Union Centres have been given due representation. Though certain Central organisations do not have even ten per cent of the total registered membership, they also enjoy representation in the Committee. "This will clearly show that the charge of discrimination in favour of the AITUC is false."

The memorandum of the KSTUC also pointed out that during the last two years certain provocative struggles have been conducted by the unions affiliated to the INTUC against the wishes of the overwhelming majority of the workers. Pointing out that since the time of N. M. Joshi and V. V. Giri, there has been a healthy convention that in all political questions, the wishes of at least 75 per cent of the workers should be ascertained, the KSTUC said that the INTUS, HMS and UTUC who are now sponsoring general strikes in the State, have absolutely no majority in the major organised industries. The decision to call the general strike was taken by representatives of only 153 unions out of the total 1,500 unions in Kerala. The memorandum therefore stressed that "such a struggle by the minority is definitely anti-working class."

International Conference Of Chemical, Oil And Allied Workers

The Third World Conference of the Trade Unions International of Chemical, Oil and Allied Workers (Trade Department of the WFTU) was held in Leipzig from May 25 to 30. One hundred and thirty-six delegates and observers from 32 countries of Europe, Asia, Africa and Latin America, representing about 5 million workers in these industries took part.

The WFTU was represented by two Secretaries, Com. Ma-Chung Ku and Guiseppe Casadei. Comrade Casadei greeted the Conference in the name of the Secretariat of the WFTU.

From India, Com. G. Sundram, General Secretary, All-India Petroleum Workers' Federation and Com. Shivaji Patil, General Secretary, Hind Oil Kamgar Sabha (HMS) participated in the conference.

The united character of the meeting was emphasised by the fact that 14 of the National Centres represented at the meeting were affiliated to the WFTU, 8 to the ICFTU and 10 were independent, being affiliated to no international trade union organisation. A broad delegation from the German Federal Republic made up of 9 delegates and 11 observers, was also present.

The two reports presented to the Conference, the first by Georges Vanhaute and the second by the General Secretary of the Oil Workers of Indonesia, were widely discussed. More than 40 delegates took part in the discussion during the plenary sessions and more than one hundred during the meetings of the five commissions which, for two days, discussed oil, chemicals, rubber, cardboard and glass and ceramics. In all these commissions, the questions affecting the workers were closely discussed and resolutions were adopted to guide future action for economic demands.

Linking the demands for better living conditions to the problems of peace, and associating itself with the decisions of the Goerlitz Conference for a Peace Treaty with Germany and a peaceful solution of the Berlin question, the Conference decided to send a delegation to Geneva to make known the firm desire for peace of the millions of workers in the industries.

Delhi Workers' United Move

THOUSANDS MARCH TO PRIME MINISTER'S HOUSE

The strike in National and Grindlays Bank, Raj Engineering Works and the closure of Ajodhya Textile Mills, to name only a few, have brought forth sharply the steadily deteriorating industrial relations in the capital. Faced with the mounting offensive of the employers, it was but natural that the organised workers in Delhi should forge greater unity of action.

Representing over eighty thousand organised workers and employees in the Capital, the Delhi Trade Union Action Committee has been set up. Since the Union Government itself came in a big way in all these disputes, with the tragic consequences of a dilatory policy, the Action Committee decided on a Workers' March to present their grievances to the Prime Minister.

The workers' protest march was called on July 7. Thousands of workers joined in the procession which converged on the Prime Minister's house.

The memorandum submitted to the Prime Minister listed the details of the unilateral and provocative actions taken by the employers and demanded immediate Governmental intervention.

The strike in National and Grindlays Bank began on June 23, following the dismissal of six leaders of the union. The action of the bank management was not only in violation of the provisions of the Bank Award but the British manager of the Bank declared that this was how he proposed to "deal with Indians". He is reported to have said that he "was a major in the army and knows how to deal with Indians."

The Prime Minister was also told of the many other instances of victimisation of trade unionists, non-implementation of the Tribunal awards, violation of the Code of Discipline and the wanton interference by the police in trade disputes. The Action Committee also demanded that the curbs imposed by Government on demontsrations, etc., should be removed.

On July 6, Com. H. L. Parwana, Convenor, Delhi Trade Unions Action Committee, addressing a press conference, said that bank employees all over the country will be forced to move into action, if the six employees in Grindlays Bank were not taken back.

The Action Committee also took serious note of the Government's failure to intervene even in cases of deliberate violation of Awards on the part of employers. For instance, the Raj Engineering Works did not implement the Supreme Court decisions which came after eight long years of litigation and the workers were compelled to resort to strike.

The Ajodhya textile mills in Delhi has been closed down throwing out 1,200 out of jobs. A batch of workers are offering satyagraha before the residence of Shri Abid Ali, Union Deputy Labour Minister.

In Delhi Cloth Mills, top-ranking leaders of the union have been victimised.

Com. Parwana said that if the Government fails to intervene, the Action Committee would be compelled to take direct action, including a token strike in all the industries in the Capital.

MADURAI TEXTILE WORKERS' STRUGGLE

Com. K. T. K. Tangamani, M.P. and Com. Balasubramaniam, President, Madurai Textile Workers Union (AITUC) ended their hunger strike on July 1, following the assurance of the Chief Minister and Labour Minister of Madras that *de novo* talks would commence on July 4, for settlement of the dispute.

The leaders had gone on hunger strike on June 19 against the continued lock-out in the textile mills in Madurai, Vikramasinghapuram and Tuticorin controlled by the Harveys, since May 18, 1959. 22,000 workers are affected by the lock-out. Following the hunger strike of the trade union leaders, leaders of different political parties in Madras State like Shri Sampat (DMK), Shri Pakkiriswamy Pillay (SP), Shri Subramaniam (PSP) and Shri Kalyanasundaram, President, Tamilnad Committee of the AITUC, met the Chief Minister and Labour Minister of Madras State on June 30 and the Ministers assured them that negotiations for a settlement of a dispute would begin on July 4 before the Labour Commissioner in Madras. On this assurance, the leaders of the political parties requested Com. K.T.K. Tangamani and Com. Balasubrahmaniam to withdraw their hunger strike.

The hunger strike was withdrawn on these assurances on July 4. A mass rally held on July 4 evening attended by over 25,000 people congratulated Com. K.T.K. Tangamani and Com. Balasubramaniam on the successful culmination of their hunger strike.

The struggle of the textile workers in Madurai was supported by the entire working class in Tamilnad and solidarity actions were organised throughout the State. This was particularly seen in the complete hartal organised on June 26 at Madurai and on June 30 at Tirumangalam.

At the talks which began before the Labour Commissioner, workers representatives included Com. P. Ramamurti, Vice President, AITUC, P. A. Kannaya (PLU—an independent organisation) and Shri Rangaswamy (INTUC). The talks continued on July 5, 6 and 7 after which the employers' representatives wanted time to consult their Board of Directors.

July 10, 1959

JAMSHEDPUR TINPLATE WORKERS' STRIKE

2500 workers in Indian Tinplate Co., Jamshedpur, went on a token strike on June 14 protesting against the management's attitude of not paying any heed to the demands of the workers.

The strike was called by the Tinplate Workers Union (INTUC).

T.U.I. OF COMMERCE WORKERS FORMED

Called together by a Preparatory Committee set up by the World Federation of Trade Unions, 110 delegates and observers representing 9,854,150 workers in commerce from 34 countries took part in the International Trade Conference of Workers in Commerce, which was held in Prague from June 1 to 4.

Forty-one speakers took part in the discussion of the report presented by Com. Domenico Banchieri, Secretary of the Preparatory Committee on the formation of the Trade Unions International of Workers in Commerce and its future tasks and the report presented by R. Delon, General Secretary of the National Union of Employees in Commerce, Credit Institutions, Insurance, Social Security and Allied Workers of France, on the programme of demands of workers in commerce.

From the very wide discussion which took place it emerged that if in the socialist countries, the situation of workers in comerce is improving continually, in the capitalist and colonial countries, the workers have to struggle constantly to win improvements and even to keep what they have won by past struggles. The Conference showed that all workers in commerce are ready to struggle in complete unity to win the demands set out in a document which, like the resolutions adopted, was passed unanimously.

Among the questions which often arose was the problem of the defence of peace. A memorandum to the Foreign Ministers Conference in Geneva was adopted and the Conference named a delegation to take the document on June 9.

The formation of the Trade Unions International of Workers in Commerce was also approved unanimously, even by those delegates who, for various reasons, could not promise the affiliation of their organisations. Several of them indicated that this affiliation would be forthcoming very soon and signed statements with the new TUI.

The new Trade Unions International (the eleventh) has 24 member-organisations and organises 8,508,650 workers.

Maria Radova (Czechoslovakia) was elected President and Micha Routshkin (USSR) and Pierre Delon (France) Vice Presidents. Demonico Banchieri (Italy) was elected General Secretary and Dimitriu Usiteru (Rumania) Secretary.

PROTEST AGAINST FAULTY VERIFICATION IN BOMBAY

The Lever Brothers Employees Union (AITUC) has protested to the Union Labour Minister and the Bombay Labour Minister about the faulty method of verification of membership done by the Labour Commissioner, Bombay State, into the membership claims of the AITUC and INTUC unions in the establishment of Hindustan Lever Ltd., Bombay.

Recording an impressive list of bogus membership, the INTUC's Hindustan Lever Employees Union claimed on its rolls 1,163 workers as against 209 belonging to the Lever Brothers Employees Union.

The Lever Brothers Employees Union has the backing of the overwhelming majority of the workers and is recognised by the management. Following the claim of the INTUC union for recognition, the management sought the help of the State Labour Department to verify the respective claims of the two unions.

As against the demand of the AITUC union for a thorough checking of the membership of both the unions, the Bombay Labour Commissioner insisted only on conducting what is called a "sample checking".

Even on this sample check, it was found that out of 58 "common" members, 41 declared themselves to be members of the AITUC union. Of 12 members examined, as challenged by the INTUC union, 11 confirmed their membership of the AITUC union. On the contrary, inquiry into the membership of the INTUC union, on sample check of 16, revealed that 5 declared themselves members of the AITUC union, two declared they belonged to none.

The AITUC union therefore demanded that the rolls of the rival union deserves closer scrutiny but this was not done by the Labour Commissioner, Instead, he granted a membership of 1,163 to the INTUC union.

The Lever Bros. Employees Union has therefore approached the Union Labour Ministry to enforce strictly the procedure for verification of trade union membership adopted at tripartite meetings.

The management of Hindustan Lever Ltd., has also not acceded to the demand of the INTUC union to accord recognition to it.

●

AITUC REPRESENTATIVE ON DEVELOPMENT COUNCIL

As per the nomination of the AITUC, Com. P. Balachandra Menon, General Secretary, Kerala State Trade Union Council and Vice President, AITUC, has been appointed by the Government of India as a member of the Development Council for the scheduled industries engaged in the manufacture and production of electric fans, electric lamps, electronic equipment, household appliances (such as electric irons, heaters and the like), storage batteries, dry batteries, telephones, telegraphic equipment, etc.

Ramanujam's New Theory To Justify Disruption

If a "theory" was found wanting by arch-disruptionists of the working class movement to justify their heinous acts, Shri Ramanujam, President of the INTUC, has offered one.

The INTUC President is hammer and tongs against the first basic principle of healthly trade unionism — ONE UNION IN ONE INDUSTRY.

Speaking to pressmen in Dhanbad, Shri Ramanujam said, "he did not believe in the principle of 'One Union in One Industry' so long as Communists were in the trade union field." (Indian Worker, June 29).

His theory is that "Communists were no trade unionists as they did not really believe in democracy."

And with his amazing sense of prognostication, Shri Ramanujam predicted: "in the present circumstances, 'One Union in One Industry' would only lead to dictatorship."!

The INTUC President explained his new theory as follows:

"Since the party system was inevitable for growth of democracy, existence of more than one trade union in an industry could similarly help the growth of healthy trade union movement in the country, but, he doubted, if even here the communists could provide that healthy opposition.

"The slogan of 'One Union in One Industry' had been voiced more by the Communists who did not believe in democracy in the country, he stated." (Indian Worker)

It would be interesting, in this connection, to note what Shri V. V. Giri, no friend of the Communists, wrote about "One Union in One Industry":

"Multiplicity of unions in the same establishment leads to inter-union rivalries, which ultimately cut at the root of the movement. It weakens the power for collective bargaining and reduces the effectiveness of workers in securing their legitimate rights. If one union agrees with the employer on a particular issue, another union disagrees and also raises a new issue. There should, therefore, be only one union in one industry.

"The employers and Government must fully realize that trade unions have come to stay as part and parcel of the economic system and are necessary for the advancement of national economy. It is the trade union alone that represents the grievances and demands of workers, and if industrial peace is to be secured it can only be through an understanding between employers' and workers organisations. Mutual understanding in this regard would be greatly facilitated if the principle of 'One Union in One Industry' is fully established and adhered to in practice." (Labour problems in Indian Industry pp. 54-55).

The Tripartite Labour-Conference and Committees have also so far upheld this principle of 'One Union in One Industry.'

Shri Gulzarilal Nanda, the Union Labour Minister, spoke at the Nainital Conference: "Trade Union conflicts have been undermining the strength and solidarity of working class-(The ideal condition would to have a unified trade union structure throughout industry."

As a first step in mitigating inter-union rivalries and to pave way for greater TU unity, an Inter-Union Code of Conduct was also adopted at Nainital in May 1958.

The INTUC was also a signatory to the Inter-Union Code of Conduct, but one wonders, after Shri Ramanujam's new pronouncement, where the INTUC stands in relation to the Code of Conduct!

It is, of course, understandable that the INTUC should have some justification for disruption of the united federations of trade unions in the banks, petroleum, etc., and lately in the defence establishments. But the mass of workers know and judge them by their disruptive acts and disruption clothed in finely-meshed theories cannot but show what it is.

WORKERS IN BOMBAY ARE UNDER-NOURISHED— SAYS GOVT. REPORT

Recently a survey of families of industrial workers in a mill area in Greater Bombay was carried out by the Department of Nutrition of the Government of Bombay.

The results of this study have been published by the Government in the "Report on the Diet and nutrition Studies in an Industrial Area (Kurla, Bombay)."

According to the report, the average dietary intake as well as the nutritional status of this industrial population is not satisfactory. Although the diet is adequate in caloric yield i.e., quantitatively, by inclusion of more protective foods, the main symptoms of deficiency, particularly among women and children, are indicative of generalised undernourishment, hypovitaminosis—A and iron deficiency.

MINIMUM WAGES FIXED

The Government of Bombay has with effect from July 1, 1959 fixed Rs. 1.50 nP as the minimum rate of wages to be paid to adult employee engaged in stone-breaking or stone crushing operations in the mines situated in the Sourashtra area. Children, however will get only half the wages paid to the adult employee.

FOURTH CONGRESS OF YUGOSLAV TRADE UNIONS

The report submitted by Svetozar Vukmanovic-Tempo to the Fourth Congress of the Confederation of Trade Unions of Yugoslavia held at Belgrade on April 23 described the role of Yugoslav trade unions thus: "The trade unions are more and more an organisation representing the political foundation of workers' self-government, a mass organisation enabling the working class successfully to realize its right to management of society and the economy."

The report dealt with the function and tasks of the Yugoslav trade unions under the new conditions, the development of the economy and the standard of living under the conditions of workers' management, the role of trade unions in economic development, principles of remuneration according to work, the workers' living and working conditions, workers' education and training, organisational problems and the expansion and intensification of international ties.

Apart from the emphasis laid on the development of what is called the "system of workers and social self-management" which is a characteristic of the pattern of society being built in Yugoslavia, the report highlighted the necessity of improving the system of remuneration in enterprises according to work output.

It was noted in the report that "a comparison of real earnings between different branches and enterprises also indicates that the level of earnings is not formed in accordance with the productivity recorded, nor is increased productivity in relation to the earlier period reflected in a growth of earnings in every case. Due to this, establishment of the level of productivity as the criterion for formation of earnings represents one of our immediate tasks."

Dealing with real earnings of workers, the report stated that progress made in increasing the real earnings of the workers has been satisfactory.

President Tito in his address to the Congress also stressed that the trade unions play a particularly important role with regard to the correct remuneration of the workers. He said: "We are striving to increase productivity of work, which would be impossible to achieve if remuneration were to be based on indiscriminate equal pay and not on the basis of merit."

Trade unions, President Tito said, should "play an important part in regulating the relations between various enterprises and should endeavour to eliminate tendencies towards localism, which appear here and there, particularly in the system of decentralisation of management."

The Congress conducted its work through three commissions: Commission for Standard of Living, Commission for Organisational-Political Questions and Commission for Education, Culture and Sports.

Dealing with questions relating to employment of women, the Congress pointed out that "trade union organisations are entitled to engage in work directed at surmounting conservative conceptions concerning the social position of women, as such conceptions often lead to difficulties in the employment of women and their advancement in their jobs."

The Congress also laid down tasks on social and health protection, internal relations in work collectives, satety at work, construction and allotment of flats, recreation facilities, workers' education, etc.

On international co-operation, a document adopted by the Congress expressed "readiness to continue supporting all peace-loving and constructive actions, all tendencies which encourage closer contacts among trade unions of all countries and progressive social and economic development in general, while at the same time, continuing to offer decisive resistance to all imperialistic, colonial and anti-socialist actions."

The Congress was attended by about 1600 delegates and guests, and also sixty delegates representing 33 labour organisations in 28 countries. Com. K. G. Sriwastava, Secretary, AITUC besides delegates of INTUC and HMS were present from India at the Yugoslav TU Congress.

35000 WORKERS ON STRIKE IN MONTEVIDEO

Thirtyfive thousand public service workers in Montevideo (Uruguay), South America, went on one-day token strike on June 10, demanding higher wages. The strike completely paralysed port services, State airlines, State banks and telephone exchanges.

BUILDING WORKERS ON STRIKE IN FINLAND

In Finland, 14,000 building workers began a strike on June 1 for a new collective agreement and increased wages and piece work as well as reduction in working hours. The working conditions of 50,000 building workers are affected.

The strike is being supported by workers in other industries.

Railwaymen in Finland have decided to subscribe one hour's wages every fortnight to the strike fund of the building workers and have also asked the leadership of their union to grant financial aid to the strikers.

PRINTERS' STRIKE IN ICELAND

A strike which started at the beginning of the month of June paralysed printing shops bringing out papers and books, in Iceland.

After nine days the printing workers won their demands—a 15 per cent increase in wages and a reduction in working hours.

Not a single paper appeared in Iceland during the strike.

ALL-INDIA TEXTILE CONFERENCE POSTPONED

The All-India Conference of Textile Workers Unions convened in Bombay by the Mumbai Girani Kamgar Union from July 17 to 19 has been postponed.

No fresh dates have been announced as yet by the Mumbai Girani Kamgar Union.

Union Reports

"DEATH BENEFIT FUND" STARTED BY BURNS EMPLOYEES UNION

A function was arranged by the Burns Employees Union, Howrah, on July 3 to distribute the first payment under the "Death Benefit Fund" started by the union.

Every member of the Fund has to pay Re. 1 as admission fee and 50 nP as monthly subscription. In the year 1958-59, a sum of Rs. 700 each was paid out of the fund to five nominees of deceased employees.

At the meeting held on July 3, the initiative shown by the union in starting the "Death Benefit Fund" was appreciated by the State Labour Minister, Shri Abdus Sattar as well as by Com. Hrishi Banerjee, Secretary, W. Bengal Committee of the AITUC and Com. Sibnath Banerjee (HMS), among others.

★

COIMBATORE TEA AND COFFEE WORKERS UNION, COIMBATORE

The 11th annual general body meeting of the Coimbatore Tea and Coffee Workers Union was held on June 21 under the presidentship of Com. T. Balan.

Com. M. Yesian, General Secretary of the union submitted the Annual Report.

The meeting elected an executive of 19 members with Com. M. Kuppuswami as President, Com. Parvathi Krishnan, M.P. and Com. Subbiyan Gounder as Vice Presidents, Com. M. Yesian as General Secretary, Com. T. K. John and P. Arunachalam as Secretaries and Com. M. Nanjian as Treasurer.

★

BURN'S EMPLOYEES' UNION, HOWRAH, DEMANDS EFFECTIVE IMPLEMENTATION OF MINES ACT

The 13th annual general meeting of the Burn's Employees' Union, Howrah, was held on May 21 in which resolutions regarding effective implementation of the Mines Act, abolition of contract system, registration of trade unions, housing etc. were passed. The meeting also demanded the formation of Wage Board for the IISCo. workers including its ore mines for determining the fair wages.

★

STRIKE OF PALI TEXTILE WORKERS ENDS IN VICTORY

Protesting against the dimsissal of 9 workers in the Pali textile mills, Com. Mohan Punamiya, Secretary, Rajasthan STUC, went on a hunger strike on June 4. Over 2000 workers also struck work in sympathy, despite opposition of the local INTUC union.

The hunger strike was called off on June 17, following a settlement.

★

ASSAM MOTOR WORKERS' PROTEST ACTION

Road transport workers in Dibrugarh held a demonstration on June 10 to protest against police excesses.

The demonstration was called by the Dibrugarh Branch of the Assam Motor Workers' Union.

Com. Jabbal Bahadur Chetri, an activist of the union, was tortured in police custody in Dibrugarh, when he was arrested for alleged violation of the Motor Vehicles Act.

The union submitted a memorandum to the Police Superintendent who assured that the matter would be properly investigated.

NEW HOUSING COLONY FOR FOR BHILAI WORKERS

2000 workers employed in the Bhilai Steel Project will be given plots measuring 20' x 20' each for constructing huts in north of Bhilainagar. The facility will be given to the contractors and their labourers.

There are already three colonies for workers which provide shopping centre, a primary school, a community recreation centre, dispensary and maternity and child welfare centre. Elaborate arrangements for free distribution of milk for workers' children have also been made.

All the amenities such as drinking water, sanitation and electricity are provided by the authorities and those who desire to build their own huts are also supplied with materials.

UP Employers Default P.F. Dues In Lakhs

The Additional Labour Commissioner of Uttar Pradesh claimed at a press conference in Kanpur on June 30, that within the last four or five months the arrears of Provident Fund due from employers had been reduced by about Rs. 4 lakhs to about Rs. 14 lakhs.

The record of the employers in defaulting payment of P.F. dues has been a permanent scandal for some time now and from the fact that even now lakhs of rupees yet remain unrealised shows that the situation has not improved much.

Shri V. R. Natesan, Regional Director of the State ESI Scheme, also stated that a sum of Rs. 3.5 lakhs approximately was due from 95 employers in the State of U.P. on account of contributions under the ESI Scheme. Of these 38 employers belonged to Kanpur.

It was also revealed at the Labour Commissioner's press conference that the Workers' Education Scheme could not be introduced so far, since the employers were unwilling to grant leave with wages.

A survey recently conducted at Kanpur into two slums, it is learnt, showed that of the total of 205 families covered, 188 were paying rent below Rs. 5, 16 families between Rs. 5 and upto Rs. 10, and only one family was paying Rs. 10.

It was found that 92 per cent of the families were paying less than Rs. 5 monthly rent for their dwellings, and 82 per cent of the families were not able to shift to quarters built under the Subsidised Industrial Housing Scheme, as the rent of Rs. 10 per month is regarded excessive by them.

ONWARD WITH FUND CAMPAIGN !

News from Mahagujerat about the remarkable progress of the Building Fund drive gives the example of the Woollen Mill Kamdar Union, Jamnagar, with a membership of only 800, having collected already a sum of Rs. 607.25 in the first round.

This is worth emulating.

From Punjab, the General Secretary of the State Committee of the AITUC informs us that collections so far total Rs. 4,000 and the drive is continuing.

Ferozabad, a centre of bangle industry in UP, has decided to present a sum of Rs. 2,000.

In Kerala, despite all the troubles being created by communal and opposition groups, the unions are actively campaigning for the Building Fund. The trade unions in one district — Ernakulam — in a recent meeting targeted for a collection of Rs. 10,000.

In Rajasthan, in connection with the campaign, a short history of the AITUC and biography of Com. Dange has been published in Hindi.

Our unions in many centres and industries are engaged in conducting heroic actions in defence of the interests of the working class. With the increase in foodgrain prices and other essential commodities and the employers' offensive against our trade union rights and living conditions, our unions have got to be in the forefront of the struggle the workers are forced to wage in defence of their vital interests.

In launching these struggles and in conducting them to victory, it should not be forgotten that we build our organisations and strengthen ourselves through these very struggles. The drive for the AITUC BUILDING FUND will essentially remain a part of the all-round struggle which the workers wage to advance their living standards.

We wish to state this here because there might be a tendency on the part of some unions to take up the Fund campaign only when they get some "respite" from the pressing actions they are busy with. We are sure all unions will consciously fight such erroneous tendencies and take upon the Building Fund campaign as part of their day-to-day work.

As we pointed out in an article earlier, the campaign for the Building Fund is not just to realise the targeted figure of Rs. 2 lakhs but a campaign towards further organisational consolidation of the trade union movement.

When the workers in Bengal, in the battle for food, downed tools by hundreds of thousands, when the workers in textiles, mines, engineering and other industries all over the country are waging determined battles in defence of their interests, it is the AITUC and its unions which have stood in the forefront. And that is but the tradition of the AITUC — staunchest defender of working class interests for the last forty years!

That is why the collection of the AITUC BUILDING FUND and overfulfilling the target would be another milestone on the onward march of the working class in India.

HMS-UTUC AGREEMENT

Joint Work Planned

The *Hind Mazdoor*, official organ of the Hind Mazdoor Sabha (HMS) has reported in its June issue that the HMS and UTUC have decided to "work together with the ultimate object of reaching unity."

The agreement was signed at a meeting of HMS and UTUC representatives held at Calcutta on June 6.

Following is the text of the agreement:

"The representatives of the UTUC and the representatives of the Hind Mazdoor Sabha here at a joint meeting held on 6th June 1959 in Calcutta arrived at the following decisions.

"(1) The UTUC and HMS decide to work together with the ultimate object of reaching unity.

"(2) For this purpose there shall be joint committees formed at the All-India level and at State level.

"(3) The All-India Committee shall consist of (i) Tridib Chaudhury (UTUC), (ii) Sisir Roy (UTUC), (iii) S.C.C. Anthony Pillai (HMS) and (iv) Shri Bagaram Tulpule (HMS).

"(4) The Joint Committee of the West Bengal shall consist of: (i) Jatin Chakraverty, (ii) Nepal Bhattacharya, (iii) Anil Das, (iv) Deven Sen, (v) Jatin Mitra and (vi) Sibnath Banerjee.

"(5) These decisions have been arrived at with the approval of the Working Committee of the HMS and the UTUC."

The agreement was signed by S. C. C. Anthony Pillai and Deven Sen on behalf of the HMS and Jatin Chakravarty, S. Roy and Bhutnath Day for the UTUC.

The UTUC which has signed the present agreement belongs to Jatin Chakraverty group. It will be remembered that following a split a few months ago, there exists two UTUCs —one led by Jatin Chakraverty and the other led by Biswanath Dubey.

Edited, printed and published by K. G. Sriwastava at the New Age Printing Press, 5, Jhandewallan, Rani Jhansi Road, New Delhi.

New Age Printing Press, Rani Jhansi Road, New Delhi 1.

14 AUG 1959

No. LC-1(31)/59
Government of India
Ministry of Labour & Employment

From

Shri T.C. Gupta, B.A., LL.B.,
Section Officer.

To

Shri S.A. Dange, M.P.,
No.4, Ashok Road,
New Delhi.

Dated New Delhi, the 13 Aug 59

Subject:- 17th Session of the Indian Labour Conference, Madras, 27th to 29th July 1959 - T.A. Bill.

Dear Sir,

I am directed to forward herewith your Travelling Allowance Bill (in duplicate) for Rs. 140. 50 NP (Rupees one hundred, forty and Naye Paise fifty only) in connection with the above Conference and to request that it may kindly be returned to this Ministry duly signed at two places marked 'x' in pencil. The certificate attached to the bill may also kindly be signed and returned along with the bill. On the original copy of the bill, signature at one place may be affixed on a revenue stamp.

Yours faithfully,

(T.C. Gupta)
Section Officer.

Enc: T.A. Bill
(in duplicate)

Appendix III

Draft Model Principles for reference of disputes to adjudication.

174-II

A. 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 for adjudication if there is a prima facie case of-

(1) victimisation or unfair labour practice,

(2) that the standing orders in force have not been properly followed or that the principles of natural justice have not been followed, and

(3) the conciliation machinery reports that injustice has been done to the workmen.

In all the aforesaid cases, however, if there is prima facie evidence to show that the workmen concerned have resorted to violence or otherwise committed a serious breach of the Code of Discipline, then adjudication may ordinarily be refused.

B. Collective disputes.

No dispute may, ordinarily be referred for adjudication-

(1) Unless efforts at conciliation have failed and there is no further scope for conciliation and the parties are not agreeable for arbitration.

(2) If there is an illegal strike or lockout or a strike or lockout resorted to without seeking settlement by constitutional means and without proper notice, unless such strike (or direct action) or lockout.

the case may, be is called off.

(3) If the demand relates to a claim for wages for the period of a strike, or the demand is such, which following judicial decisions the Tribunals have consitently refused to concede, e.g. the demand about recongnition of union.

(4) 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.

(5) If the matters in dispute are ponding before a Committee appointed by Government.

II. In ordering adjudication the following factors will be taken into account:-

(1) The reasonableness of demands and their justiciability.

(2) The repercussion on the other units of the same industry or allied industry.

(3) The capacity of the industry to pay or accede to demands like increased wages, etc.

(4) The standing of the union raising the dispute and the strength behind the demands.

Note:

It will be useful if 'norms' are laid down with regard to various conditions of service, welfare provisions, etc., in industries. They will be of help in deciding whether a particular dispute should or should not be referred to adjudication.

---

16 JUL 1959

C.-3

2020

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

No.

Received here at ——— H. ——— M.

X OD MADRAS 8 15 STEEXP 55 THE GENERAL SECY

ACC INDIA TRADE UNION CONGRESS 4 ASHOK ROAD NEW DEC41

111 REFER MY LETTER G NO 5 83457 N 11175972

G A 5 OR NINETH JULY 59 ASKING FOR PARTICULARS OF

ACCOMODATION AND FOOD AND PERION FOR WHICH REQUIRED BY

YOUR DELEGATES ARE UNLESS PARTICULARS ARE RECEIVED

IMMEDIATELY IT IS DIFFICULT TO BOOK ACCOMODATION ETC IN HOTELS

AM SEND PARTICULARS IMMEDIATELY. AM - INCACO

The sequence of entries at the beginning of this telegram [illegible] number (in the case of foreign telegrams only), office of origin, date, service instructions (if any) and number of words.

This form must accompany any enquiry respecting this telegram.

AGIPPAL—127 28-1-58—1,13,350 Eks.

25 JUN 1959

JTUC: 3/59-60

JAMNAGAR TRADE UNION CONGRESS,
TRADE UNION HOUSE, RANJIT ROAD,
JAMNAGAR. Dt. 23rd June, 1959.

To,
The Secretary,
All-India Trade Union Congress,
4 Ashoka Road, NEW DELHI.

Sub: Tripartite Conference for Industrial Relations
17th Indian Labour Conference.

Dear Comrade,

Re: INDIVIDUAL DISPUTES:

It has been a consistant policy of thee Labour Department of the Bombay State not to take up individual disputes for conciliation proceedings, leave apart referring them for adjudication. We, from our own experience, can state that the individual disputes are summerilly rejected by the Conciliation Officer without considering the merits of the dispute. I take the liberty to cite some specific instances of such policy:

1. Shri Ramkiklal R. Sarda vs. Jamnagar Borough Municipality: The workman was dismissed illigally. The Municipality, on a dispute being raised by the Union and when summoned before the Dist. Labour Officer, Jamnagar, resolved to reinstate him, but are not paying the workman the back-wages. The demand was for reinstatement with back wages. This dispute was referred to the Conciliation Officer by the Union for proceedings and settlement. The Conciliation Officer without entering into the merits of the case rejected the application. The workman is left with no remedy but a civil suit for which he has not got enough funds, while the Payment of Wages Act is not applicable to the Municipality.

2. Two chaukidars of the Jamnagar Mineral Sydicate have been illegally retrenched, junior being retained in service. The case being of two individuals has been rejected by the Conciliation Officer and not registered.

3. A Store-keeper of Shri Digvijay Woollen Mills, Shri Maheshwari has been illigally discharged from the services. Certain allegations regarding irregularities in the stock have been made against him, but no charge-sheet was issued nor any enquiry held. The case is not registered for conciliation proceedings.

Many similar cases can be cited.

Re: DISPUTES OF INDUSTRIES REGISTERED UNDER FACTORIES ACT, BUT EMPLOYING LESS THAN 20 WORKMEN:

The Labour Minister of the State has clearly instructed the Conciliation Officers of the region not to take the cases/disputes connected with industries/establishments with total employment less than 20 workmen, even though they may have been registered under the Factories Act.

Thus a substential number of small industries are virtually exempted from the provisions of the Industrial Disputes Act, 1947, and the workers are left at the mercy of the employers, though nowhere the law provides such descretion.

These instructions were given at his Rajkot meeting in May, '59,

Please place these difficulties beforethe I.L.C. and press for uniform policy regarding industrial disputes in all states.

Thanking you,

Yours fraternally,
For JAMNAGAR TRADE UNION COUNCIL,

INDIAN LABOUR CONFERENCE
(17th Session)

MADRAS - JULY 1959

ITEM NO. 5:- Delinking of provident fund benefits from gratuity for the purpose of granting exemption to establishments or employees covered under the Employees' Provident Funds Act, 1952 from the operation of the provisions of the Employees' Provident Funds Scheme, 1952.

MEMORANDUM

Section 17(1)(b) of the Employees' Provident Funds Act, 1952 provides that any establishment, to which the Act applies, and which provides provident fund, pension or gratuity benefits to its employees, which are jointly or separately not less favourable than those provided under the Employees' Provident Funds Scheme, may be exempted from the operation of all or any of the provisions of the Scheme. Similarly, any person or class of persons in a particular establishment covered under the Act may also be exempted under section 17(2) of the Act.

2. It will be seen from the above that in addition to provident fund and pensionary benefits, gratuity is taken into account in judging whether the retirement benefits provided by an establishment are not less favourable than the benefits under the Employees' Provident Funds Act and the Scheme, 1952.

/and gratuity and allow provi- dent fund

3. Consequently establishments which provide both provident fund/benefits on basic wages alone can continue to do so if the quantum of the total benefits allowed in the shape of provident fund and gratuity under their rules is not less favourable than the benefit of provident fund provided under the E.P.F.Act and the Scheme; and still get exemption from the E.P.F. Scheme. In the same way, such establishments may provide provident fund on basic wages and dearness allowance to keep on par with the benefits under the E.P.F. Scheme to get exemption therefrom and could, if there were no other restrictions in the Act, deprive the workers wholly or partly of the gratuity allowed in addition to provident fund benefits without jeopardizing their claim to exemption.

4. The contribution under the E.P.F. Scheme is to be calculated on the total of basic wages and dearness allowance, including the cash value of the food concession , if any, under section 6 of the E.P.F. Act. Dearness allowance and the cash value of the food concession are being paid to the workers as the basic wages alone . have ceased to be sufficient for their upkeep in the context of the current purchasing power of money. That is why provident fund is payable on the total of basic wages and dearness allowance. It is felt that the benefit of gratuity, where already allowed to workers, should not be taken away wholly or partly on the advent of provident fund.

5. It is proposed to amend section 17 of the Employees' Provident Funds Act, 1952 and the relevant provisions in the E.P.F. Scheme, 1952 to provide specifically that the benefit of gratuity, if any, should be completely ignored and that only provident fund benefits and pensionary benefits, if any, should be taken into account in assessing the level of retirement benefits under the employers' schemes against the statutory provisions for the grant of exemption from the provisions of the E.P.F. Scheme.

Indian Labour Conference (17th Session, July 1959).

Item No.5:-Proposal to revise the rates of compensation in the Workmen's Compensation Act, 1923.

Memorandum

Introduction

The Workmen's Compensation Act, 1923 was experimental in character and came into force on the 1st July, 1924. A few amendments, which were designed to remedy obvious defects or to embody improvements of a non-controversial character, were effected by the Workmen's Compensation (Amendment) Act, 1929. Proposals which involved modification of the principles underlying the Act or its more important features were referred by the Government of India to Local Governments for opinion in a circular letter in 1928. Copies of this circular letter and of the replies received thereto were supplied to the Royal Commission on Labour, who, after reviewing the question in the light of further evidence supplied to them, made a number of recommendations on the subject in Chapter XVI of their Report. One of the recommendations related to the revision of the rates of compensation as existing at that time. The rates prevailing at that time were briefly as follows:-

> For temporary disablement the scale was based on half the rate of wages, the waiting period was fixed at 10 days and the maximum period of payment at 5 years. For complete permanent disablement the sum payable was 42 months' wages; and for partial permanent disablement compensation was fixed at fractions of this amount corresponding to the loss of earning capacity, that loss being fixed for certain injuries by a schedule on the American model. For death the compensation was 30 months' wages. These scales applied to adults; for minors the compensation for temporary disablement was at the rate of two-thirds of wages up to 15 years of age, and full wages thereafter, and for permanent disablement the number of months' wages was double that prescribed for adults. For death in the case of minors a fixed small sum was payable irrespective of wages. All the other payments which were regulated by wages were subject to minima and maxima. In the case of the death of adults and all permanent disablement the maximum corresponded to a wage level of roughly Rs.83 per mensem, and in the case of temporary disablement to a wage level of Rs.60, i.e., the receipt of wages in excess of those sums did not add to the compensation. The minimum in all cases (except the death of minors) corresponded to a wage of Rs.9. The amounts were rounded off by means of a schedule of assumed wages, which had the effect of dividing workmen into 14 classes; all workmen in the same class got compensation on the same scale.

The recommendation of the Commission regarding enhancement of the rates of compensation is extracted in Appendix I. This recommendation was accepted and a Bill incorporating the decisions of the Government of India on the various recommendations of the Commission was introduced in the Legislative Assembly in 1932. The Bill was referred to a Select Committee, which made certain reductions in the amount of compensation affecting the first two and the last two of the wage classes in Schedule IV. These are shown for purposes of comparison in tabular form below:-

. . . 2

Monthly wages of the workman injured.		Compensation as proposed in the Bill for -		Compensation as modified in Committee for -	
More than.	But not more than	Death	Permanent total disablement.	Death	Permanent total disablement.
Rs.	Rs.				
0	10	600	840	500	700
10	15	600	840	550	770
100	200	3,750	5,250	3,500	4,900
200	...	4,500	6,300	4,000	5,600

The Committee stated-

> "The increase proposed by the Bill in these classes are heavy and it seemed to the majority of us impossible to ignore the fact that since the Royal Commission reported there has been a very substantial change in the price level. The Commission indicated that their proposals were based on conditions prevailing in 1929 and early 1930. Since then the prices have fallen to a much lower level and wages have been reduced to some extent. The greater part of the Schedule is based directly on wages, and therefore reductions in wages make themselves felt automatically in reducing the amount of compensation. But this does not hold good at the extreme ends of the Schedule, for the maximum and minimum are fixed sums. At the lower end particularly, the effect of a fall in the wage-level is to increase the proportion which compensation bears to the wages of those receiving it. We would observe that even with the reductions we have proposed, the minimum rate of compensation represents an increase of over 100 per cent on that given by the present Act, while the maximum compensation is increased by 60 per cent."

Schedule IV as revised by the Amendment Act of 1933 may please be seen at Appendix II. Subsequently the following changes were made in Schedule IV -

(i) In 1946, the wage limit of workers covered by the Act was increased from Rs.300 to Rs.400 and suitable rates of compensation were provided in Schedule IV for the wage group drawing wages more than Rs.300.

(ii) By the Amendment Act (9 of 1959) the distinction between an adult and a minor for the purpose of payment of compensation was removed and the rates of compensation in Schedule IV now apply to all workers covered by the Act.

Schedule IV of the Act as it stands at present may be seen at Appendix III.

1.2 The Act provides for payment of compensation for -

(1) Death.
(2) Permanent total disablement.
(3) Permanent partial disablement.
(4) Temporary disablement.

. . . .3

In case of death the amount of compensation payable varies from a minimum of Rs.500/-(in the case of workers drawing wages less than Rs.10) to a maximum of Rs.4,500 (in the case of workers in the wage group Rs.301-Rs.400).

For permanent total disablement the amount of compensation varies from a minimum of Rs.700 to a maximum of Rs.6300/-.

In the case of permanent partial disablement, the rates of compensation are not given in Schedule IV. The extent of permanent partial disablement is expressed in percentages of loss of earning capacity. These percentages are percentages of the compensation which would be payable in the case of permanent total disablement, the amount of compensation payable for which is given in column 3 of Schedule IV.

In the case of temporary disablement, compensation is paid in the shape of periodic half-monthly payments - for a maximum period of 5 years. For workers earning upto Rs.10/- p.m., the rate of payment is full wages per month. Those earning more than Rs.10/- receive payments varying from approximately two-thirds to half wages, subject to a minimum of Rs.10/- p.m. and a maximum of Rs.60/- p.m. No compensation is payable for the waiting period of 3 days, but compensation is payable for this period also if the disablement lasts for 28 days or more.

Proposal for revising the rates of compensation.

2.1 The Act at present provides for payment of compensation in lump sum except in the case of temporary disablement. Lump sums are generally frittered away and the workman is left without resources very soon. The rates of compensation were also considered to be disproportionately low, considering the considerable rise in prices since the last War. Taking these facts into consideration Government proposed in a circular letter to the State Governments in September 1955 that provision might be made in the Act for payment of compensation in the form of periodic payments in all cases, as follows:-

(i) For death:- At the rate of 40% of wages for a period of 15 years from the date of death.

(ii) For permanent total disablement.- At the rate of 50% of wages for a period of 15 years or till the date of death of the workman, whichever is later.

(iii) For temporary disablement.- At the rate of 50% of wages from the date of disablement till the date of recovery, if disablement lasts for more than 2* days.

/* N.B. It was originally proposed to reduce the waiting period from 7 days to 2 days. But by the Amendment Act (No.8 of 1959), the waiting period has been reduced to 3 days./

2.2 The comments received were of a varied nature. A suggestion was made that an assessment should be made of the cumulative effect of the revised rates on industry. This matter was considered by an inter-departmental Committee in July-August 1957. The Committee recommended that an Actuarial Committee should be appointed to assess the burden on industry of the above proposal and that the terms of reference to the Committee should be finalised in consultation with the Insurance Commissioner in the Employees State Insurance Corporation. This recommendation

. . . .4

was accepted and an Actuarial Committee consisting of the following members was set up in June, 1958:-

(1) Shri S.P. Jain, . . . Convener.
Actuary, E.S.I.C.

(2) Shri S.Krishnamurthy,M.A.,F.I.A., Member
Research Officer,
Dept. of Insurance,
Simla.

* Not able to attend the meeting.

(3) Shri H.L.Bhatia,F.I.A., Member
Actuary, Life Insurance
Corporation of India,
Zonal Officer, New Delhi.

The Committee was asked -

I. to assess the relative burden on employers of the -

(a) present liability under the Workmen's Compensation Act;

(b) liability if the benefits are increased to correspond to those in the Employees' State Insurance Act; and

(c) liability in respect of benefits as proposed in the Government's circular letter of September, 1955.

II. to recommend schedules -

(a) for assessment of lump-sum payments by employers, so that the Employees' State Insurance Corporation or some other Central Agency could take the liability for periodical payments in case of death or permanent disablement in respect of alternatives (b) and (c) under item I above; and

(b) for payment of a premium as percentage of wage roll of persons covered, for different industries for alternatives (b) and (c) under item I above; and

III. to assess the percentage increase in liability by inclusion of persons above the wage of Rs.400/- and upto Rs.500/-.

2.3 The Committee's report was received early in February 1959: a copy thereof is placed at Appendix IV. A statement showing in brief the findings of the Committee is placed at Appendix V.

2.4 In August, 1957 a Study Group consisting of 6 members was constituted under the Chairmanship of Shri V.K.R.Menon, Director, I.L.O.(India Branch), inter-alia, to study how the existing social security scheme and any other privilege given to workers could be combined in a comprehensive social security scheme. The Group has recommended integration of the Employees' State Insurance and the Provident Fund Schemes. In regard to the Workmen's Compensation Act, the Group has recommended -

" . . . . Under conditions as exist today, the Group feels that the Schedule can be revised so that the maximum liability on the employer can, in each case, be doubled. This is recommended and, thereafter, actuarial calculations should be made as to what scale of recurring pensions may be provided from the lump sum payments of these amounts received by the Corporation. It is

. . . .5

desirable, however, to ensure a simple form of pensionary benefits [illegible], in any case, will not be as great as those provided in the E.S.I. Act. We have suggested the E.S.I. Corporation as the agency for distributing these pensions as it is already doing this type of work in regard to pensions under the E.S.I. Act. It is understood that the Corporation can make suitable arrangements for remitting sums due to persons or dependants living in outlying areas where the Corporation may not have its own offices".

[Relevant extracts from the report of the Group is at Appendix VI_7

Actuarial calculations have been made as regards the monthly payments that can be made available under -

(i) the existing lump-sum payments under the Act;

(ii) the recommendations of the Study Group on Social Security by doubling the employers' liability.

These are shown in Appendix VII.

2.5 There are thus the following alternatives for consideration in connection with the question of revising the rates of compensation in the Workmen's Compensation Act -

(i) Payment of compensation on the scale provided for in the E.S.I. Act;

(ii) Payment of compensation as proposed in Government's circular letter of September 1955 mentioned earlier; and

(iii) Payment of compensation as per recommendations of the Study Group on Social Security.

The comparative table at Appendix VIII shows the monthly payments that will be admissible under the existing lump sum payments and the three alternatives mentioned above. The table at Appendix V shows that the employers' liability will increase 2½ times to 3 times if the first alternative is adopted, 2 times to 2½ times if the second alternative is adopted, and 2 times if the last alternative is adopted. It is for consideration as to which of these alternatives will be adopted.

2.6 The proposal for replacing the lump sum payments by pension payments raises also a number of other issues which are mentioned below.

(i) <u>How the pension scheme should be administered</u>.

One way is to require the employer to deposit the compensation amounts in lump sum with the Commissioner for Workmen's Compensation concerned, who would arrange for periodic payments. Another way is to arrange for these payments through a separate agency. The Study Group on Social Security has recommended the E.S.I.C. as the agency for distributing the pensions as it is already doing this type of work in regard to pensions under the E.S.I.Act.

(ii) <u>How the employers should be required to discharge their liability</u>.

The question here is whether the employers should be required to discharge their liability by making a lump sum deposit in respect of each case or whether they should be required to make payments in the form of periodic

. . . .6

contributions related to the wage bill. In this connection it may be pointed out that in September, 1945 the Government of India circulated a proposal to the then Provincial Governments for the amendment of the Workmen's Compensation Act with a view to providing employment injury benefits similar to those provided under the E.S.I. Scheme to workers not covered by the Scheme, but covered by the Workmen's Compensation Act. The broad features of the scheme were -

(i) Imposition on the State Governments the obligations to pay employment injury benefits to workmen covered by the W.C.Act, but not covered by the E.S.I.Scheme.

(ii) Utilisation of the E.S.I. Corporation as an agency for payment of these benefits.

(iii) Payment of benefits through a specially created Workmen's Compensation Fund.

(iv) Collection of premia from the employer in two manners:

(a) from Category I employers (i.e., principal employers employing more than an average of 1,000 workmen a day) in the form of a monthly premium, and

(b) from Category II employers (i.e., principal employers employing less than an average of 1,000 workmen a day) in the form of a lump sum payment calculated to cover the periodical or other equivalent lump sum payments to be made by the Fund to injured workmen.

The main drawback from which the scheme suffered was that it did not give the benefit of compulsory insurance to the small employers who are more in need of it. Payment of large amounts of compensation in the form of lump sums in the case of small employers may result in closure of business. To meet this difficulty one suggestion was that the category I treatment should be extended to the largest number of establishments. Even after this has been done, there will still remain a sizable number of employers who are not insured for one reason or the other. In their case, therefore, there will have to be provision for deposit of compensation in lump sum, the actuarial value of which will have to be laid down. The question that arises is that the Corporation could undertake to make payments only after realising lump sums where employers are not compulsorily insured. It might be desirable that only claims in respect of fatal cases or cases resulting in permanent disablement (whether total or partial) should be made through the Corporation. The employers should make payment themselves for temporary disablement.

(iii) Should the contribution to be charged from employers be -

(a) a fixed weekly contribution for each workman [as in U.K. National Insurance (Industrial Injuries) Act] or

(b) a flat percentage of the wages ranking for compensation, for all workmen, or

(c) a varying percentage of the wages ranking for compensation taking into account the industry in which the employer is engaged and/or the occupation of the workman.

. 7

174-II

A suggestion was made that it would be more practicable to have a uniform rate of contribution, subject to the following-

(i) Each employer covered should be required to pay each month a contribution equal to a uniform specified percentage of the wages distributed by him in cash or in kind in the previous month to his workmen. (A list of the workmen should be furnished to the Corporation to enable it to verify from independent sources, if possible, that all workmen have been included in the wage-payment figures).

(ii) The claims in respect of the workmen of each employer should be entered at the Centres in individual accounts of the employers. The claims should include the payments for temporary disablements as well as the actuarial equivalents of any pensions which become payable by a death or assessment to permanent disablement.

(iii) At the close of the year the accounts of the Corporation at the Headquarters will show the excess of the contributions received over the amounts disbursed in -

(1) Cash benefits for temporary disablement.

(2) Actuarial reserves in respect of death or permanent disablement claims.

(3) Cost of providing medical care and administration including investigation expenses for claims.

The excess should first be used for making any necessary transfer to reserve and for making provision for outstanding claims and debts.

(iv) The surplus left should be divided among employers, in whose case the value of the claims as calculated under (ii) above was less than the contributions paid, in proportion to such excess, subject to no refund being admissible to small employers paying contributions below a specified limit of say Rs.200 and subject to provision being made for marginal cases so as to provide no sudden difference in treatment between employers paying higher amounts near the minimum limit.

This scheme has the following advantages -

(a) All but the smallest employers get the benefit of any good claim experience to a substantial extent and this will keep them alert regarding the safety measures, first aid and medical care of workmen.

(b) Employers whose risk is low get the benefit of their good experience to a considerable extent.

(c) Employers with a heavy risk or bad claims experience pay relatively larger amounts, but even their final contribution is limited to the percentage originally charged.

After a few years' working when the experience furnishes necessary statistics, either merit rating or a flat just adequate rate can be adopted if considered preferable.

This matter has also been considered by the Actuarial Committee, which has prepared a system of contributions graduated according to risk. To quote from their report-

. . . . 8

"It is obvious that despite preventive measures there are great inequalities in employment injury risks between different industries and units in the same industry due to natural causes such as differences in processes, machinery etc. Contributions may, therefore, be fixed according to risk; for this purpose the principle of 'merit rating' or experience rating' is widely applied. Under it an average premium based on an assessment of the natural risks of the class is established for each class of undertaking. Variations, up or down, are made in the premium charged from each undertaking according either to the number and severity of accidents occurring in it or to the appraisal of its equipment and organisation, special credit being given for the installation of safety devices. Apart from the incentive of lower premium, this process of merit rating itself serves to draw the attention of the employer to the possibilities in the direction of accident prevention. In India the need for such incentives is very great, since the enforcement of statutory provisions regarding installation of safety devices is not always fully effective. Thus, the pooling of risks, accepted in most social security schemes is, to a considerable extent, intentionally ignored in a great majority of employment injury schemes. In most of the European countries, Newzealand and U.S.A., contributions are graduated according to risk. However, the application of the principle of merit rating in a scheme of compulsory social insurance has a serious objection. Preventive measures can affect employment injury risk only to a moderate extent; most of the inequalities in risk are due to natural and inevitable circumstances, under which the workers have to work. In the case of a national insurance scheme, such as we are considering here, this raised an ideological question whether the high risk in an industry or undertaking should be borne individually or by the whole economy through prescribing uniform contributions not graduated according to risk. There is a definite tendency to substitute uniform contributions for those varying with the degree of risk involved or at any rate to restrict risk differen-tiation to a few categories only. In countries like Bulgaria, U.S.S.R., where employment injury benefits form a part of a coordinated social security scheme granting other types of benefits e.g.,sickness, pension, the contribution is composite and uniform. In Austria and U.K. where there are special schemes of employment injury, contribution rates fixed by law do not vary with the risk. In Austria, contributions for non-agricultural workers are equal to 2% of wages in the case of manual workers and to 0.5% of salaries in the case of salaried employees; in the case of agriculture it is a fixed percentage of land tax. In U.K. contribution is fixed at a flat rate, which, compared to women and youths, is higher for men. Considering the stage of industrial development in India, while it may not be desirable to have one uniform rate of contribution for all industries, it may equally be undesirable to have contributions on merit rating system based on an assessment of individual risk of each undertaking. It may be appropriate to lay down premium for an industry depending on the level of the risk for the industry as a whole. It is on this basis that premium rates suggested below have been worked out." 9

Supplement to Trade Union Record, May 20, 1959

MEMORANDUM ON INDUSTRIAL RELATIONS

Following is the text of a memorandum prepared by the Union Labour Ministry and circulated to participants in the 17th session of the Indian Labour Conference, to elicit their views on Government's proposals. *(See Circular on page 8).*

Introduction

1.1 It will be recalled that at its last session held at Nainital in May, 1958, the Conference discussed at considerable length several matters relating to industrial relations and reached agreed conclusions in respect of —

(a) Suspension of adjudication;
(b) Works Committees;
(c) Grievance procedure;
(d) Mitigation of the evils of trade union rivalry;
(e) Recognition of trade unions and verification of trade-union membership;
(f) Evaluation and implementation of awards, etc.;
(g) Appointment of District Judges on Industrial Tribunals;
(h) Exclusion of hospital staff, etc., from the purview of the Industrial Disputes Act; and
(i) The right of workers to go on strike in consequence of an illegal action by the employer.

1.2 The progress of action taken on the recommendations made by the Conference in respect of the above matters is indicated in the Memorandum on item 1 of the agenda for the present session. It may also be noted that a number of proposals for the amendment of the Industrial Disputes Act were placed before the 17th Session of the Standing Labour Committee held at Bombay in October, 1958. These proposals were, as desired by the Standing Labour Committee, thoroughly discussed by a special committee in January, 1959. The recommendations of the special committee are being looked into. In the meantime, the Ministry of Labour and Employment have been receiving numerous suggestions for changes or modifications in the existing law and procedure governing the settlement of industrial disputes, recognition of trade unions and allied matters, with a view to strengthening the basis of labour-management relations in the country. The suggestions have emanated not only from the employers' and workers' organisations but also from the State Governments as well as the employing Ministries at the Centre. The Ministry of Labour and Employment are naturally anxious to have the considered views of the Conference on these matters before they make up their mind as to what should be done. The recommendations of the Conference will also be of appreciable assistance to such of the State Governments as are contemplating legislation within their own spheres of action. Incidentally, the proposals outlined in this Memorandum do not, except where specifically indicated, represent the views of either the Ministry of Labour and Employment or the Government of India as such.

2.1 It would be worthwhile to take note of certain significant developments that have taken place since the last session of the Conference and which provide the necessary climate for a dispassionate discussion of the problems raised in this Memorandum. In the first place, the unreserved acceptance of the Code for Discipline in Industry by the employers and workers has had a perceptible influence on the trend of industrial relations as revealed by the statistics of industrial disputes for 1958. While there was a very

minor increase in the number of disputes during the second half of the year as compared to the first half (from 781 to 783) the number of workers involved and the number of man-days lost recorded an appreciable decline from 5,11,237 to 4,31,183 and from 45,19,087 to 30,73,516 respectively. Secondly, the evaluation and implementation machinery at the Centre and in States has been, generally speaking, functioning effectively, thus leading to the elimination of a number of misunderstandings between employers and workers and also to a better appreciation of the difficulties of one party by the other. Thirdly, the faithful observance of the Inter-union Code of Conduct by the four all-India organisations of workers should, if it has not done so already, result in a better atmosphere in which the employers would find it easier to carry on negotiations. Government also stand to gain by this in as much as the process of verification of trade union membership will not be complicated by extravagant claims of strength.

2.2 Encouraging as these trends are, there is no denying that there are still many loop-holes to be plugged before it can be affirmed that the foundations of a rational system of labour-management relations have been securely laid. Nor can there be any finality in a field which is subject to the influence of continuous and swift changes in the country. Problems will have to be tackled and solutions found for the same as and when they come up to the surface. It is with this at the background that the Conference will have to consider the matters raised in this Memorandum.

2.3 For the sake of convenience, the subject can be discussed under two broad headings, viz., A. Machinery for collective bargaining and the settlement of industrial disputes, and B. Problems relating to trade union organisation.

A. MACHINERY FOR COLLECTIVE BARGAINING AND THE SETTLEMENT OF INDUSTRIAL DISPUTES

(i) Recognition of unions

3.1 Collective bargaining can derive reality only from the organised strength of the workers and a genuine desire

on the part of the managements to co-operate with the representatives of the former, in exploring every possibility of reaching a settlement. The question naturally arises as to who should represent the workers in direct negotiations with the employers. The general consensus of opinion, as confirmed by the discussions at the last session of the Indian Labour Conference, is that time is not ripe for introducing any element of compulsion and that emphasis should be placed on the evolution of certain conventions for the voluntary recognition of unions by employers. With this end in view, the Conference recommended at its last session, the following criteria :

(i) Where there was more than one union, a union claiming recognition should have been functioning for at least one year after registration. Where there was only one union, this condition would not apply.

(ii) The membership of the union should cover at least 15 per cent of the workers in the establishment concerned. Membership would be counted only of those who had paid their subscriptions for at least three months during the period of six months immediately preceding the reckoning.

(iii) A union might claim to be recognised as a representative union for an industry in a local area if it had a membership of at least 25 per cent of the workers of that industry in that area.

(iv) When a union has been recognized, there should be no change in its position for a period of two years.

(v) Where there were several unions in an industry or establishment, the one with the largest membership should be recognized.

(vi) A representative union for an industry in an area should have the right to represent the workers in all the establishments in the industry, but if a union of workers in a particular establishment had a membership of 50 per cent or more of the workers of that establishment, it should have the

right to deal with matters of purely local interest such as, for instance, the handling of grievances pertaining to its own members. All other workers who were not members of that union might either operate through the representative union for the industry or seek redress directly.

(vii) Only unions which observed the Code of Discipline would be entitled to recognition and the procedure for recognition should form a part of the Code of Discipline.

3.2 It is rather premature to attempt an estimate of the impact of this recommendation on the problem of recognition and the extent to which the criteria referred to above are being adhered to. In this connection, the All-India Trade Union Congress feels that where the claims of rival unions for recognition cannot be settled otherwise, the simple method of determining the representative character is to hold a ballot of the workers in the plant or area or industry concerned. A provision on these lines has been made in the Kerala Industrial Relations Bill, 1959, which confers a statutory right on trade unions fulfilling certain conditions to be recognised by the employers or failing that through certification by the registering authority. According to Section 12(1) of the Bill "A recognised trade union shall be entitled for the purpose of collective bargaining to be certified as a negotiating agent of workmen in relation to an appropriate unit if that trade union has the support of a majority of the workmen of the establishment or industry comprising the appropriate unit, or where there is no union having such majority, that union which has the largest support of the workmen in comparision to any other recognised trade union shall be entitled to be so certified." Section 18 of the Bill gives the right to a recognised union having at least 20% membership to appeal to the State Industrial Relations Board against the order issued by the registering authority under Section 12. The Board is empowered *inter alia* to order a referendum of the workmen concerned to be taken by secret ballot and dispose of the appeal in the light of the result of the referendum. It may be mentioned in

this connection that at the last session of the Conference it was agreed that the method of election or referendum was not suitable for solving the question of recognition but that the criterion should be paid membership of standing over a specified period.

3.3 The Conference may consider the merits of the procedure proposed in the Kerala Bill for the certification of the negotiating agent. It may also examine the need for and the desirability of making consequential modifications in the criteria for recognition as adopted at the last session.

(ii) Works Committees

4.1 One of the measures envisaged by the Industrial Disputes Act for securing and preserving amity between employers and workmen was the establishment of Works Committees at the plant level. The steps that should be taken to ensure the satisfactory functioning of the Works Committees were considered at the last session of the Conference. It was felt that the problem required fuller examination. Accordingly, efforts have been made to ascertain the experience of other countries, in this direction and the position is explained in Appendix I. The Chief Labour Commissioner (Central) has also made a critical analysis of the functioning of Works Committees in the Public sector undertakings in the Central sphere, *vide* Appendix II. Besides, Government have requested the N. C. Corporation, Bombay to make a close study of the functioning of Works Committees in industrial undertakings in Bombay region, as well as in some other areas. The Public Sector Conference held in January, 1959, also devoted some thought to this question.

4.2 While the enquiry entrusted to the N. C. Corporation is likely to take some time to be completed, it appears desirable for the Conference to discuss the problems relating to Works Committees and try to lay down at least some broad principles. The function of the Works Committees as defined in Section 3 of the Industrial Disputes Act is too wide. The Conference may like to specify the type of subjects that might usefully be discussed by these Committees. Certain points may be borne in mind in this connection. Firstly,

any mixing up of the functions of Works Committees and the Joint Management Councils under the 'Worker Participation in Management' scheme has to be avoided. Secondly, the different roles of the Works Committees on the one side and the trade unions on the other, need to be clearly demarcated. Matters, like wages, for instance, which are generally conceded to fall within the purview of trade unions, may not be discussed by the Works Committees. Thirdly, the information that would be made available by the I.L.O., as stated in paragraph 8.4 of Appendix I, may be utilised on drawing up the guiding principles for the formation and functioning of Works Committees.

4.3 *The Conference may like to take note of the further information relating to Works Committees that is being collected and also recommend the analysis of this material by a small tripartite Committee which could also draw up certain "guidance principles."*

(iii) Validity of agreements reached through direct negotiations between the parties.

5.1 Section 18(1) of the Industrial Disputes Act provides that a settlement arrived at by agreement between the employer and workmen otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. Sub-Sections (1) and (2) of Section 19 of the Act prescribe the period of operation of such settlements. Sub-Rule (2) of Rule 58 of the Industrial Dispute (Central) Rules, 1957, specifies the signatories to such agreements. The Act and the Rules do not, however, make any reference to the kind of unions with which the employer can enter into negotiations. Consequently, the agreement concluded by the employer with one trade union can very well be repudiated by other unions. The Delhi Administration have drawn attention to specific cases where such repudiation has taken place and where the Industrial Tribunal has held that such agreements could not be binding on unwilling parties. A satisfactory solution to this problem can be found only in the final settlement of the isssue of recognition. Assuming that the managements would normally conclude

agreements only with representative unions, it is for consideration whether provision on the following lines should be made in the Industrial Disputes Act and the Rules made thereunder :

(i) Only an agreement which is concluded between the employer and a representative union or the duly elected representatives of his employees can be registered and thereby become binding on all the employees concerned.

(ii) The draft agreement should be displayed on the notice board of the establishment concerned for the information of the general body of workers.

(iii) Any objections or modifications to the proposed agreement, submitted within a prescribed time-limit, should be taken into account by the negotiating parties before finalising the agreement.

(iv) The registering authority should issue a certificate indicating the period of validity of the agreement.

5.2 *The Conference may discuss the issue raised by the Delhi Administration and also comment on the desirability of making the above mentioned changes with regard to collective agreements.*

(iv) Settlement of disputes through Arbitration

6.1 As the Conference is aware, both employers and workers have bound themselves, through the Code for Discipline, to settle differences through voluntary arbitration before it becomes necessary to refer disputes to the Industrial Relations Machinery. Sub-section (1) of Section 10A of the Industrial Disputes Act provides that where an employer and his workmen agree to refer a dispute to arbitration, the reference may be to such person or persons as may be specified in the agreement between the parties. With a view to helping the parties, instructions have been issued to the officers of the Central and State Industrial Relations Machinery to ensure that in every case where conciliation was likely to fail or had failed the conciliation officer should suggest settlement through arbitration. Panels of arbitrators have also been drawn up. It is, however,

found that not much use is being made of the facilities provided by Government. The reasons for the hesitancy on the part of the employers and workers to have recourse to arbitration is not clear. Nor is it Government's intention to exert any pressure in this matter. All the same, *it is desirable that difficulties, if any, standing in the way of reference of disputes to voluntary arbitration, may be examined and a way out suggested.*

6.2 The Industrial Disputes Act provides for a three-tier system of tribunals, manned mainly by persons who are holding or have held judicial posts. The Government of Madhya Pradesh feel that consequently these tribunals are swayed more by the niceties of civil law than by considerations of equity and social justice. The State Government have, therefore, suggested that consideration should be given to the question of replacing the Labour Courts and Industrial Tribunals by Arbitration Boards, consisting of representatives of employers and workers selected out of panels maintained by Government, the Chairmen being independent persons with a judicial background. The suggestion of the Madhya Pradesh Government amounts in effect to the substitution of adjudication by compulsory arbitration. The system of Labour Courts and Industrial Tribunals was introduced only in 1956 and perhaps needs to be given a fair trial before a change-over is thought of.

6.3 However, *the Conference may like to discuss the implications of the suggestion made by the Madhya Pradesh Government for the setting up of Arbitration Boards in place of Tribunals.*

(v) Principles for Reference of Disputes to Adjudication

7.1 The question whether the practice of referring disputes to adjudication should not be suspended on an experimental basis at least has been under discussion for some time now. The decision reached both at the Conferences of Labour Ministers and the Indian Labour Conference has been that, taking into consideration the vital need for maintaining industrial peace in the interest of economic development, it would be unwise to take the risk. At the same

time, it has been unanimously recognised that adjudication should normally be ordered only when all other avenues have been fully explored. The State Governments were therefore requested, in accordance with a decision reached at the 14th Session of the Labour Ministers' Conference held in October, 1957, to supply to the Centre full information, together with their critical observations, regarding the methods followed by them in referring individual cases to adjudication, the intention being to analyse the existing practices and to evolve a set of principles for general guidance. The work has since been completed and a set of draft Model Principles has been prepared (Appendix III). The 'norms' referred to in the draft are to be evolved in the light of awards given by tribunals, etc., as recommended at the 15th Session of the Labour Ministers' Conference.

7.2 Professor Richardson, the I.L.O. Expert on Industrial Relations, who is at present working with the Ministry of Labour and Employment, has opined that the draft principles seem generally adequate and practicable. However, he has made the following observations :

(i) A useful distinction may be drawn between (a) disputes arising out of the implementation of existing legislation, awards, etc. (implementation disputes) and, (b) disputes arising from demands for new conditions.

(ii) "Implementation disputes", which usually affect only individual or small groups of workers should rarely be sent up for adjudication. The Labour Commissioners may be empowered to give binding decisions in such cases.

(iii) In the case of the second category of disputes, often involving large numbers of workers, wider use may be made of Courts of Enquiry, provided for in Section 6 of the Industrial Disputes Act, to investigate the facts and make impartial recommendations which would provide an authoritative basis for settlement by agreement and further conciliation.

(iv) Disputes which could not initially be settled

through conciliation should, instead of straight-away being referred for adjudication, be sent back for further conciliation even if this process involved the risk of a strike or lockout.

7.3 The observations made by Professor Richardson deserve consideration. *The Conference may examine the Draft Model Principles and indicate whether the same should be adopted, with changes if any.*

(vi) Revival of the Labour Appellate Tribunal

8.1 The Conference will recall that the working of the Industrial Disputes Act, 1947 as it originally stood revealed the need for a central appellate authority to review the divergent and sometimes conflicting, decisions of the large number of Industrial Tribunals set up by the Central and State Governments and to co-ordinate their activities. The Industrial Disputes (Appellate Tribunal) Act, 1950, was the result and the Government of India constituted an Appellate Tribunal, with four Benches functioning at Calcutta. Bombay, Madras and Lucknow. Additional *ad hoc* Benches were set up later to deal with urgent cases. It, however, soon become apparent that appeals filed before the Appellate Tribunal not only took an unduly long time to be disposed of but also involved a great deal of expenditure which the workers could ill afford. Opinion in favour of the abolition of the Tribunal therefore gathered quick momentum and in view of the large volume of criticism in Parliament and at tripartite meetings, the Government of India were obliged to repeal in 1956 the Act of 1950 and substitute the then system of tribunals by the present three-tier system of Labour Courts, Industrial Tribunals and National Tribunals.

8.2 The abolition of the Appellate Tribunal has apparently resulted in a large increase in the number of cases going up in appeal to the Supreme Court as will be seen from the following figures:

Year	*Number of petitions for special leave to Appeal*	
	No. Registered	*No. granted*
1953	59	23
1954	51	21
1955	57	37
1956	297	257
1957 (upto 31.10.57)	189	148

Quoting figures in support of this statement the Law Commission has observed as follows:-

> "The situation created by these large number of appeals causes concern in two respects. It has the natural effect of clogging the work of the Supreme Court.....The graver aspect, however, of the matter is that labour matters are being thrust upon a Court which has not the means or materials for adequately informing itself about the different aspects of the questions which arise in these appeals and therefore finds it difficult to do adequate justice..... Equally grave are the delays caused by these appeals in the disposal of industrial matters which essentially need speedy disposal".

From the information available it appears that 209 cases were pending with the Supreme Court on 30th November, 1958

So far as appeals to the High Courts are concerned, the Law Commission has remarked that a party aggrieved by the decision of the tribunal approaches the Supreme Court because the jurisdiction of the High Courts under Article 226 of the Indian Constitution is too narrow to afford relief. A High Court can only quash an order of a tribunal but cannot make its own decision and substitute it for that of the tribunal. Incidentally, it appears that on 30th November 1958, there were 756 cases pending before the various High Courts.

8.3 According to the Law Commission the remedy lies in providing for an adequate right of appeal in industrial matters. "Such a right of appeal could be provided either by constituting tribunals of appeal under the Labour legis-

lation itself or by conferring a right of appeal to the High Court in suitable cases".

8.4 The remarks made by the Law Commission need to be paid close attention. The observance of the Code for Discipline is likely to lead to a reduction in the number of cases going up to the High Court. Even so, *the Conference may discuss the desirability of reviving the Labour Appellate Tribunal.*

(vii) Creation of Separate Machinery for Dealing with Disputes Relating to Individual Dismissals, Discharges, etc.

9.1 Under the Industrial Disputes Act, as it stands at present, a dispute between an individual worker and his employee cannot be treated as an 'Industrial Dispute' unless sponsored by a group of workers or a trade union. It is likely that an aggrieved worker who has no standing with a trade union might find it difficult, if not impossible, to secure redress. Recently the Government of Madras approached the Centre for permission to undertake legislation providing for a separate and self-contained machinery for dealing with individual disputes in order to ensure that discharge and dismissals take place for a reasonable cause; that any aggrieved individual has a prompt and automatic remedy by way of appeal to a designated authority. The genesis for this proposal is to be found in the opinion held by the High Court of Madras and the Labour Courts in the State that the discharge of any worker after a month's notice or pay in lieu thereof, under the provisions of the Standing Orders, was perfectly in order. This opinion has led to some consternation among the workers who have demanded a suitable remedy.

The State Government have pointed out that provision for appeals by individual workers is already contained in the Madras Shops and Establishments Act, 1947, the Madras Catering Establishments Act, 1958, and the Madras Beedi Industrial Premises (Regulations and Conditions of Work) Act, 1958. The State Government have further pointed out that experience with the working of the provision in the

Shops Act of 1947 has not been unhappy. It has also been explained that cases of discharges and dismissals touching on group relations, with which the trade unions are mainly concerned, may continue to be raised as industrial disputes, as defined in the Industrial Disputes Act, 1947. Besides, the State Government are of the opinion that trade union activities and industrial relations in general may well benefit by the method of individual cases being dealt with separately without the mediation of the trade unions.

9.2 The point to be kept in view in examining the proposal made by the Government of Madras is whether direct access by individual workers to the Industrial Relations Machinery or other special machinery in cases of discharges and dismissals would —

(a) undermine the influence of trade unions,
(b) result in indiscriminate resort to appeals, and
(c) adversely affect discipline.

According to the State Government, there is no such risk. On the other hand, they feel that the proposed measure would remove a fruitful source of discontent.

9.3 *In view of the urgency in Madras in this matter, the State Government are, with the concurrence of the Centre, going ahead with their proposal. However, the Conference may examine the implications of the proposal and whether the matter should be left to the discretion of the individual State Governments or whether any action should be taken at the All-India level.*

(viii) Jurisdiction of a Tribunal appointed by one State Government in respect of a dispute concerning Workmen Employed in different States.

10.1 Under the Industrial Disputes Act, the 'appropriate Government' except in the case of disputes affecting more than one State, are the State Governments. A large number of disputes are naturally referred to the Industrial Tribunals appointed by the State Governments concerned. There are, however, cases where the headquarters of an undertaking is situated in one State but which employs workers in adjoin-

ing States also. In such cases the extent to which the decisions of the State Tribunals are binding becomes a bone of contention. In the Delhi Union Territory, for instance, there are situated several branches of commercial concerns controlling workmen in other States such as Punjab, Rajasthan, U.P. and Jammu and Kashmir. One of the Industrial Tribunals, Delhi, has held that it is not within the power of the Delhi Administration to refer disputes in such undertakings to the local Tribunals. Another Tribunal had taken the opposite stand and the Supreme Court has upheld the latter view. It has also been pointed out that the cost of Tribunals, etc. will have to be borne by one State, whereas the benefits may go to workers in other States also. Attention has been drawn by some unions of transport employees in the Punjab to similar difficulties.

10.2 *The Conference may consider the problem raised by the Delhi Administration and indicate whether any change should be made in the Industrial Disputes Act.* At present the Central Government may appoint National Tribunals only in the case of disputes involving questions of national importance or which are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

B. PROBLEMS RELATING TO TRADE UNION ORGANISATION

11.1 Workers' organisations have a dual role to play. One is to negotiate with the employers and enter into collective bargaining or, as a last resort, have recourse to direct action for securing satisfactory conditions of work and fulfilling the reasonable aspirations of workers. These problems raise the issue of recognition of trade unions either voluntarily by the employers or through certification by governmental agencies if necessary. The implications of the issue of recognition have been dealt with earlier in this Memorandum.

11.2 The other important, perhaps much less ostentatious, function of trade unions is to look after the day-to-day

welfare of their members and, where practicable, their families. The conditions to be fulfilled by trade unions from this angle are different from those required for the purposes of recognition. The Constitution of India guarantees freedom of association to all citizens, subject only to such reasonable restrictions as may be imposed by the State in the interest of public order or morality. Workers are thus free to form their own associations without any previous authorisation. If, however, any association wants to acquire a legal personality, and thereby immunity from civil and criminal liability, it has to get itself registered under the Trade Unions Act, with the concomitent restrictions stipulated in the Act. This Act, as the Conference is aware, was placed on the Statute Book as early as in 1926. The actual working of the Act for over two decades, revealed the need for its overhauling and a Bill seeking to revise and replace the same was brought forward in 1950. The Bill, however, lapsed with the dissolution of the interim Parliament, and no steps were taken in the matter since then.

11.3 The desirability of making substantial changes in the Act of 1926 has, however, been stressed on several occasions in the recent past. Emphasising that a strong trade union movement was necessary both for safeguarding the interests of labour and for realising the targets of production, the Second Five Year Plan made, *inter alia*, the following recommendations:

(i) Unions should realise that undue dependence on any one not belonging to the ranks of industrial workers must necessarily affect the capacity of workers to organise themselves.

(ii) The gap created by the reduction in the number of outsiders should be filled by training of workers in trade union philosophy and methods.

(iii) In order to improve the finances of trade unions from their internal resources, a membership fee of at least four annas a month should be prescribed in the rules of a trade union.

(iv) There should be stricter enforcement of rules regarding payment of arrears.

Recommendation (ii) above is already being taken care of by the "Workers' Education Scheme" which is well under way.

11.4 With regard to outsiders, the Second Plan observed that the number of outsiders managing the trade unions had shown a decline. Recently, the Ministry of Labour and Employment collected information as to whether the trend noted by the Planning Commission was being maintained. It appears that as compared to 1947, the proportion of outsiders is showing a decline in Assam, West Bengal, Punjab, Orissa, Kerala, Mysore and Tripura. In other States the trend is in the reverse direction. The data on which this assessment has been made is not, however, complete and may, therefore, be accepted with some reservation. *The point for consideration is whether the present statutory limit on the number of outsiders on the executive of a trade union, viz. 50%, should be altered.* In this connection a distinction needs to be made between outsiders who have at no time been workers and those who have actually been workers some time or other. It has to be examined whether any restriction should be placed on the percentage of outsiders belonging to the latter category and whether any period of service as a worker should be specified.

11.5 The question of making it obligatory for unions to prescribe a minimum membership fee of annas four a month, as recommended by the Planning Commission, was considered at the last session of the Conference and was agreed to. *Necessary provision will be made in the Trade Unions Act when it is amended.*

11.6 It will be recalled that at its last session the Conference recommended that delay in the registration of unions should be avoided. Apart from other reasons, one of the causes for delay may be the number of applications to be dealt with by the Registrars of Trade Unions. The Act, as it stands, does not permit the delegation of the powers of the Registrar to any other authority. The Government

of Bombay have suggested that provision should be made for the decentralisation of the work of the Registrars and the appointment of Additional and Deputy Registrars. *The Conference may consider this suggestion.*

11.7 Under the present Act, the powers of the Registrars are restricted. They have no authority to inspect the records and accounts maintained by the unions. With a view to ensuring that unions functioned properly and complied with legal requirements, it has been suggested that the Registrars, or their nominees, should be specifically empowered to inspect the books of trade unions. *The Conference may like to endorse this suggestion.*

11.8 Attention has been drawn by some State Governments to the fact that while trade unions obtained registration by providing in their rules for all matters mentioned in Section 6 of the Act, many of them did not in practice observe the rules. Non-observance of the rules does not, however, constitute a violation under the Act as it stands and cannot, therefore, be a ground for the withdrawal or cancellation of registration. *The Conference may consider the desirability of this defect being removed.*

11.9 *Similarly, the desirability of providing for the withdrawal or cancellation of registration of unions failing to submit their annual returns may also be considered.*

11.10 One of the drawbacks of the trade union movement in this country is the multiplicity of unions. There are several registered trade unions functioning in the same industry, and in many cases in the same unit. This situation, it has been pointed out, arises from the fact that under the Trade Unions Act any group of seven persons can apply for registration of a union and the Registrar has no power to refuse registration if the union complies with the prescribed requirements. Suggestions have, therefore, been made to the effect that either the number prescribed under Section 4 of the Act should be sufficiently raised or that the Registrar should be empowered to refuse registration to a trade union if he considers that there is already an adequate number of registered unions functioning for the

workers in the undertaking or industry concerned. While it is true that multiplicity of unions is a recognised evil, it is doubtful whether the remedy lies in tightening up the provisions of the Trade Unions Act and making it difficult for unions to secure registration. The primary purpose of the Act is to enable organisations of workers to acquire a corporate status. Freedom of association is a fundamental right and the conditions for registration should not be such as to negative that right. I.L.O. Convention No. 87 concerning Freedom of Association and the Right to Organise confers on workers (and employers) the right *inter alia,* to establish organisations of their own choosing and these organisations should have the right to acquire a legal personality. Even as it is, there is a risk of the regulatory provisions of the Trade Unions Act being construed to be inconsistent with the Convention and this is one of the reasons why the Government of India have not ratified this Convention. In a recent report to the I.L.O. from the Government of India it has no doubt been urged that "such restrictions as may be imposed by the competent national authorities on the right of association of workers and the functioning of trade unions in consultation with and with the full concurrence of representative organisations of workers shall not be deemed to be in violation of the Convention." Still it is questionable whether the Trade Unions Act should be utilised to curb an undoubtedly unhealthy development. *The Conference, may, however, discuss the matter.*

11.11 Several other amendments of a minor nature to the Trade Unions Act have been received. These can, however, be taken care of if the fundamental issues are settled and the broad principles are laid down by the Conference.

CONCLUSION

12.1 As has been pointed out in the introduction, the numerous problems relating to industrial relations cannot be tackled all at once. For the present, the views of the Conference are invited on the following matters:-

A. *Machinery for Collective Bargaining and the Settlement of Industrial Disputes.*

(i) The procedure proposed in the Kerala Industrial Relations Bill for the certification of negotiating agents (paragraph 3.3).

(ii) The appointment of a small tripartite Committee for drawing up "guidance principles" relating to the composition and functioning, etc., of Works Committees (paragraph 4.3).

(iii) Validity of agreements reached through direct negotiations between the parties (paragraph 5.2).

(iv) Removal of the difficulties standing in the way of reference of disputes to voluntary arbitration (paragraph 6.1).

(v) Replacement of Labour Courts and Industrial Tribunals by Arbitration Boards (paragraph 6.2).

(vi) Model principles for reference of disputes to adjudication (paragraph 7.3).

(vii) Revival of the Labour Appellate Tribunal (paragraph 8.4).

(viii) Creation of separate machinery for dealing with disputes relating to individual dismissals etc., (paragraph 9.3).

(ix) Jurisdiction of a tribunal appointed by one State Government in respect of a dispute concerning workmen employed in different States (paragraph 10.2).

B. *Problems relating to Trade Union Organisation*

(i) Alteration of the present statutory limit on the number of outsiders on the executives of trade unions (paragraph 11.4).

(ii) Insertion of a provision in the Trade Unions Act regarding membership fees (paragraph 11.5).

(iii) Decentralisation of the work of Registrars of Trade Unions (paragraph 11.6).

(iv) Empowering Registrars to look into the records of trade unions (paragraph 11.7).

(v) Cancellation of registration for failure to observe the rules of the union (paragraph 11.8).

(vi) Cancellation of registration for failure to submit annual returns (paragraph 11.9).

(vii) Placing a restriction on the number of unions that may be registered (paragraph 11.10).

APPENDIX I

WORKS COMMITTEES—EXPERIENCE IN OTHER COUNTRIES

Introduction

1.1 Since the last World War many countries have set up machinery for associating the staff closely with the general operation of the undertaking. The machinery thus established differs from country to country and also bears different names like Works Committees or Councils, Management Councils, Joint Production Committees, Joint Advisory Committees, Labour Management Committees, Occupational Committees, Factory Committees or Councils, Workers Committees, etc. These bodies are meant to serve economic and social purposes, by promoting cooperation in the undertaking. The economic motive is, to ensure increased production and the moral/social motive is to secure full recognition of the importance of the human element and accordingly to give staff a greater interest in the general operation of the undertaking.

Method of establishment of joint bodies.

2.1 In some countries these joint bodies have a purely contractual origin while in others they owe their existence to legislation. The countries which belong to the former category are U.K., Sweden, Switzerland, Norway, Canada, Israel, Japan etc. In the countries where the Works Councils are the outcome of voluntary agreements between the employers and the trade unions, the method of joint consultation generally varies not only from one industry to another but also from one firm to another. The position in Sweden is however slightly different. Here, two general agreements were signed on 30th August 1946 regarding the appointment of Works Councils. One was between the Confederation of Swedish Employers and the Confederation of Swedish Trade Unions and the other between the Confederation of Swedish Employers and the Swedish Confederation of Organisation of Salaried Employees. The agreement becomes legally binding on the employers, wage earners and salaried employees concerned only when it is ratified by a particular industry.

2.2 To the latter category of countries which have passed legislation for the establishment of Works Councils belong Federal Republic of Germany, Austria, France, Belgium, Finland and the tota-

litarian economies like the U.S.S.R., Czechoslovakia, Yugoslavia, Poland, etc.

2.3 In the Federal Republic of Germany the "Works Constitution Act" of 11th October 1952 established a uniform system of collaboration between employers and workers at the plant level throughout the Republic. The Act expressly states that its provisions in no way impair the function of the trade unions and the employers' associations.

2.4 In Austria the "Federal Act" of 28th March 1947 introduced a representative system in all undertakings. Another Act of 30th June 1948 deals with the representation of wage earners in agriculture and forestry undertakings.

2.5 In France, production or management committees were set up spontaneously in a number of factories. With a view to making the establishment of these bodies a general practice and to give them legal status the Ordinance of 22 February 45 was issued and thus Works Committees came to be established. Works Councils are required to be formed one in each individual plant together with a Central Council for the firm as a whole. The representatives of the Central Council are elected by the Works Council. Similar practice is adopted by Austria and a number of other countries. A Works Council may also appoint special Committees to deal with employment problems or social problems in the proper sense of the term. The legislation, however, does not prevent any arrangements as to the operation or powers of Works Committees being based on collective agreements or custom. In some cases, even the application of the legislation is optional.

2.6 In Belgium, Works Councils have been set up under the Act of 20 September 1948 to make provision for the organisation of the country's economic life. Under this Act, Works Councils may be established on the employer's initiative. Depending on the size and structure of the undertaking, every Works Council may split itself up into Works Sections comprising delegates representing particular categories of workers.

2.7 In Finland, Works Councils became definitive under the Act of 30th December 1949.

2.8 In Netherlands, the Act of 4th May 1950 deals with the setting up of Works Councils but it is also closely related to the question of the general organisation of the economy.

2.9 In the countries with nationalised and planned economies, such as the U.S.S.R. and other countries of this group trade union Works Councils or Committees have been formed by legislation. But these Councils differ from their counterparts in private enterprise economies mainly in their responsibilities and in their relationship with the unions.

2.10 In Czechoslovakia for instance, Works Councils have been set up under a Decree issued on 24th October 1945 in all establishments employing more than 20 workers. The unified trade union organisation has the sole right to put forward a list of candidates and also complete control over the holding the elections, finances etc.

2.11 Under the Act of 2nd July 1950, the Workers' Councils in Yugoslavia (the membership of which varies from 15 to 120) are elected by workers who have signed a contract of employment with the undertaking and also by the technical, engineering and other staff. The management Committees made up of between 3 and 11

members are elected by the Workers' Councils from among the employees of the undertaking. The manager of the undertaking is appointed by the management Committee of the association grouping a number of undertakings or, if no such association exists, by the appropriate Government agency. The manager is, ex-officio, a member of the management Committee. These Committees are generally responsible for seeing that the regulations regarding industrial relations, salaries and wages, promotion, safety, social insurance and the improvement of the workers' living standards are properly carried out.

2.12 Works Councils in Poland were set up under the Decree of 6th February 1945. In practice, however, those Committees were incorporated in the trade union organisation, in which they functioned as the "basic units" and their statutory duties of safeguarding the workers' interests remained a dead letter. However, the recent indications are to explore the possibility of incrasing the powers of the Works Councils so as to implement the Decree once more and to enlarge its scope in certain respect.

Composition of the joint bodies.

3.1 In the majority of countries, legislation or regulations governing the setting up of Works Councils prescribe a minimum number of employees above which an establishment is required to set up such a Council. In Austria for example, a Works Council is elected in any undertaking in which at least 20 workers are employed while the number stipulated in countries like Germany, Czechoslovakia, and Poland are over 20 workers. In the Netherlands the law lays down a minimum of 25 workers, whereas in Sweden and Italy the minimum fixed is over 25 workers. In establishments employing 50 workers or more while the number in U.K. is over 50. In Poland, the law allows workers' management Committees to be set up in all undertakings provided that not less than 50% of the wage earners approve the idea.

Structure

4.1 The structure of Works Councils also varied from country to country. In some countries they are composed of workers' delegates while in others they are joint bodies. Their structure also may vary from one plant to another within the same country in accordance with the proportion of wage earners to the total number of employees.

4.2 In Austria and the Federal Republic of Germany the Works Councils may only include representatives of the workers. In Austria, the law specifies that in undertakings employing more than 50 workers separate Works Councils for the wage earners and for the salaried employees should be set up if each of these two groups comprises 20 persons or more.

4.3 Similarly, the internal Committees in Italy consist of only the workers made up of representatives of the technical and clerical staffs and of the wage earners elected separately by direct secret ballot by all the work people whether they are members of a trade union or not.

4.4 In Belgium, France and the Netherlands the law required Works Councils to be joint bodies, although there may not be as many employers' as workers' representatives. Works Councils in Belgium are composed of the head of the business and one or more delegates appointed by him together with a number of staff delegates.

The number of staff delegates may be between 3 and 14 depending on the number of working-people. The number of seats allotted to the workers' and salaried staff's delegates also depends on the relative strength of these two groups.

4.5 In France the Works Council includes the head of the business or his representative and a delegation of employees. Delegates are elected from lists submitted by the organisations that are most representative of each category of employees. A system of representation by occupation is adopted. The allocation of seats to different categories of employees and the division of the work people into voting groups is settled by the management with the trade unions concerned. If the manager fails to convene a meeting of the Works Committee in time, the latter may, at the request of workers' representatives, be convened by and meet under the Chairmanship of the Labour Inspector.

4.6 A similar position exists in the Netherlands where the manager in addition to his being a member is also the Chairman of the Council. The Council comprises members varying between 3 and 25, elected by the wage earners.

4.7 In Poland, the law stipulates at least 2/3 of the members of the workers' management council must be chosen by secret ballot from among the workers themselves. The manager is, ex officio, a member of the council but cannot be elected Chairman or Vice-Chairman of the Council.

4.8 In Finland, Works Councils consisting of two employers' representatives, 3 workers' representatives and one representative from the salaried staff are formed in establishments where the number of man hours worked during a single year does not exceed 240,000. In establishments where this limit of working hours is exceeded, the Council is composed of 3 employers' representatives, 5 workers' representatives and two representatives of the salaried staff. The Chairman of the Works Committee is elected by the Committee and chosen alternately, each year, from among the representatives of management and those of the staff. A Secretary is also elected by the Committee from among the members representing the staff.

4.9 In Canada and Israel the productivity Committees are joint bodies, the representatives from each of the groups of management and workers' being equal. The wage earner representatives are elected solely by the workers (secret ballot in the case of Canada) while the management representatives are appointed by the management (by the senior executives and foremen in the case of Canada). In Israel every Committee elects two Chairmen, one from each group who take it in turns to preside. These two Chairmen with the existence of the Secretary, handle the Committee's business between meetings and supervise the work of sub-committees.

Role of Trade Unions in the formation and functioning of joint bodies

5.1 In many countries, irrespective of whether the Works Council are set up by agreement or law, trade unions take part in the appointment of members, (although in some cases once the Councils has been elected it is completely independent of the Unions). Close collaboration between the unions and the Councils takes place at all times, particularly if the unions are strong and have a large membership in the undertaking concerned.

5.2 In Sweden only trade union members are entitled to take part in the election of workers' delegates. This, however, does not apply if more than half the workers in the plant are not unionised. As regards salaried employees if not less than three-quarters of them employed in an undertaking are affiliated to the Confederation of Salaried Employees' Organisations, only those who are trade unionists are entitled to vote in the election of their representatives; if the proportion is less all salaried employees are allowed to vote.

5.3 In France, and Belgium, the workers' delegates on a Works Council are elected by a system of proportional representation from lists drawn up by the organisations considered to be most representative of each category of workers. (In Belgium these bodies are the nationally federated inter-occupational organisations with not less than 100,000 members or 5% of the labour force of the particular undertaking). Further, in France the workers' organisations which are recognised as representative in each undertaking are allowed by law to appoint one delegate (who is an employee of the undertaking) to sit on the Council in an advisory capacity.

5.4 A similar procedure is followed in the Netherlands, where the members of Works Councils (excluding the Chairman) are elected from one or more lists of candidates submitted by the union or unions designated for this purpose.

5.5 In Canada although the wage earners' representatives on the joint production Committee are elected by secret ballot by the employers, they may be appointed by the unions wherever this practice has got the approval of both the workers and management. In addition, the president of the union is often allowed to attend meetings of these joint Committees.

5.6 In the Federal Republic of Germany, a delegate from a trade union represented on a Works Council, may, at the request of a quarter of the Council's membership attend meetings in an advisory capacity.

5.7 In Australia, a somewhat different system is found. The Works Council is composed of a Chairman (who is also the manager of the plant), a trade union representative from each of the six departments in the plant, the union Secretary (who is also the secretary of the Council) and six workers' representatives selected by the management, together with the training officer as joint Secretary.

5.8 In Italy, elections of internal Committee members and factory delegates are managed by the trade unions.

Functions of Works Committees

6.1 Works Councils are generally responsible for putting forward the workers' view before a decision is taken by the management. Depending on the countries and the regulations in force the functions of these Councils range from social questions (Welfare) to technical and economic matters. Frequently, it has been considered best to limit the scope of councils to matters of joint interest not covered by collective agreements and in such cases the councils are advisory bodies pure and simple.

6.2 **Social functions :** Chiefly, the Works Councils are concerned with social matters like welfare facilities, amendments of labour laws or regulations, hirings and dismissals, resolving industrial disputes by conciliatory methods etc. Generally with the exception of a few countries like France, Austria and Federal Republic of Germany these councils do not deal with the wage

questions and other working conditions. In U.K., Sweden and Israel, the joint Committees deal with various aspects of welfare and working conditions (heating, ventilation, lighting etc.), vocational training questions, the personnel department and the prevention of accidents and also with such technical matters as the improvement of production methods, the raising of productivity, organisational methods, automation etc. The Works Councils in U.K. are purely advisory bodies and the final decision rests with the management. In Austria, Belgium and France law provides that workshop or working regulations or plant rules may not be issued or amended without their approval. These countries have also the right to manage or share in the management of welfare facilities provided by the undertaking for the benefit of the workers or their families. The Councils in Belgium also discuss the general criteria for hiring and dismissal of workers. In Italy too, the internal committees discuss plant regulations with the management before they came into force. Here any proposal to dismiss workers through a falling off in business or a re-organisation must be notified to the Committee with full reasons thereof, and the matter thereafter is discussed with the management. In the event of any disagreement the matter is submitted to the appropriate bodies for investigation. In some countries like the Federal Republic of Germany and the Netherlands, the Councils are responsible for ensuring that social legislation and collective agreements are carried out. In these as well as in some other countries like Japan, Finland, Italy and Switzerland they also make the first attempt at conciliation. In the Federal Republic of Germany no large-scale hirings or dismissals may take place without the Works Councils being consulted. In Austria, the Works Councils are entitled to establish welfare funds (this includes all funds to improve the well-being of the workers and their families) and to administer them without interference. In the Netherlands they take part in the running of welfare facilities attached to the undertakings. Also, the Councils should first be notified about the establishment or termination of each wage earner's contract despite the Councils' opposition. If the employer terminates the contract it may appeal to the conciliation office and by virtue of its right to a share in the management can even suspend the decision of the employer to close down the plant until a ruling is obtained from the State Economic Commission.

6.3 **Technical functions :** The technical responsibilities assigned to the Works Councils cover safety and production and productivity. These functions are however discharged purely in an advisory capacity. In the Federal Republic of Germany, the Councils must be allowed to express an opinion, wherever safety devices are introduced and whenever an inquiry is held in the case of an accident. Here as well as in Finland the Councils co-operate with employers and labour inspectors in enforcing the safety regulations. Similarly, in the Netherlands Works Councils are responsible for seeing that the laws and regulations for the workers' protection are observed and that the facilities provided in the interests of safety and health and hygiene are maintained in good order. In Canada, Norway, Israel etc. the Councils are called production Committees which are mainly intended to secure the expansion of production and the raising of productivity. Works Councils in Sweden not only express their views on system of organisation and planning for optimum production but also hold a watch over all technical and economic

matters. In the Netherlands and Finland they suggest ways and means of improving technical and economic efficiency for intensifying production. Austrian Works Councils may make suggestions to the management regarding improvements in equipments. In France, the Councils examine any suggestions for increasing output put forward by the management or workers, while in Italy they give suggestions for increasing productivity.

6.4 **Economic functions :** Many countries have taken steps to give Works Councils some voice in the internal administration and in some cases in the management of the undertakings in the belief that workers have a vital stake in the efficiency of the undertakings. In France the powers of the Works Councils in respect of economic matters are purely advisory. They must, according to the law be consulted over matters affecting the organisation, management and general running of the undertaking. They must also be informed of the profits earned and in cases of some companies (with limited liability) they can also make suggestion as to the uses to which these profits should be put. In Belgium and Sweden the management must supply the Works Councils with full information on the financial results of the business. In the Federal Republic of Germany, joint economic Committees made up of between four and eight members (with at least one member from the Works Councils) are set up in factories with more than 100 workers. These Committees discuss manufacturing and working methods, production schedules, the financial position of the business, the state of output and sales etc. In Austria, a Works Council by virtue of its right to a share in the management, is entitled to make proposals to the management in the interests of the economy as a whole as well as of the plant and its workers.

7.1 **Assessment—Extent of Success :** In the Federal Republic of Germany and the Scandinavian countries the Works Councils operate to general satisfication and seem to have become a permanent feature of the industrial scene. In Canada and Finland these Councils have given encouraging results and satisfication to all parties. Their number is also on the increase. In U.K. although joint consultation at the plant level is ineffective sometimes the Works Councils are encouraged as the experiment is considered to be an excellent way of educating trade union leaders in the techniques of administration. Although joint consultation has become a widespread practice in an ever-increasing number of countries and has generally proved itself worthwhile, a number of snags have been struck over in the establishment of these councils and the way in which they discharge their duties. The dangers of keeping the workers informed fully about the state of business are exaggerated in some countries. In this account the Belgium manufacturers' Federation have taken the line that the Works Councils would have been more effective if their powers had been freely negotiated in each undertaking with the law being applicable only in the event of disagreement. On the other hand, the Belgium Trade Union movement is not satisfied with the powers granted to the Works Councils or the scope of the joint consultation.

7.2 In France, Works Councils are undergoing a critical period. The commonest attitude is sheer apathy and it is hard to find men now to stand as candidates for the Works Councils. Sometimes they seem to have been shunted into a siding and by

wasting their time in futile efforts, have incurred the contempt of the workers whom they are supposed to be representing. The reasons for this deplorable condition are to be found mainly in the psychological atmosphere. In many cases the managements deliberately try to ham-string the councils and discourage them. In some cases, failures have also been attributed to the fact that many of the employers do not even know how to take the chair at a meeting and when they are asked to supply the information, give it in a language which is over the workers' heads.

7.3 In some countries like Australia trouble has been caused by the fact that the wage earners and salaried staff took part in the work of the same council.

7.4 Paradoxical as it may seem, co-operation at the plant level is viewed with suspicion and disfavour in those countries where the trade union organisations are weak through fear of their losing control over the workers whose difficulties could be largely solved through the Works Committees. etc. Where trade unionism is well founded, the Works Committees receive better treatment at the hands of the unions.

INTERNATIONAL STANDARDS RELATING TO WORKS COMMITTEES ETC.

8.1 The expansion in the use of joint consultative machinery at the plant level led the International Conference to adopt a Recommendation (No. 94) in 1952 concerning consultation and co-operation between employers and workers at the level of the undertaking. This Recommendation stipulates that Works Committees. etc., should deal with matters of mutual concern to the employers and workers but not within the scope of collective bargaining machinery or not normally dealt with by other machinery concerned with the determination of terms and conditions of employment.

8.2 The question of bipartite co-operation at the unit level has also been discussed by several of the I.L.O. industrial Committees. It has been recognised that bodies for consultation and co-operation should have the essential function of increasing understanding of each other's points of view between all parties in the undertaking on a basis of real equality. Also, the successful functioning of the Works Committees etc., depends on the willingness of the management of undertaking to inform the joint body at regular intervals regarding the activities of the undertaking, future plans and provide the joint body with general information about the economic and the technical situation of the undertaking.

8.3 Whole no comprehensive list of the functions that could be assigned to joint consultative bodies has been drawn up by the I.L.O., the following subjects have been considered suitable for consideration by these bodies :—

(a) information on general problems which have an influence on the operation of the undertaking;
(b) information on the employment situation;
(c) conditions in the plant, such as ventilation, lighting, noise. temperature, factory hygiene;
(d) amenities. such as rest rooms, health services, housing, canteen services, recreation;
(e) safety and accident prevention;

(f) vocational training; and
(g) measures for increasing efficiency.

8.4 Recently, the International Labour Office had called for detailed information from Member States regarding the extent to which the principle of co-operation at the level of the undertaking is being followed. This information, which would be useful as guidance material will become available sometime later.

APPENDIX II

CRITICAL ANALYSIS ON THE FUNCTIONING OF THE WORKS COMMITTEES IN THE PUBLIC SECTOR

The provisions of Section 3 of the Industrial Disputes Act, 1947 empower the appropriate government to direct (by general or special orders) that works committees will be constituted in any industrial establishment in which 100 or more than 100 workmen are employed or have been employed on any date in the preceding 12 months. In so far as public sector undertakings falling under the Central sphere are concerned, orders have been issued in the case of the following to set up Works Committees:-

(i) The three Major Ports — Bombay Port Trust, Madras Port Trust and Commissioners of the Port of Calcutta.
(ii) All industrial establishments in the public sector falling under the Central sphere (other than Government Railways, mines, oil fields and major ports).
(iii) Industrial establishments in the mines falling in the public sector.
(iv) Banking and insurance companies (falling under the public sector) having branches in more than one State provided substantial proportion of employees working therein apply for the formation of works committees. The Chief Labour-Commissioner (Central) has been empowered to exercise his discretion whether to order formation of works committees or not.

2. In order to assess and examine critically the functioning of the works committees in these public sector establishments, a questionnaire was prepared and issued to them through the Regional Labour Commissioners. Replies were received from 161 public sector undertakings falling in the Central Sphere. A major portion of these public sector undertakings is under the administrative control of the Defence Ministry and the remaining are under the administrative control of the Ministry of Food & Agriculture, Irrigation & Power, Finance, Works, Housing & Supply, Communications and Health etc.

Amongst the three major ports, works committee has been set up only at Madras. In Bombay and Calcutta, the Port authorities have expressed their inability to set up these committees in view of the prevailing labour conditions and apathy amounting to opposition from the trade union organisations concerned. The question of exempting them from setting up works committees, is already re-

ceiving the attention of the Ministry of Labour & Employment. Works committees are also not functioning in any of the banking or insurance organisations belonging to the public sector as no request was received from the employees working in these organisations for the formation of these committees. The analysis given below therefore pertains to 161 public sector undertakings falling in the Central sphere and it excludes the undertakings referred to above.

3. *Size of the Undertaking and the Works Committees:*

The majority of the establishments from which replies have been received employ more than 500 workers and in more than 25% of the establishments, the workers employed were more than 2,000. From the reports received, it has been observed that the successful working of the works committees is in no way interdependent on the number of workers employed in any establishment. It depends more or less on the keenness of interest evinced by the representatives of both sides, *i.e.*, the workers as well as the management and the size of the establishment has practically no bearing on the interest taken by the parties concerned in the successful working of the committees.

4. *Composition of Works Committees:*

Rule 39 of the Industrial Disputes (Central) Rules, 1957, provides that the number of representatives of the workers on these committees will not be less than the number of representatives of the management and that the total number of members shall not exceed 20. No restriction, however, has been placed in the rules, on the management's representatives being less in number than the representatives of the workers. In 9, i.e., in about 6% of the establishments (out of the total of 161), it was observed that the representatives of the management were less in number than that of the employees. The main reason usually given for this disparity in number was shortage of adequate number of officers in these establishments. The disparity in some cases is reported to have given rise to certain practical difficulties such as election of Chairman and Vice-Chairman as well as Secretary and Joint Secretary of the works committees. In accordance with Rule 51 of the Industrial Disputes (Central) Rules, 1957, the offices of Chairman and Vice Chairman are not to be held by the representatives of the employers or workmen for two consecutive terms and similarly the offices of Secretary and Joint Secretary are not to be held by the representatives of the employers or workmen for two consecutive years. This inter-change is not possible in the installations where there is only one officer.

5. *Frequency of the meetings of the Committee.*

In accordance with the rules, the meetings of the works committees are to be held once in a quarter and more frequently if possible. On the whole it was noticed that the meetings were being held once in a quarter in almost all establishments except in a few cases, the number of which was limited to 3%. The reasons which have been furnished for irregularity in holding the meetings are:-

(i) non-submission of agenda by the representatives of workers as well as management.
(ii) lack of quorum.
(iii) administrative difficulties such as lack of space, holidays etc.
(iv) absence of representatives of both the sides on account of

various reasons including misunderstanding among the parties concerned.

With a genuine goodwill and desire to ensure that the works committees are functioning successfully, these difficulties could be easily met.

6. *Minutes of the Works Committee*

There is no uniformity in the system of maintaining the Minutes of the committee meetings. Where the committees are active, minutes are written in an elaborate manner but in cases where the committees are more or less inactive, the minutes are written, it appears, only to meet the requirements of the law. They do not furnish details of the issues under discussion nor the arguments advanced by both the parties are incorporated therein. In a very few cases, the minutes contain questions put up by the representatives of the workers and answers given by the representatives of the management. Thus there is enough scope for improvement in this connection.

7. *Subjects discussed in the meetings:*

The functions of the works committees, in accordance with the Act, are to promote measures for securing and preserving amity and good relations between the employers and workmen and to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters. The Act as well as the Rules are silent as regards the exact matters which are to be discussed by these committees. In the Defence Installations, through administrative directives, effort has been made to give guidance to these committees as regards the subject matters to be discussed therein but in other installations falling in the public sector, no such guidance is available to the members of these committees. This lacuna, many a time, furnishes a fertile ground for disputes when workers insist on discussing certain items in these meetings which the management regards as purely managerial functions such as matters of discipline etc. It has been noticed that managements are usually reluctant to suggest any item in the agenda by themselves. The workers' representatives, on the other hand, try to bring in all sorts of issues in the agenda which leads to a clash between the representatives of the two sides. There is a marked tendency among the representatives of the workers to regard works committees as something like Municipal Councils wherein they could ask questions or criticise the administration. This attitude on the part of workers' representatives, often results in misunderstanding being caused which once established is rather difficult to remove. A lot, therefore, depends on the attitude and the frame of mind not only of the workers' representatives but the management-members of the committee as well. The workers' representatives generally tend to regard these committees as a platform where they could grab and seize all advantages they can instead of securing just remedies for the really aggrieved workers. The management's side, at times, fails to understand the difficulties of the worker-members of the committees who have to stand pressure from a large number of workers especially when there are a number of grievances. In the event of their failing to represent these grievances adequately, they lose the confidence of the workers who had elected them. It has often been suggested that the scope of these committees should be properly defined under the Act while some are of the opinion that a healthy tradition should be established as regards the subject matters

to be discussed in these committees and these should be left to be decided upon mutually by both the parties.

(a) The items which are suggested by the workers' sides generally relate to their difficulties such as conditions of service including working hours etc. A list of subjects generally brought forward for discussion by the workers' representatives is given below:-

Grant of loans, holidays, advance payment of wages before important festivals, improvement of quarters, recreation and medical facilities to employees and their families. Protective clothings, payment of bonus and leave with wages, promotion of good relationship, matters of general welfare, labour welfare fund, measures against illiteracy, announcement through loudspeakers, hot weather requirements, labour union office, construction of canteen service, training in first aid, medical examination of workers, water supply, purchase of games material, market rates, improvement in working environments, cinema Projectors, electrification of quarters, small pox vaccinations creches, transport facilities, cheap grains etc.

(b) The subject matters referred to the committee by the representatives of the managements were as under:-

Discipline and punctuality, industrial relations, adjustment of surplus personnel, welfare amenities, medical facilities. Promotion of amity, subjects covering moral and social education, health, sanitation etc. National Savings Certificates, Co-operative society, financial aid to sports clubs from Welfare Fund, Award of prizes to outstanding candidates in training schemes, service conditions, etc.

(c) The items which were considered as ultra-vires by the managements and on which discussion was usually not allowed, were as under :-

Wrongful termination of services of workers. Investigation in disciplinary cases, confirmation, higher pay and special allowances, provision of clerical staff in L.O.'s office, representations, trade tests by workers, question of pay scale, discussion on wage rates.

8. *Decisions and Conclusions reached in the Committee:*

The study revealed that in approximately 60% of the undertakings, decisions reached were usually unanimous. Most of these decisions pertained to the matters which were within the administrative control of the Head of the Establishment concerned. In nearly 48% of the undertakings, as many as 90% of the decisions arrived at were implemented within a reasonable time. In as many as 33% of the undertakings, the average time taken to give effect to the decisions or recommendations of the works committees was less than one month. It was also noticed that decisions are given effect to fairly quickly except on certain major issues requiring Government sanction. In 53% of the Establishments, certain decisions taken remained unimplemented due to the reasons stated above. Many of the recommendations of the committees had to be referred to higher authorities or Ministries with the result that the sanction as well as implementation were unduly delayed. Policy matters could not either be decided or implemented for a long time. The reasons which are generally furnished for delay or non-implementation of the decisions are summarised below :-

(a) matters involved huge financial out-lay.

(b) non-availability of raw materials which are generally imported and non-availability of building materials.
(c) lack of co-operation, friction and local politics in a few cases.
(d) matters beyond the financial or administrative powers of the Head of the Establishment.
(e) procedural difficulties.

In 81% of the Establishments, no difficulty, procedural or otherwise, was encountered in the smooth functioning of the works committees. Procedural difficulties generally arise due to vagueness of the scope of the works committees, controversy regarding the powers given to the Chairman to disallow certain items, inclusion of a certain item in the agenda, holding of works committee meetings without proper notice or circulation of agenda, opposition of trade unions to the inclusion of certain items in the agenda.

9. *General difficulties.*

General difficulties reported during survey in the smooth function of these committees were as follows : -

(i) lack of appreciation on the part of the management and workmen's representatives of the functions and significance of the committees.
(ii) illiteracy and lack of understanding amongst the workers especially those employed in backward areas.
(iii) disinclination of workers' representatives on the works committee to participate in the deliberations of the committee.
(iv) workers expect too much out of these representatives and they being unable to deliver the goods become unpopular and are not inclined to serve on the committees.
(v) lack of co-operation and in some cases even opposition of the trade union leaders to the constitution and the functioning of the works committees. They fear that their representative character will cease if works committees function. There have also been instances wherein it was reported that the trade unions regarded works committees as their rivals.
(vi) opposition of trade unions towards the formation of works committees due to inter-union rivalry.

10. *Factors responsible for successful functioning of works committees.*

Factors which were found helpful for the successful functioning of works committees were as under : -

(i) existence of co-operation and cordial relations between the workers and managements and also with the trade unions.
(ii) sympathetic attitude by the managements especially in encouraging workers to put forward their grievances and suggestions.
(iii) foresight of the managements in having prior consultation with the works committee before bringing any changes in respect of welfare, service conditions etc.
(iv) higher educational standards amongst the workers.
(v) model constitution and bye-laws for the works committees have been framed.

11. *Sub Committee of the Works Committees.*

In a majority of the Establishments, sub-committees of the

works committees were set up. These included canteen committees, production committees, welfare fund committees, estate advisory committees, Standing sub-committees to scrutinise the agenda of the works committees. Besides these, certain other committees also appear to have been set up on an *ad hoc* basis and these were Vanamahotsava sub-committee, Rate control committee, Puja committee etc. It was also observed that these sub-committees are generally formed by the works committees which are running smoothly. In establishments where there has been misunderstanding and consequent friction in the works committees, efforts to form sub-committees could not succeed. In most of the cases these sub-committees did not have equal number of representatives of the management and workers.

12. *General Remarks.*

(i) In an appreciably large number of public sector undertakings, inter-union rivalry has not affected the smooth working of the works committees. This is perhaps due to the fact that in these undertakings usually one union is recognised and therefore the unrecognised unions, if any, often have ineffective existence.

(ii) In private sector undertakings, the officers in charge of Establishments have usually wider administrative and financial powers but in the public sector undertakings, the powers delegated to those officers are limited. Whenever proposals made by the worker-members of the committee are reasonable, the officer-in-charge, installations in the public sector agree with them and recommend the same to the higher authorities for their sanction and implementation. This involves considerable time lag and at times the proposals recommended by these officers are not sanctioned by the higher formations or Ministries. This causes disappointment and frustration amongst the workers.

(iii) As the scope of the works committees has not been adequately defined either in the Act or in the Rules, certain limitations are often placed by the managements on the items to be brought forward for discussion. This has given rise to a persistent demand on the part of the worker-members of the committees that the scope of this committee should be properly defined and more latitude allowed to them to discuss problems concerning conditions of work, pay scales and other terms and conditions of service.

(iv) The greatest measure of success amongst the public sector undertakings has been achieved by the Defence Installations in the formation of works committees. Much of this success is due to the cadre of Labour Officer which was established in these undertakings much earlier. As most of the Defence undertakings are located outside the urban areas, the scope for improvement and for adoption of welfare measures was considerable and the representatives of the workmen as well as management were not found lacking in utilising the same.

APPENDIX III

DRAFT MODEL PRINCIPLES FOR REFERENCE OF DISPUTES TO ADJUDICATION

A. 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 for adjudication if there is a *prima facie* case of—

(1) victimisation or unfair labour practice,
(2) that the standing orders in force have not been properly followed or that the principles of natural justice have not been followed, and
(3) the conciliation machinery reports that injustice has been done to the workmen.

In all the aforesaid cases, however, if there is *prima facie* evidence to show that the workmen concerned have resorted to violence or otherwise committed a serious breach of the Code of Discipline, then adjudication may ordinarily be refused.

B. Collective disputes.

No dispute may, ordinarily, be referred for adjudication—

(1) Unless efforts at conciliation have failed and there is no further scope for conciliation and the parties are not agreeable for arbitration.
(2) If there is an illegal strike or lockout or a strike or lockout resorted to without seeking settlement by constitutional means and without proper notice, unless such strike (or direct action) or lockout, as the case may be, is called off.
(3) If the demand relates to a claim for wages for tne period of a strike, or the demand is such, which following judicial decisions the Tribunals have consistently refused to concede, e.g. the demand about recognition of union.
(4) If in respect of demands other legal remedies are available, i.e., matters covered by the Factories Act, Workmen's Compensation Act, Minimum Wages Act, etc.
(5) If the matters in dispute are pending before a Committee appointed by Government.

II. In ordering adjudication the following factors will be taken into account:—

(1) The reasonableness of demands and their justiciability.
(2) The repercussion on the other units of the same industry or allied industry.
(3) The capacity of the industry to pay or accede to demands like increased wages, etc.
(4) The standing of the union raising the dispute and the strength behind the demands.

Note:

It will be useful if 'norms' are laid down with regard to various conditions of service, welfare provisions, etc., in industries. They will be of help in deciding whether a particular dispute should or should not be referred to adjudication.

Draft Reply to the Chairman on Industrial Relations
17th I.L.C.

174

We would suggest that in these tripartite conferences the issues concerning industrial relations should be taken one by one or some issues grouped together, the subject matter is fully discussed in the sub-committee and its report discussed in the sessions of Indian Labour Conference for taking decisions. The same subcommittee should continue its existence for at least one year or more and meet occassionally to discuss the implementation of the decisions.

Standing Labour Conference meetings should discuss issues arising out of the implementation of the decisions of Indian Labour Conference.

In emergent case extra ordinary sessions of Indian Labour Conference should also be held.

Otherwise what is happening is that decisions in the tripartite conference are taken, fully publicised but we never get an opportunity to discuss its implementation.

Item 1 of the agenda discussingthe issue of wors committee in various tripartite conference for the last 2 years but nothing could be done on the complaints regarding functioning of working committees. It was reported to the Ministry of Labour vide our letter dated and referred to in several committees that in U.P.Works Committees have been suspended by Government order since 1950. Till to-day it remains as such. Similarly about other complaints.

Another example grievance procedure was adopted by the subcommittee in September, 1958. It was pointed out and the Chairman agreed that the subcommittee should meet again to check up its implementation. It is not known in how many establishments grievance procedure has been framed and being followed.

Decisions on recognition of TUs is yet another example. To our knowledge none of unions have been recognized under the procedure agreed upon in the last Indian Labour Conference.

Setting up of joint management councils, giving notice before closure and retrenchment, rationalization are a few more such issues.

E & I committee has been appointed in the Centre and in some States. In centre during all this period of about 2 years it has met only once. In States still less. E & I cell have also at times given different interpretation to the decisions of the Indian Labour Conference, and other tripartite bodies and very often found themselves helpless when confronted with the violations.

So the first point that we make and stress is effective implementation machinery and its check up by tripatite committees which really meet often.

We stress on three points of Industrial relations in this meeting viz:

a) Recognition of Trade Unions,
b) Democratic functioning with clearly defined powers of works committee, and
c) Appeals to Supreme and High Courts.

We considered them as the key to the Industrial situation and as such be given priority to be attended to.

We make it clear that we stand for all the decisions of Tripartite committes to be implemented in both the sectors of industry - private and public. It is no use allowing representatives of various Ministries of Government of India and State Governments being given seats as delegates but when it comes to implementing in their sectors, they refuse it.

The fate of public sector conference promised by the

Union Labour Minister at Nainital last year is before us. The Union Ministries of Railways, Defence, P&T and Works & Housing have refused to endorse the code of discipline.

i) Regarding recognition of TUs: - We consider that the decisions of 16th Tripartite in this respect have remained on papers and employers are not in a mood of giving recognition to TUs. As such it is necessary that rules of recognition of TUs is brought on the Statuete Book reiterate our suggestion of ballot which is the most democratic method.

We suggest the provisions of Kerala Industrial relations Bill in this respect to be applied in all other States.

Central and State Governments have been trying to make rules or amendments in their existing laws for recognition of union by extending the provisions of BIR Act. We oppose it.

ii) Works Committees: - We agree to the proposal to appoint a sub-committee which should give its report as early as possible but in no case later than 3 months to make detailed rules regarding functioning of works committees with a view of democratize its election procedure, composition and functioning.

iii) Appeals to Supreme and High Courts : - The decisions of Fifteenth and Sixteenth Indian Labour Conference to at least regulate and bring down the number of appeals to Supreme and High Courts have not borne fruit. Employers are still going in appeal to High and Supreme Courts.

174-II

We had given a suggestion for consideration vide our letter dated to appoint a tripartite screening committee. Labour Ministry has not thought it proper to place it before the Indian Labour Conference or even refer to it.

In the circumstances we agree to the revival of Labour Appellate Tribunal with the special provision that appeals against its decision should not be referred to either High or Supreme Courts.

If the Indian Labour Conference is able to acheive unanimity over these items and the same along with earlier decisions are implemented we are sure it will go a long way in reducing the industrial tension.

174-II

ALL-INDIA TRADE UNION CONGRESS

4 Ashok Road, New Delhi

August 11, 1959

PRESS COMMUNIQUE

Following is the text of resolutions adopted by the Working Committee of the All-India Trade Union Congress at its session in Delhi from August 8 to 10, 1959:

I. ON THE 17TH INDIAN LABOUR CONFERENCE

The Working Committee of the AITUC notes that the 17th Session of the Indian Labour Conference held at Madras in July 1959 has made no appreciable headway in arriving at tripartite agreements on the many pressing problems faced by the trade union movement.

The Delhi and Nainital tripartites had undertaken the task of evolving general conventions and principles affecting such vital problems as rationalisation, minimum wage, closures, recognition of trade unions, the Code of Discipline, etc.

It was but natural that a review of these conventions in their actual working should have formed an important part of the 17th Madras Tripartite.

But the review presented by Government was sketchy and unsatisfactory and failed to nail down the essential fact that the Code had not been worked in its proper spirit by the employers, that recognition of trade unions and collective bargaining which are the foundation pillars of industrial relations had made little progress under the conventions of the 15th and 16th Tripartite Conferences.

The 17th Madras Tripartite was scheduled to give concrete shape to some of the conventions of the previous tripartites. The main principles of the Code of Discipline to be effective must find a legal body in the Industrial Relations Law of the country. As such, all the main ideas of those conventions in the matter of recognition, conciliation appeals, quickness of decisions, verification, ballot, etc., were bound to raise questions for clarification and where the law and the conventions conflicted, demand harmonisation. As such, the Madras Tripartite had to function more as a Committee on Industrial Relations Law and clarifications and rulings than ever before.

But it is unfortunate that the concretisation and clarification of the conventions was being attempted in such a way as to put more curbs on trade union rights, and permit the Government officialdom to interfere in the day-to-day running of the unions, ban formation of new unions which were not to their liking or obstruct their growth. The State Governments, particularly of M.P. and Bihar were seen to be keen in introducing laws so as to strengthen the Government-sponsored and employer-approved unions of the INTUC and disarm the workers in their struggle for better life.

In spite of this, the trade unions reacted sharply to the demand to permit the Registrar of Trade Unions to decide whether he should allow a new union to be formed or not. There was also reluctance to allow powers to Government to sit in prima facie judgement over the nature of disputes and the nature of the unions who defended them before such disputes were

. . . . . taken up for adjudication

taken up for adjudication. Despite the fact that the Government's policy was to favour the INTUC through all these measures, their very draconian look made even the INTUC wince at them. Hence the attempt to load the conventions and the law against the workers and the unions of the left, though not completely defeated was blunted to a large extent.

As a result of the protest of workers and unions that many trade unions and their officials sign agreements without reference to the workers concerned and even their own executives (as was particularly seen in Jamshedpur), the Government had put on the agenda a proposal that the draft agreements be exhibited on the notice boards of the factory and any objections raised by workers be given consideration. If passed, this would have introduced some amount of democratic functioning in those unions which are run bureaucratically. The AITUC endorsed this proposal. It proposed that all agreements made by a union must be submitted for ratification at least to the executive of the union, let alone the general body of workers.

But all these suggestions, including the most modest one on the agenda were opposed by all the three Centres in a most vehement manner.

The AITUC holds that in conditions of rivalry of unions, the best way to measure which is representative of workers and commands support of the majority is to take a ballot of all the workers or of all the membership of the competing unions pooled together for the ballot. The Kerala Government had put a provision for ballot in their Industrial Relations Bill, which was put before the Tripartite by the Government of India.

The INTUC opposed the ballot. The HMS, however, supported ballot along with the AITUC. But the conference as a whole would not accept it. Verification is no substitute for the ballot and the AITUC will continue to campaign for the ballot.

The Committee takes a grave view of the fact that the 17th Indian Labour Conference could not make any headway in the matter of recognition of trade unions. Curiously enough, official thinking on this question had been more on how to effect de-recognition rather than provide guarantees for compulsory recognition of trade unions.

The Working Committee also notes that attempts are being made, as was evident at the Madras Session of the Indian Labour Conference, to enact legislation in the different States on the lines of the notorious "Bombay Industrial Relations Act," impose further curbs on trade union rights and exercise greater Governmental control on the functioning of trade unions. Though the attempts in this direction made at the 17th Indian Labour Conference were, in the main, defeated, the Working Committee warns the workers and trade unions to be ever vigilant on this question and thwart every measure contemplated by the Government to curb democratic trade unionism and impose Government-sponsored unions of the INTUC on the working class.

On the whole the Madras Tripartite was not an advance, but in fact a slight retreat for the working class. It could have been more serious but for the opposition shown by the trade unions. The AITUC in its Statement at the Madras Tripartite, described the situation since Nainital, in the following words:

> "The Labour Minister, Mr.Nanda, has personally intervened in the coal disputes and in the Banking dispute. But such interventions while securing temporary relief, do not make up for a policy as a whole. They become only benevolent exceptions to a bad labour policy, which does not allow urgent questions of life of the workers to be resolved in their favour as a natural result of a correct policy.
>
> "The promises made at Nainital and perspectives held before the workers have been belied for the most part. Where small fulfilments have been shown, they had to be extracted by prolonged suffering and struggles of the workers.

. . . . "This not only shows

"This not only shows the labour policy of the Government in actual practice, it also shows that what is called 'planned development' has no plan unless all these retrenchments, closures, victimisations, and lockouts are a part of the 'plan' of the Government and the employers for better development of the profits of the gentlemen of enterprise."

It is necessary to act more unitedly to change the situation in favour of the workers.

II. ON DISRUPTION BY THE I.N.T.U.C.

During the past five years, workers belonging to all shades of opinion were being united in their trade federations. This had resulted in a large number of united actions and as a result, no doubt, a number of gains were achieved by the workers in these industries. In Defence, P&T, Banking, Petroleum and other industries, such united federations were formed and functioned actively.

This development had its effect on the working class movement in general and in many centres and establishments, united trade unions were also formed, with similar results.

The employers and the Government were not happy with this situation.

The INTUC which was formed with the help of the employers, by the ruling party in the year 1947, with a view to serve the ideological and political and political interests of the big bourgeoisie, to create disruption in the ranks of the workers, came to play its sinister role in this situation. Reversing its earlier attitude towards these united trade federations and unions, the INTUC has now set up rival federations in the Defence, Banking and Petroleum industries in particular and is attempting to form rival unions in many other establishments.

This patently anti-labour and disruptionist policy of the INTUC is given a theoretical justification by the INTUC President, Shri Ramanujam, who has decried the principle of 'One Union in One Industry' as incompatible with his version of 'industrial democracy'.

The Working Committee of the AITUC, however, notes that the workers have given a firm rebuff to this disruptive policy. The Committee congratulates the workers in the defence, banking and petroleum industries who in great majorities rejected the INTUC moves to form rival federations in their trades.

The Committee calls upon the working class of the country to remain ever more vigilant against the attempts at disruption, to maintain the unity achieved at all costs and further strengthen the united trade federations. The all-round offensive against our living standards can be resisted only by our unity and our united organisations.

(K.G.Sriwastava)
Secretary

PRESS INFORMATION BUREAU
GOVERNMENT OF INDIA

174-II

31 JUL 1959

"12.8"

RECOURSE TO MEDIATION AND ARBITRATION
FOR SETTLING INDUSTRIAL DISPUTES

INDIAN LABOUR CONFERENCE SESSION
AT MADRAS ENDS

Madras, Sravana 8, 1881
July 30, 1959

The Indian Labour Conference has agreed that there should be greater recourse to mediation and arbitration for settlement of industrial disputes and recourse to adjudication should be avoided as far as possible. Matters of local interest not having wider reporcussions should, as a general rule, by settled through arbitration.

A(iv)

The three-day conference, which was presided over by the Union Minister for Labour & Employment, Shri Gulzarilal Nanda, concluded here yesterday. State Labour Ministers and representatives of employers and workers attended the conference.

On the question of mediation and arbitration employers agreed to extend their full co-operation in developing this new approach to settlement of disputes. There would, however, be no compulsion from Government in this matter. But cases of refusal to have recourse to arbitration even in minor matters should be reported to the Implementation & Evaluation machinery in the States or at the Centre, as the case might be.

A(iv)

The conference agreed that a panel of arbitrators should be maintained by Government in order to help the parties to choose suitable arbitrators. The parties, however, will be at liberty to choose arbitrators from outside the panel. The principles and forms enunciated in awards and judicial decisions on important issues relating to industrial

relations .....

relations should be compiled, codified and published and made available for the guidance of arbitrators. Also, the Central Government should examine afresh how far the provisions of the Indian Arbitration Act should be usefully made applicable to the arbitration procedure laid down in the Industrial Disputes Act.

TRADE UNIONS

The conference discussed at length various problems relating to trade union organisations. A proposal to make it obligatory for unions to prescribe a minimum membership fee of As.4 a month was accepted and it was decided that a statutory provision should be made for this purpose.

The conference agreed that registrars of trade unions should be empowered to inspect accounts, books, membership registers, etc. so that they could verify the correctness of annual returns submitted by the unions. Also the work of the registrars should be decentralised in order to avoid delay in registering unions. The conference was not in favour of placing any restrictions on the number of unions that might be registered.

On the question of recognition of trade unions, it was agreed that where there was only the one union, the employers might recognise that union, even if it did not fulfil the condition of 15 per cent membership or of one year's standing. Where there are more than one unions and none of them fulfills the membership condition, none will be entitled to recognition. The conference did not favour the suggestion that a union having the largest membership even if it was less than 15 per cent should be recognised.

The conference agreed that a union would be entitled to recognition if it has not committed any breach of the Code of Discipline for one year after claiming such recognition. Failure to observe the code by a union after it had agreed to abide by it would entail withdrawal of recognition

normally for a period of one year. In that case, it would be open to the employer to recognise another union during this period provided it fulfilled all conditions for recognition.

APPELLATE TRIBUNAL

The question of reviving the Labour Appellate Tribunal was also discussed. It was agreed that the matter should be considered further in the light of the views expressed by different parties at the conference.

As regards the works committees, the conference decided to set up a committee to suggest measures to improve the working of these committees.

DOMESTIC WORKERS

The conference considered the question of service conditions of domestic workers and came to the conclusion that any legislative measure for this purpose would not be feasible for the present.

The conference approved the pilot scheme drawn up by the Union Government for setting up a special employment office at Delhi for the purpose of registration and placement of domestic workers. It was felt that experience gained from the working of this scheme might provide the basis for further action in regard to this matter.

The conference agreed that legislative and administrative policies of the Central and State Governments and the policies of the employers and workers organisations should not run counter to the broad lines of policy that may be recommended by the conference from time to time after full tripartite discussions.

SPIRIT OF FRIENDLINESS

Winding up the conference, Shri Nanda said he was happy that entire course of deliberations was characterized by a spirit of friendliness and of consideration on the part of all. A happy feature was that none looked at various problems

before .....

before the conference from a narrow point of view. Practically throughout the deliberations the employers and the workers organisations as well as the State Governments had approached the tasks before them with an awareness of their larger responsibilities to the workers, the industry and the nation.

IPT:Madras:Bahl
PRM

850/30-7-59/12-15/6729.

No. 1341/C/ ELM/59
Education and Labour Ministe:
Punjab.
Camp Madras
July 26, 1959.

My dear Nanda Ji,

One point that has escaped notice is the appearance of lawyers in most of the disputes from the management side. Practising lawyers form an association of their own or join employers' associations as office bearers (Vice Presidents or Joint Secretaries etc. etc.) and in that capacity appear in almost all cases without fear or hesitation. It is they who prolong cases; it is they who with a view to earn fat remunerations adversely advise the employers at the conciliation stage not to agree to even reasonable conditions and they convince their clients that their case was sufficiently strong and they were sure to win. They charge regular fees. These lwyers get all proposals at the conciliation stage rejected but the same proposals are more often than not accepted before the courts. The result isthat while the number of agreements at conciliation stage is decreasing while that of the same within the court (we might call them in the court settlements) is rapidly increasing. Once these lawyers appear in the courts, they get their full fees in advance and then they do not bother much about the settlement. As they know their weak points, in order not to be blamed for losing their cases, they readily accept court's suggestion for an 'in-the court settlement'.

However, this is exploitation of the workers and industrialists both. Litigant spirit is encouraged.

'Practising' lawyers whatever the position in the industry might be, unless he is himself an owner of a particular concern should not be allowed to appear before the Court/Tribunal. I, therefore, suggest that we may

make.....

make an addition of the following words to clauses 2(a) & (b) of Section 36:

"An officer, 'who is not a practising lawyer". The practising lawyers should be thus totally debarred.

2. Last year it was agreed that a provision will be inserted in the Industrial Disputes Act providing for making non-implementation of awards and agreements as a continued offence entailing day to day penalities.

Although the implementation committees have started their work with some vigour still for hard cases a provision in Law that should appear deterrent will be extremely helpful.

With best regards,

Yours sincerely,

Sd/- Amar Nath Vidyalankar

Shri Gulzari Lal Nanda,
Labour Minister, India,
Camp Madras.

INDIAN LABOUR CONFERENCE

(17TH SESSION, MADRAS - JULY, 1959)

17(4)-59

A G E N D A

1. Action taken on the decisions of the 16th Session of the Indian Labour Conference.

2. Industrial Relations.

3. Service conditions of domestic servants.

4. Introduction of a Pay Roll Scheme in the industrial establishments.

5. Proposal to revise the rates of compensation in Workmen's compensation Act, 1923.

6. Delinking of provident fund benefits from gratuity for the purpose of granting exemption to establishments or employees covered under the Employees' Provident Funds Act, 1952 from the operation of the provisions of Employees Provident Funds Scheme, 1952.

--0-0--

INDIAN LABOUR CONFERENCE

(17th Session, Madras, 27th-29th July'59)

Report of the Committee on Service conditions of domestic servants

The Committee met at 8 A.M. on the 28th July, 1959 and considered the proposals contained in the Memorandum on item 3 on the agenda of the Conference.

2. The following conclusions were adopted:-

(i) It was not considered feasible to adopt any legislative measure for the regulation of the service conditions of domestic workers.

(ii) The proposals concerning a pilot scheme for setting up a special employment office in Delhi as given at p.4 of the Supplementary Memorandum on item 3, were unanimously approved. It was felt that experience gained from the working of this scheme in Delhi might provide the basis for further action in future.

(iii) As regards the composition of the Advisory Committee, as contemplated at Para 6 on p.4 of the Supplementary Memorandum on item 3, it was felt that representatives of some of the central organisations of workers and employers should also be included in the Committee.

(iv) It was also decided that the Labour Welfare Officer and others connected with the administration of this scheme should, whenever they visited in connection with their work, places where domestic workers were employed, collect all the available data on the prevailing practice in respect of working hours, holiday facilities, rates of remuneration, dates on which salary was normally paid, period of employment and other privilegs available so that

further....

further action might be planned on the basis of well-ascertained facts.

Pay Roll Savings Scheme

3. As the Committee had some time at its disposal and the officials of the National Savings Department were present item 4 on the agenda of the Conference was also taken up for consideration and the following conclusions were reached:-

(i) The Pay Roll Savings Scheme, as set out in the Memorandum on item 4, was unanimously approved subject to the following:-

(a) The Committee recommended that the collection charges at 1% should be utilised for distribution among the staff engaged in actual collection work and any balance left after such distribution utilised for the general good of the employees.

(b) The Committee noted that the Pass Books might be kept with the employer but these should be made available by the employer for inspection by the employees concerned during working hours. The employee could also keep the Pass Book with him if he wanted to do so.

Sd/- Abid Ali
Chairman.

Madras,
28th July, 1959.

INDIAN LABOUR CONFERENCE

(17th Session, Madras, 27th-29th July'59)

Report of the Committee on Service conditions of domestic servants

The Committee met at 8 A.M. on the 28th July, 1959 and considered the proposals contained in the Memorandum on item 3 on the agenda of the Conference.

2. The following conclusions were adopted:-

(i) It was not considered feasible to adopt any legislative measure for the regulation of the service conditions of domestic workers.

(ii) The proposals concerning a pilot scheme for setting up a special employment office in Delhi as given at p.4 of the Supplementary Memorandum on item 3, were unanimously approved. It was felt that experience gained from the working of this scheme in Delhi might provide the basis for further action in future.

(iii) As regards the composition of the Advisory Committee, as contemplated at Para 6 on p.4 of the Supplementary Memorandum on item 3, it was felt that representatives of some of the central organisations of workers and employers should also be included in the Committee.

(iv) It was also decided that the Labour Welfare Officer and others connected with the administration of this scheme should, whenever they visited places where domestic workers were employed, collect all the available data on the prevailing practice in respect of working hours, holiday facilities, rates of remuneration, dates on which salary was normally paid, period of employment and other privileges available so that in connection with their work,

further....

further action might be planned on the basis of well-ascertained facts.

Pay Roll Savings Scheme

3. As the Committee had some time at its disposal and the officials of the National Savings Department were present item 4 on the agenda of the Conference was also taken up for consideration and the following conclusions were reached:-

(i) The Pay Roll Savings Scheme, as set out in the Memorandum on item 4, was unanimously approved subject to the following:-

(a) The Committee recommended that the collection charges at 1% should be utilised for distribution among the staff engaged in actual collection work and any balance left after such distribution utilised for the general good of the employees.

(b) The Committee noted that the Pass Books might be kept with the employer but these should be made available by the employer for inspection by the employees concerned during working hours. The employee could also keep the Pass Book with him if he wanted to do so.

Sd/- Abid Ali
Chairman.

Madras,
28th July, 1959.

INDIAN LABOUR CONFERENCE

(17th Session, Madras, 27th-29th July'59)

Report of the Committee on Service conditions of domestic servants

The Committee met at 8 A.M. on the 28th July, 1959 and considered the proposals contained in the Memorandum on item 3 on the agenda of the Conference.

2. The following conclusions were adopted:-

(i) It was not considered feasible to adopt any legislative measure for the regulation of the service conditions of domestic workers.

(ii) The proposals concerning a pilot scheme for setting up a special employment office in Delhi as given at p.4 of the Supplementary Memorandum on item 3, were unanimously approved. It was felt that experience gained from the working of this scheme in Delhi might provide the basis for further action in future.

(iii) As regards the composition of the Advisory Committee, as contemplated at Para 6 on p.4 of the Supplementary Memorandum on item 3, it was felt that representatives of some of the central organisations of workers and employers should also be included in the Committee.

(iv) It was also decided that the Labour Welfare Officer and others connected with the administration of this scheme should, whenever they visited in connection with their work, places where domestic workers were employed, collect all the available data on the prevailing practice in respect of

further action might be planned on the basis of well-ascertained facts.

Pay Roll Savings Scheme

3. As the Committee had some time at its disposal and the officials of the National Savings Department were present item 4 on the agenda of the Conference was also taken up for consideration and the following conclusions were reached:-

(i) The Pay Roll Savings Scheme, as set out in the Memorandum on item 4, was unanimously approved subject to the following:-

(a) The Committee recommended that the collection charges at 1% should be utilised for distribution among the staff engaged in actual collection work and any balance left after such distribution utilised for the general good of the employees.

(b) The Committee noted that the Pass Books might be kept with the employer but these should be made available by the employer for inspection by the employees concerned during working hours. The employee could also keep the Pass Book with him if he wanted to do so.

Sd/- Abid Ali
Chairman.

Madras,
28th July, 1959.

17th ILC

1. No general discussion

2. Objection regarding observers - All-India Defence Employees Federation.

AGENDA

3. Three Committees - 1) Industrial Relations
2) Domestic Servants and 4
3) Item 5 and 6
4) Committee to decide about invitations, etc.

4. Item 2 divided - (a) TU organisation
(b) Relations with workers' organisation
(c) Works Committees

B. (i) Outsiders on the Executive of TUs

1. AITUC suggestion
2. Decision - status quo
3. Victimisation - as in (2)

(ii) MEMBERSHIP FEE - Agreed for annas four per month.

B. (iii) Decentralisation of Work of Registrar of TUs

AGREED

(iv), (v), (vi) and (vii) - NO

Re. (iv) Powers to examine accounts, minute books and membership register may be given to Registrar. Others refused.

Re.(vi) existing powers to remain.

(i) RECOGNITION

HMS accepts for the first time Ballot of members of the unions. But INTUC, employers and Govt rejected it.

(iii) VALIDITY OF AGREEMENTS

Opinions divided - status quo

(iv) Difficulties in referring disputes to voluntary arbitration.
and
(v) Voluntary arbitration

AS IN B.

(vi) Principles for reference of disputes to adjudication. - The discussion took place that often ~~xx~~important dispute is sent for adjudication and then strike is declared illegal. This position should change. This requires change in law.

(vii) LABOUR APPELLATE TRIBUNAL - Opposed by all. AITUC suggested setting up of Special Bench in High Courts. INTUC wanted it in Supreme Court. Pending for further discussion.

(viii) CREATION OF SEPARATE MACHINERY FOR DEALING WITH DISPUTES RELATING TO INDIVIDUAL DISMISSALS, ETC.

It was agreed that machinery should be provided for dealing with individual cases of dismissals, etc. in places where there is no union or no recognised trade union.

AITUC favoured that there should be legal avenue for workers who are not members of the union to take up his case directly in the Labour Courts. INTUC and HMS ~~xx~~ and employers opposed it.

Madras Govt was allowed to proceed with their law in consultation with the State Labour Advisory Committee. Govt to take steps to amend laws that dismissal is treated as industrial dispute.

(ix) Jurisdiction of a Tribunal appointed by one State Govt in respect of a dispute concerning workmen employed in different States.

(iii) WORKS COMMITTEE

A sub-committee to be appointed to go into the matter.

We also raised that Works Committee should be set up where it does not exist as in U.P. - some places in M.P.

Bombay and M.P.Labour Ministers asked to set up Evaluation & Implementation Committees in their States.

ITEM III - DOMESTIC SERVANTS - Delhi Pilot Project

ITEM IV - PAY ROLL SCHEME - Scheme approved. AITUC refused to participate unless the money is collected by the Governmental agency and not through employer.

Pass Books to remain with the workers, whenever they want it.

Scheme should be purely voluntary.

ITEM V & VI - Referred to a Committee
Meeting to be held on 5th September at North Block in Delhi to consider the remaining items.

CODE OF CONDUCT - 29.vii. 59

1. Language in the organ to be proper - no villification. It will apply to party members speaking or writing in Party meetings and journals.

2. Labour Ministers in States to act as Conveners.

3. To report about the holding of election according to the Constitution.

4. To discuss the slogan of 'one union in one industry' if all agree.

Another meeting to be held in Delhi.

INDIAN LABOUR CONFERENCE
(17th Session, Madras, 27-29th July, 1959)

CONCLUSIONS OF THE SITTINGS HELD ON THE 27TH JULY, 1959

It was agreed that the legislative and administrative policies of the Central and State Governments, and the policies of Employers and Workers Organisations should not run counter to the broad lines of policy that may be recommended by the Indian Labour Conference from time to time after full tripartite discussion in the Conference.

The Conference discussed the question relating to Trade Union Organisation as listed at page 20 of the Memorandum on Industrial Relations and adopted the following conclusions:-

(1) There should be no change in the existing legal provision in respect of statutory restrictions on the number of outsiders on the executive of trade unions.

(2) The existing legal provisions on the subject of victimization contained in the Industrial Disputes Act, the Bombay Industrial Relations Act and the proposed Madhya Pradesh Labour Relations Bill should be examined with a view to providing further protection against victimization, if necessary. The organisations would also give further thought to the problem and forward their suggestions to the Government of India.

Membership fee.

3. The proposal for making legal provision in respect of a minimum membership fee of 25 Naya Paise per month was accepted.

Decentralisation of the work of the Registrars of Trade Unions.

4. The suggestion concerning decentralisation as contained in para 11.6 of the Memorandum was approved.

Powers of Registrars of Trade Unions.

5. Regarding the proposals at paragraphs 11.7 to 11.9 it was decided that Registrars should have powers to inspect the accounts, membership registers, minute books of the trade unions to verify the correctness of the annual returns.

Restrictions on the number of unions that may be registered.

6. The consensus of opinion was not in favour of placing any restrictions on the number of unions that might be registered.

INDIAN LABOUR CONFERENCE

(17th Session, Madras, 27th-29th July)

Conclusions of the Sittings held on the 28th July, 1959

Participation by Observers

It was decided that the question of invitees (delegates, advisers and observers) to the Conference be referred to a Committee comprising one representative each of the workers' and employers' organisations and such Government representatives as might like to participate.

Recognition

(i) Where there was only one union, the employers might recognise it even if it did not fulfil the condition of 15% membership.

(ii) Where there were more than one union and none of them fulfilled the membership condition laid down in the criteria for recognition, as evolved at Naini Tal, none would be entitled to recognition. The suggestion for recognising a union having the largest membership, even though it had less than 15% membership, was not favoured.

(iii) The words 'industry' and 'local area' occuring in clause 3 of the criteria for recognition of unions should be defined by the Government concerned. The provisions contained in the Industries (Development and Regulation) Act and other enactments might be examined for the purpose and the matter placed before the next meeting of the Standing Labour Committee.

(iv) The question whether a representative union should represent also the technicians, the supervisory staff, etc. was postponed for further consider-

(v) The procedure for verification of membership of unions for the purpose of recognition and representation in Committees and Conferences as formulated at Naini Tal Conference and subsequently clarified at the meeting of Trade Union representatives held on the 21st March 1959, was confirmed.

(vi) A union would be entitled to recognition after it had observed the Code of Discipline faithfully for one year before such recognition.

(vii) Failure to observe the Code would entail derecognition for a period of one year. It would be open to the employer to recognise another union during this period provided it fulfilled all necessary conditions for recognition.

Validity of agreements

Opinion was divided on the question whether an agreement entered into by a representative union should be binding on all the workers. It was, therefore, decided that the existing position in regard to the validity of agreements should remain unchanged for the present.

Voluntary Arbitration.

(i) Increased recourse should be had to mediation and voluntary arbitration and recourse to adjudication avoided as far as possible. Matters of local interest not having any wider repercussions should, as a general rule, be settled through arbitration.

(ii) While there would be no element of coercion in the matter from Government , the employers agreed to extend their full co-operation in developing this new approach to settlement of industrial disputes through mediation and arbitration.

(iii) A panel of arbitrators should be maintained by Government in order to assist the parties in the matter of choosing suitable arbitrators.

(iv) The question how far the provisions of the Indian Arbitration Act could be usefully made applicable to the arbitration procedure provided under the Industrial Disputes Act, 1947, should be examined afresh by the Central Government.

(v) The principles and norms so far evolved through awards and judicial decisions on important issues should be compiled and codified and made available for the guidance of arbitrators.

(vi) Cases of refusal to have recourse to arbitration even in minor cases should be reported to the Evaluation and Implementation machinery in the States or at the Centre, as the case might be.

General

(i) The question of preparing a record of proceedings of the Conference was considered and it was felt that only a statement of the main decisions or conclusions should be prepared and circulated. It was not considered necessary to prepare a summary of the entire proceedings.

(ii) Sufficient notice should be given to the parties concerned before any allegations or complaints were made against them in the Conference so that they might be in a position to collect the relevant facts and give an adequate reply to the charges.

(iii) It was felt that it would be in the spirit of the voluntary obligations evolved in this Conference if all the parties concentrated on the implementation of these obligations instead of levelling charges of violation against one another.

(iv) The question of delay in setting up tripartite Implementation Committees in some of the States was raised by some workers' representatives. It was announced that the Governments of Bombay and Madhya Pradesh would immediately set up such Committees.

20. Shri K.G. Srivastava,
Secretary, AITUC,
4, Ashok Road, New Delhi.

Adviser.

No.LC-9(10)/59
Government of India
Ministry of Labour & Employment

From

Shri R.C. Saksena,
Under Secretary to the Government of India.

To

All Delegates and Advisers.

Dated New Delhi, the 9th July, 1959.

SUBJECT:- 17th Session of the Indian Labour Conference - Madras 27th, 28th and 29th July.

Sir,

I am directed to say that the 17th Session of the Indian Labour Conference will commence at 11. A.M. in the Rajaji Hall, Mount Road, Madras-2, on the 27th July, 1959. A complete set of the agenda papers is enclosed.

2. Details of the residential accommodation likely to be available at Madras are given in the note forwarded to the Employers' and Workers' Organisations concerned with this Ministry's letter dated the 6th July 1959 (copy enclosed). It is requested that your requirements, if any, with information whether vegetarian or non-vegetarian meals will be preferred, may kindly be intimated immediately to Shri V.C.Chathu Menon, B.A., Assistant Secretary to the Government of Madras, Industries, Labour and Co-operation Department, Fort, St. George, Madras, under intimation to this Ministry.

Yours faithfully,

(R.C. Saksena)
Under Secretary.

Copy with enclosure also to the General Secretary, All India Defence Employees' Federation, 70, Market Road, Kirkee, Poona-3.

(T.C. Gupta)
Section Officer.

INDIAN LABOUR CONFERENCE
(17th Session, 1959)

.....

Item No. 2: Industrial Relations

Memorandum.

Introduction

1.1 It will be recalled that at its last session held at Nainital in May, 1958, the Conference discussed at considerable length several matters relating to industrial relations and reached agreed conclusions in respect of -

(a) Suspension of adjudication;

(b) Works Committees;

(c) Grievance procedure;

(d) Mitigation of the evils of trade union rivalry;

(e) Recognition of trade unions and verification of trade-union membership;

(f) Evaluation and implementation of awards, etc.;

(g) Appointment of District Judges on Industrial Tribunals;

(h) Exclusion of hospital staff, etc., from the purview of the Industrial Disputes Act; and

(i) The right of workers to go on strike in consequence of an illegal action by the employer.

1.2 The progress of action taken on the recommendations made by the Conference in respect of the above matters is indicated in the Memorandum on item 1 of the agenda for the present session. It may also be noted that a number of proposals for the amendment of the Industrial Disputes Act were placed before the 17th Session of the Standing Labour Committee held at Bombay in October, 1958. These proposals were, as desired by the Standing Labour Committee, thoroughly discussed by a special committee in January, 1959. The recommendations of the special committee are being looked into. In the meantime, the Ministry of Labour and Employment have been receiving numerous suggestions

for changes or modifications in the existing law and procedure governing the settlement of industrial disputes, recognition of trade unions and allied matters, with a view to strengthening the basis of labour-management relations in the country. The suggestions have emanated not only from the employers' and workers' organisations but also from the State Governments as well as the employing Ministries at the Centre. The Ministry of Labour and Employment are naturally anxious to have the considered views of the Conference on these matters before they make up their mind as to what should be done. The recommendations of the Conference will also be of appreciable assistance to such of the State Governments as are contemplating legislation within their own spheres of action. Incidentally, the proposals outlined in this Memorandum do not, except where specifically indicated, represent the views of either the Ministry of Labour and Employment or the Government of India as such.

2.1 It would be worthwhile to take note of certain significant developments that have taken place since the last session of the Conference and which provide the necessary climate for a dispassionate discussion of the problems raised in this Memorandum. In the first place, the unreserved acceptance of the Code for Discipline in Industry by the employers and workers has had a perceptible influence on the trend of industrial relations as revealed by the statistics of industrial disputes for 1958. While there was a very minor increase in the number of disputes during the second half of the year as compared to the first half (from 781 to 783) the number of workers involved and the number of man-days lost recorded an appreciable decline from 5,11,237 to 4,31,183 and from 45,19,087 to 30,73,516 respectively. Secondly, the evaluation and implementation machinery at the Centre and in the States has been, generally speaking, functioning effectively, thus leading to the elimination of a number of misunderstandings between employers and workers and also to a

better appreciation of the difficulties of one party by the other. Thirdly, the faithful observance of the Inter-union Code of Conduct by the four all-India organisations of workers should, if it has not done so already, result in a better atmosphere in which the employers would find it easier to carry on negotiations. Government also stand to gain by this in as much as the process of verification of trade union membership will not be complicated by extravagant claims of strength.

2.2 Encouraging as these trends are, there is no denying that there are still many loop-holes to be plugged before it can be affirmed that the foundations of a rational system of labour-management relations have been securely laid. Nor can there be any finality in a field which is subject to the influence of continuous and swift changes in the economy of the country. Problems will have to be tackled and solutions found for the same as and when they come up to the surface. It is with this at the background that the Conference will have to consider the matters raised in this Memorandum.

2.3 For the sake of convenience, the subject can be discussed under two broad headings, viz., A. Machinery for collective bargaining and the settlement of industrial disputes, and B. Problems relating to trade union organisation.

A. Machinery for collective Bargaining and the Settlement of Industrial Disputes

(i) Recognition of unions

3.1 Collective bargaining can derive reality only from the organised strength of the workers and a genuine desire on the part of the managements to co-operate with the representatives of the former in exploring every possibility of reaching a settlement. The question naturally arises as to who should represent the workers in direct negotiations with the employers. The general consensus of opinion, as confirmed by the discussions at the last session of the Indian Labour Conference, is that time is not

ripe for introducing any element of compulsion and that emphasis should be placed on the evolution of certain conventions for the voluntary recognition of unions by employers. With this end in view, the Conference recommended at its last session, the following criteria:

(i) Where there was more than one union, a union claiming recognition should have been functioning for at least one year after registration.

Where there was only one union, this condition would not apply.

(ii) The membership of the union should cover at least 15 per cent of the workers in the establishment concerned. Membership would be counted only of those who had paid their subscriptions for at least three months during the period of six months immediately preceding the reckoning.

(iii) A union might claim to be recognised as a representative union for an industry in a local area if it had a membership of at least 25 per cent. of the workers of that industry in that area.

(iv) When a union has been recognized, there should be no change in its position for a period of two years.

(v) Where there were several unions in an industry or establishment, the one with the largest membership should be recognized.

(vi) A representative union for an industry in an area should have the right to represent the workers in all the establishments in the industry, but if a union of workers in a particular establishment had a membership of 50 per cent or more of the workers of that establishment, it should have the right to deal with matters of purely local interest such as, for instance, the handling of grievances pertaining to its own members. All other workers who were not members of that union might either operate through the representative union for the industry or seek redress directly.

(vii) Only unions which observed the Code of Discipline would be entitled to recognition and the procedure for recognition should form a part of the Code of Discipline.

3.2 It is rather premature to attempt an estimate of the impact of this recommendation on the problem of recognition and the extent to which the criteria referred to above are being adhered to. In this connection, the All-India Trade Union Congress feels that where the claims of rival unions for recognition cannot be settled otherwise, the most simple method of determining

the representative character is to hold a ballot of the workers in the plant/area/industry concerned. A provision on these lines has been made in the Kerala Industrial Relations Bill, 1959, which confers a statutory right on trade unions fulfilling certain conditions to be recognised by the employers or failing that through certification by the registering authority. According to Section 12(1) of the Bill "A recognised trade union shall be entitled for the purpose of collective bargaining to be certified as a negotiating agent of workmen in relation to an appropriate unit if that trade union has the support of a majority of the workmen of the establishment or industry comprising the appropriate unit, or where there is no union having such majority, that union which has the largest support of the workmen in comprision to any other recognised trade union shall be entitled to be so certified". Section 18 of the Bill gives the right to a recognised union having at least 20% membership to appeal to the State Industrial Relations Board against the order issued by the registering authority under Section 12. The Board is empowered inter alia to order a referendum of the workmen concerned to be taken by secret ballot and dispose of the appeal in the light of the result of the referendum. It may be mentioned in this connection that at the last session of the Conference it was agreed that the method of election or referendum was not suitable for solving the question of recognition but that the criterion should be paid membership of standing over a specified period.

3.3. The Conference may consider the merits of the procedure proposed in the Kerala Bill for the certification of the negotiating agent. It may also examine the need for and the desirability of making consequential modifications in the criteria for recognition as adopted at the last session.

(ii) Works Committees.

4.1. One of the measures envisaged by the Industrial Disputes Act for securing and preserving amity between employers and workmen

was the establishment of Works Committees at the plant level. The steps that should be taken to ensure the satisfactory functioning of the Works Committees were considered at the last session of the Conference. It was felt that the problem required fuller examination. Accordingly, efforts have been made to ascertain the experience of other countries, in this direction and the position is explained in Appendix I. The Chief Labour Commissioner (Central) has also made a critical analysis of the functioning of Works Committees in the Public Sector undertakings in the Central sphere, vide Appendix II. Besides, Government have requested the N.C. Corporation, Bombay to make a close study of the functioning of Works Committees in industrial undertakings in the Bombay region, as well as in some other areas. The Public Sector Conference held in January, 1959, also devoted some thought to this question.

4.2. While the enquiry entrusted to the N.C. Corporation is likely to take sometime to be completed, it appears desirable for the conference to discuss the problems relating to Works Committees and try to lay down at least some board principles. The function of the Works Committees as defined in Section 3 of the Industrial Disputes Act is too wide. The Conference may like to specify the type of subjects that might usefully be discussed by these Committees. Certain points may be borne in mind in this connection. Firstly, any mixing up of the functions of Works Committees and the Joint Management Councils under the 'Worker Participation in Management' scheme has to be avoided. Secondly, the different roles of the Works Committees on the one side and the trade unions on the other need to be clearly demarcated. Matters, like wages, for instance, which are generally conceded to fall within the purview of trade unions, may not be discussed by the Works Committees. Thirdly, the information that would be made available by the I.L.O.,

7/-.....

... suggested in paragraph 8.4 of Appendix I, may be utilised in drawing up the guiding principles for the formation and functioning of Works Committees.

4.3 The Conference may like to take note of the further information relating to Works Committees that is being collected and also recommend the analysis of this material by a small tripartite Committee which could also draw up certain "guidance principles".

(iii) Validity of agreements reached through direct negotiations between the parties.

5.1 Section 18(1) of the Industrial Disputes Act provides that a settlement arrived at by agreement between the employer and workmen otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement. Sub-Sections (1) and (2) of Section 19 of the Act prescribe the period of operation of such settlements. Sub-Rule (2) of Rule 58 of the Industrial Dispute (Central) Rules, 1957, specifies the signatories to such agreements. The Act and the Rules do not, however, make any reference to the kind of unions with which the employer can enter into negotiations. Consequently, the agreement concluded by the employer with one trade union can very well be repudiated by other unions. The Delhi Administration have drawn attention to specific cases where such repudiation has taken place and where the Industrial Tribunal has held that such agreements could not be binding on unwilling parties. A satisfactory solution to this problem can be found only in the final settlement of the issue of recognition. Assuming that the managements would normally conclude agreements only with representative unions, it is for consideration whether provision on the following lines should be made in the Industrial Disputes Act and the Rules made thereunder:-

(i) Only an agreement which is concluded between the employer and a representative union or the duly elected representatives of his employees can be

(ii) the draft agreement should be displayed on the notice board of the establishment concerned for the information of the general body of workers.

(iii) any objections or modifications to the proposed agreement, submitted within a prescribed time-limit, should be taken into account by the negotiating parties before finalising the agreement.

(iv) The registering authority should issue a certificate indicating the period of validity of the agreement.

5.2. The Conference may discuss the issue raised by the Delhi Administration and also comment on the desirability of making the above mentioned changes with regard to collective agreements.

(iv) Settlement of disputes through Arbitration.

6.1 As the Conference is aware, both employers and workers have bound themselves, through the Code for Discipline, to settle differences through voluntary arbitration before it becomes necessary to refer disputes to the Industrial Relations Machinery. Sub-section (1) of Section 10A of the Industrial Disputes Act provides that where an employer and his workmen agree to refer a dispute to arbitration, the reference may be to such person or persons as may be specified in the agreement between the parties. With a view to helping the parties, instructions have been issued to the officers of the Central and State Industrial Relations Machinery to ensure that in every case where conciliation was likely to fail or had failed the conciliation officer should suggest settlement through arbitration. Panels of arbitrators have also been drawn up. It is, however, found that not much use is being made of the facilities provided by Government. The reasons for the hesitancy on the part of the employers and workers to have recourse to arbitration is not clear. Nor is it Government's intention to exert any pressure in this matter. All the same, it is desirable that difficulties, if any, standing in the way of reference of disputes to voluntary arbitration may be examined and a way out suggested.

124-31

6.2 The Industrial Dispute Act provides for a three-tier system of tribunals, manned mainly by persons who are holding or have held judicial posts. The Government of Madhya Pradesh feel that consequently these tribunals are swayed more by the niceties of civil law than by considerations of equity and social justice. The State Government have, therefore, suggested that consideration should be given to the question of replacing the Labour Courts and Industrial Tribunals by Arbitration Boards, consisting of representatives of employers and workers selected out of panels maintained by Government, the Chairmen being independent persons with a judicial background. The suggestion of the Madhya Pradesh Government amounts in effect to the substitution of adjudication by compulsory arbitration. The system of Labour Courts and Industrials was introduced only in 1956 and perhaps needs to be given a fair trial before a changeover is thought of.

However, the Conference may like to discuss the implications of the suggestion made by the Madhya Pradesh Government for the setting up of Arbitration Boards in place of Tribunals.

(v) Principles for Reference of Disputes to Adjudication

7.1 The question whether the practice of referring disputes to adjudication should not be suspended on an experimental basis at least has been under discussion for sometime now. The decision reached both at the Conferences of Labour Ministers and the Indian Labour Conference has been that, taking into consideration the vital need for maintaining industrial peace in the interest of economic development, it would be unwise to take the risk. At the same time, it has been unanimously recognised that adjudication should normally be ordered only when all other avenues have been fully explored. The State Governments were therefore requested, in accordance with a decision reached at the 14th Session of the Labour Ministers' Conference held in October, 1957, to supply to the Centre full information, together with their critical observations, regarding the methods followed by

/- ....

then in referring individual cases to adjudication, the intention being to analyse the existing practices and to evolve a set of principles for general guidance. The work has since been completed and a set of draft Model Principles has been prepared (Appendix III). The 'norms' referred to in the draft are to be evolved in the light of awards given by tribunals, etc., as recommended at the 15th Session of the Labour Ministers' Conference.

7.2 Professor Richardson, the I.L.O. Expert on Industrial Relations, who is at present working with the Ministry of Labour and Employment, has opined that the draft principles seem generally adequate and practicable. However, he has made the following observations:-

(i) A useful distinction may be drawn between (a) disputes arising out of the implementation of existing legislation, awards, etc. (implementation disputes) and, (b) disputes arising from demands for new conditions.

(ii) "Implementation disputes", which usually affect only individual or small groups of workers should rarely be sent up for adjudication. The Labour Commissioners may be empowered to give binding decisions in such cases.

(iii) In the case of the second category of disputes, often involving large numbers of workers, wider use may be made of Courts of Enquiry, provided for in Section 6 of the Industrial Disputes Act, to investigate the facts and make impartial recommendations which would provide an authoritative basis for settlement by agreement and further conciliation.

(iv) Disputes which could not initially be settled through conciliation should, instead of straight-way being referred for adjudication, be sent back for further conciliation even if this process invilved the risk of a strike or lockout.

7.3 The observations made by Professor Richardson deserve consideration. The Conference may examine the Draft Model Principles and indicate whether the same should be adopted, with changes if any.

(vi) Revival of the Labour Appellate Tribunal.

8.1 The Conference will recall that the working of the Industrial Disputes Act, 1947, as it originally stood, revealed the need for a central appellate authority to review the divergent and sometimes conflicting, decisions of the large number of

11/-.....

Industrial Tribunals set up by the Central and State Governments and to co-ordinate their activities . The Industrial Disputes (Appellate Tribunal) Act, 1950, was the result and the Government of India constituted an Appellate Tribunal, with four Benches functioning at Calcutta, Bombay, Madras and Lucknow. Additional ad hoc Benches were set up later to deal with urgent cases. It, however, soon become apparent that appeals filed before the Appellate Tribunal not only took an unduly long time to be disposed of but also involved a great deal of expenditure which the workers could ill afford. Opinion in favour of the abolition of the Tribunal therefore gathered quick momentum and in view of the large volume of criticism in Parliament and at tripartite meetings, the Government of India were obliged to repeal in 1956 the Act of 1950 and substitute the then system of tribunals by the present three-tier system of Labour Courts, Industrial Tribunals and National Tribunals.

8.2 The abolition of the Appellate Tribunal has apparently resulted in a large increase in the number of cases going up in appeal to the Supreme Court as will be seen from the following figures:

Year	Number of petitions for special leave to Appeal No. Registered	No. granted
1953	59	23
1954	51	21
1955	57	37
1956	291	257
1957 (upto 31.10.57)	189	148

Quoting figures in support of this statement, the Law Commission has observed as follows:-

> "The situation created by these large number of appeals causes concern in two respects. It has the natural effect of clogging the work of the Supreme Court ..... The graver aspect, however, of the matter is that labour matters are being thrust upon a Court which has not the means or materials for adequately informing itself about the different aspects of the questions which arise in these appeals and therefore

> ... it difficult to do adequate justice .....
> Equally grave are the delays caused by these appeals in the disposal of industrial matters which essentially need speedy disposal".
>
> From the information available it appears that 209 cases were pending with the Supreme Court on 30th November, 1958.

So far as appeals to the High Courts are concerned, the Law Commission has remarked that a party aggrieved by the decision of the tribunal approaches the Supreme Court because the jurisdiction of the High Courts under Article 226 of the Indian Constitution is too narrow to afford relief. A High Court can only quash an order of a tribunal but cannot make its own decision and substitute it for that of the tribunal. Incidentally, it appears that on 30th November 1958, there were 756 cases pending before the various High Courts.

8.3 According to the Law Commission the remedy lies in providing for an adequate right of appeal in industrial matters. "Such a right of appeal could be provided either by constituting tribunals of appeal under the Labour legislation itself or by conferring a right of appeal to the High Court in suitable cases".

8.4 The remarks made by the Law Commission need to be paid close attention. The observance of the Code for Discipline is likely to lead to a reduction in the number of cases going up to the High Courts and the Supreme Court. Even so, the Conference may discuss the desirability of reviving the Labour Appellate Tribunal.

(vii) Creation of Separate Machinery for Dealing with Disputes Relating to Individual Dismissals, Discharges, etc.

9.1 Under the Industrial Disputes Act, as it stands at present, a dispute between an individual worker and his employee cannot be treated as an 'Industrial Dispute' unless sponsored by a group of workers or a trade union. It is likely that an aggrieved worker who has no standing with a trade union might find it difficult, if not impossible, to secure redress. Recently, the Government of Madras approached the Centre for

.....

permission to undertake legislation providing for a separate and self-contained machinery for dealing with individual disputes in order to ensure that discharges and dismissals take place for a reasonable cause; that any aggrieved individual has a prompt and automatic remedy by way of appeal to a designated authority. The genesis for this proposal is to be found in the opinion held by the High Court of Madras and the Labour Courts in the State that the discharge of any worker after a month's notice or pay in lieu thereof, under the provisions of the Standing Orders, was perfectly in order. This opinion has led to some consternation among the workers who have demanded a suitable remedy.

The State Government have pointed out that provision for appeals by individual workers is already contained in the Madras Shops and Establishments Act, 1947, the Madras Catering Establishments Act, 1958, and the Madras Beedi Industrial Premises (Regulations and Conditions of Work) Act, 1958. The State Government have further pointed out that experience with the working of the provision in the Shops Act of 1947 has not been unhappy. It has also been explained that cases of discharges and dismissals touching on group relations, with which the trade unions are mainly concerned, may continue to be raised as industrial disputes, as defined in the Industrial Disputes Act, 1947. Besides, the State Government are of the opinion that trade union activities and industrial relations in general may well benefit by the method of individual cases being dealt with separately without the mediation of the trade unions.

9.2 The point to be kept in view in examining the proposal made by the Government of Madras is whether direct access by individual workers to the Industrial Relations Machinery or other special machinery in cases of discharges and dismissals would -

(a) undermine the influence of trade unions,

(b) result in indiscriminate resort to appeals, and

(c) adversely affect discipline.

According to the State Government, there is no such risk. On the

other hand, they feel that the proposed measure would remove a fruitful source of discontent.

9.3 In view of the urgency in Madras in this matter, the State Government are, with the concurrence of the Centre, going a head with their proposal. However, the Conference may examine the implications of the proposal and whether the matter should be left to the discretion of the individual State Governments or whether any action should be taken at the All-India level.

(viii) Jurisdiction of a Tribunal appointed by one State Government in respect of a dispute concerning Workmen Employed in different States.

10.1 Under the Industrial Disputes Act, the 'appropriate Government' except in the case of disputes affecting more than one State, are the State Governments. A large number of disputes are naturally referred to the Industrial Tribunals appointed by the State Governments concerned. There are, however, cases where the headquarters of an undertaking is situated in one State but which employs workers in adjoining Statesalso. In such cases the extent to which the decisions of the State Tribunals are binding becomes a bone of contention. In the Delhi Union Territory, for instance, there are situated several branches of commercial concerns controlling workmen in other States such as Punjab, Rajasthan, U.P. and Jammu and Kashmir. One of the Industrial Tribunals, Delhi, has held that it is not within the power of the Delhi Administration to refer disputes in such undertakings to the local Tribunals. Another Tribunal had taken the opposite stand and the Supreme Court has upheld the latter view. It has also been pointed out that the cost of the Tribunals, etc. will have to be borne by one State, whereas the benefits may go to workers in other States also. Attention has been drawn by some unions of transport employees in the Punjab to similar difficulties.

10.2 The Conference may consider the problem raised by the Delhi Administration and indicate whether any change should be made in the Industrial Disputes Act. At present the Central Government may

appoint National Tribunals only in the case of disputes involving questions of national importance or which are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

B. Problems Relating to Trade Union Organisation

11.1 Workers organisations have a dual role to play. One is to negotiate with the employers and enter into collective bargaining or, as a last resort, have recourse to direct action for securing satisfactory conditions of work and fulfilling the reasonable aspirations of workers. These problems raise the issue of recognition of trade unions either voluntarily by the employers or through certification by governmental agencies if necessary. The implications of the issue of recognition have been dealt with earlier in this Memorandum.

11.2 The other important, perhaps much less ostentatious, function of trade unions is to look after the day-to-day welfare of their members and, where practicable, their families. The conditions to be fulfilled by trade unions from this angle are different from those required for the purposes of recognition. The Constitution of India guarantees freedom of association to all citizens, subject only to such reasonable restrictions as may be imposed by the State in the interest of public order or morality. Workers are thus free to form their own associations without any previous authorisation. If, however, any association wants to acquire a legal personality, and thereby immunity from civil and criminal liability, it has to get itself registered under the Trade Unions Act, with the concomitment restrictions stipulated in the Act. This Act, as the Conference is aware, was placed on the Statute Book as early as in 1926. The actual working of the Act for over two decades, revealed the need for its overhauling and a Bill seeking to revise and replace the same was brought forward in 1950. The Bill, however, lapsed with the

dissolution of the interim Parliament, and no steps were taken in the matter since then.

11.3 The desirability of making substantial changes in the Act of 1926 has, however, been stressed on several occasions in the recent past. Emphasising that a strong trade union movement was necessary both for safeguarding the interestsof labour and for realising the targets of production, the Second Five Year Plan made, inter alia, the following recommendations:-

(i) Unions should realise that undue dependence on any one not belonging to the ranks of industrial workers must necessarily affect the capacity of workers to organise themselves.

(ii) The gap created by the reduction in the number of outsiders should be filled by training of workers in trade union philosophy and methods.

(iii) In order to improve the finances of trade unions from their internal resources, a membership fee of at least four annas a month should be prescribed in the rules of a trade union.

(iv) There should be stricter enforcement of rules regarding payment of arrears.

Recommendation (ii) above is already being taken care of by the "Workers' Education Scheme" which is well under way.

11.4 With regard to outsiders, the Second Plan observed that the number of outsiders managing the trade unions had shown a decline. Recently, the Ministry of Labour and Employment collected information as to whether the trend noted by the Planning Commission was being maintained. It appears that as compared to 1947, the proportion of outsiders is showing a decline in Assam, West Bengal, Punjab, Orissa, Kerala, Mysore and Tripura. In other States the trend is in the reverse direction. The data on which this assessment has been made is not, however, complete and may, therefore, be accepted with some reservation. The point for consideration is whether the present statutory limit on the number of outsiders on the executive of a trade union, viz. 50%, should be altered. In this connection a distinction needs to be made between outsiders who have actually have at no time been workers and those who have been workers sometime or other. It has to be examined whether any restriction should be

placed on the percentage of outsiders belonging to the latter category and whether any period of service as a worker should be specified.

11.5 The question of making it obligatory for unions to prescribe a minimum membership fee of annas four a month, as recommended by the Planning Commission, was considered at the last session of the Conference and was agreed to. Necessary provision will be made in the Trade Unions Act when it is amended.

11.6 It will be recalled that at its last session the Conference recommended that delay in the registration of unions should be avoided. Apart from other reasons, one of the causes for delay may be the number of applications to be dealt with by the Registrars of Trade Unions. The Act, as it stands, does not permit the delegation of the powers of the Registrar to any other authority. The Government of Bombay have suggested that provision should be made for the decentralisation of the work of the Registrars and the appointment of Additional and Deputy Registrars. The Conference may consider this suggestion.

11.7 Under the present Act, the powers of the Registrars are restricted. They have no authority to inspect the records and accounts maintained by the unions. With a view to ensuring that unions functioned properly and complied with legal requirements, it has been suggested that the Registrars, or their nominees, should be specifically empowered to inspect the books of trade unions. The Conference may like to endorse this suggestion.

11.8 Attention has been drawn by some State Governments to the fact that while trade unions obtained registration by providing in their rules for all matters mentioned in Section 6 of the Act, many of them did not in practice observe the rules. Non-observance of the rules does not, however, constitute a violation under the Act as it stands and cannot, therefore, be a ground for the withdrawl or cancellation of registration. The Conference may consider the desirability of this defect being removed.

11.9 Similarly, the desirability of providing for the withdrawl

or cancellation of registration of unions failing to submit their annual returns may also be considered.

11.10 One of the drawbacks of the trade union movement in this country is the multiplicity of unions. There are several registered trade unions functioning in the same industry, and in many cases in the same unit. This situation, it has been pointed out, arises from the fact that under the Trade Unions Act any group of seven persons can apply for registration of a union and the Registrar has no power to refuse registration if the union complies with the prescribed requirements. Suggestions have, therefore, been made to the effect that either the number prescribed under Section 4 of the Act should be sufficiently raised or that the Registrar should be empowered to refuse registration to a trade union if he considers that there is already an adequate number of registered unions functioning for the workers in the undertaking or industry concerned. While it is true that multiplicity of unions is a recognised evil, it is doubtful whether the remedy lies in tightening up the provisions of the Trade Unions Act and making it difficult for unions to secure registration. The primary purpose of the Act is to enable organisations of workers to acquire a corporate status. Freedom of association is a fundamental right and the conditions for registration should not be such as to negative that right. I.L.O. Convention No.87 concerning Freedom of Association and the Right to Organise confers on workers (and employers) the right inter alia, to establish organisations of their own choosing and these organisations should have the right to acquire a legal personality. Even as it is, there is a risk of the regulatory provisions of the Trade Unions Act being construed to be inconsistent with the Convention and this is one of the reasons why the Government of India have not ratified this Convention. In a recent report to the I.L.O. from the Government of India it has no doubt been urged that "such restrictions as may be

be imposed by the competent national authorities on the right of association of workers and the functioning of trade unions in consultation with and with the full concurrence of representative organisations of workers shall not be deemed to be in violation of the Convention." Still it is questionable whether the Trade Unions Act should be utilised to curb an undoubtedly unhealthy development. The Conference, may, however, discuss the matter.

11.11 Several other amendments of a minor nature to the Trade Unions Act have been received. These can, however, be taken care of if the fundamental issues are settled and the broad principles are laid down by the Conference.

CONCLUSION

12.1 As has been pointed out in the introduction, the numerous problems relating to industrial relations cannot be tackled all at once. For the present, the views of the Conference are invited on the following matters:-

A. Machinery for Collective Bargaining and the Settlement of Industrial Disputes.

(i) The procedure proposed in the Kerala Industrial Relations Bill for the certification of negotiating agents (paragraph 3.3).

(ii) The appointment of a small tripartite Committee for drawing up "guidance principles" relating to the composition and functioning, etc., of works Committees (paragraph 4.3).

(iii) Validity of agreements reached through direct negotiations between the parties (paragraph 5.2).

(iv) Removal of the difficulties standing in the way of reference of disputes to voluntary arbitration (paragraph 6.1).

(v) Replacement of Labour Courts and Industrial Tribunals by Arbitration Boards (Paragraph 6.2).

(vi) Model principles for reference of disputes to adjudication (paragraph 7.3).

(vii) Revival of the Labour Appellate Tribunal (paragraph 8.4).

(viii) Creation of separate machinery for dealing with disputes relating to individual dismissals etc., (paragraph 9.3).

(ix) Jurisdiction of a tribunal appointed by one

State Government in respect of a dispute concerning workmen employed in different States(paragraph 10.8).

B. Problems relating to Trade Unions Organisation

(i) Alteration of the present statutory limit on the number of outsiders on the executives of trade unions (paragraph 11.4).

(ii) Insertion of a provision in the Trade Unions Act regarding membership fees (paragraph 11.5).

(iii) Decentralisation of the work of Registrars of Trade Unions (paragraph 11.6).

(iv) Empowering Registrars to look into the records of trade unions (pagraph 11.7).

(v) Cancellation of registration for failure to observe the rules of the union (paragraph 11.8).

(vi) Cancellation of registration for failure to submit annual returns (paragraph 11.9).

(vii) Placing a restriction on the number of unions that may be registered (paragraph 11.10).

.-.-.-.-.-.-.-.-

Appendix I

WORKS COMMITTEES-EXPERIENCE IN OTHER COUNTRIES

Introduction

1.1 Since the last World War many countries have set up machinery for associating the staff closely with the general operation of the undertaking. The machinery thus established differs from country to country and also bears different names like works Committees or Councils, Management Councils, Joint Production Committees Joint Advisory Committees, Labour Management Committees, Occupational Committees, Factory Committees or Councils, Workers' Committees, etc. These bodies are meant to serve economic and social purposes, by promoting co-operation in the undertaking. The economic motive is, to ensure increased production and the moral/social motive is to secure full recognition of the importance of the human element and accordingly to give staff a greater interest in the general operation of the undertaking.

Method of establishment of joint bodies.

2.1. In some countries these joint bodies have a purely contractual origin while in others they owe their existence to legislation. The countries which belong to the former category are U.K., Swedon, Switzerland, Norway, Canda, Israel, Japan etc. In the countries where the Works Councils are the outcome of voluntary agreements between the employers and the trade unions, the method of joint consultation generally varies not only from one industry to another but also from one firm to another. The position in Swedon is however slightly different. Here, two general agreements were signed on 30th August 1946 regarding the appointment of Works Councils. One was between the Confederation of Swedish Employers and the Confederation of Swedish Trade Unions and the other between the Confederation of Swedish Employers and the Swedish Confederation of Organisation of Salaried

Employees. The agreement becomes legally binding on the employers, wage earners and salaried employees concerned only when it is ratified by a Particular Industry.

2.2 To the latter category of countries which have passed legislation for the establishment of Works Councils belong Federal Republic of Germany, Austria, France, Belgium, Finland and the totalitarian economies like the U.S.S.R., Czechoslovakia, Yugoslavia, Poland etc.

2.3. In the Federal Republic of Germany the "Works Consitutution Act" of 11th October 1952 established a uniform system of collaboration between employers and workers at the plant level throughout the Republic. The Act expressly states that its provisions in no way impair the function of the trade unions and the employers associations.

2.4. In Austria the "Federal Act" of 28th March 1947 introduced a representative system in all undertakings. Another Act of 30th June 1948 deals with the representation of wage earners in agriculture and forestry undertakings.

2.5. In France, production or management Committees were set up spontaneously in a number of factories. With a view to making the establishment of these bodies a general practice and to give them legal status the Ordinance of 22 February 45 was issued and thus Works Committees came to be established. Works Councils are required to be formed one in each invidual plant together with a Central Council for the firm as a whole. The representatives of the Central Council are elected by the Works Council. Similar practice is adopted by Austria and a number of other countries. A Works Council may also appoint special Committees to deal with employment problems or social problems in the proper sense of the term. The legislation, however, does not prevent any

arrangements as to the operation or powers of Works Committees being based on collective agreements or custom. In some cases, even the application of the legislation is optional.

2.6. In Belgium, Works Councils have been set up under the Act of 20 September 1948 to make provision for the organisation of the country's economic life. Under this Act, Works Councils may be established on the employer's initiative. Depending on the size and structure of the undertaking, every works Council may split itself up into Works Sections comprising delegates representing particular categories of workers.

2.7. In Finland, Works Councils became definitive under the Act of 30th December 1949.

2.8 In Netherlands, the Act of 4th May 1950 deals with the setting up of Works Councils but it is also closely related to the question of the general organisation of the economy.

2.9 In the countries with nationalised and planned economies, such as the U.S.S.R. and other countries of this group trade union Works Councils or Committees have been formed by legislation. But these Councils differ from their counterparts in private enterprise economies mainly in their responsibilities and in their relationship with the unions.

2.10 In Czechoslovakia for instance, Works Councils have been set up under a Decree issued on 24th October 1945 in all establishments employing more than 20 workers. The unified trade union organisation has the sole right to put forward a list of condidates and also complete control over the holding the elections, finances etc.

2.11 Under the Act of 2nd July 1950, the Workers' Councils in Yugoslavia (the membership of which varies from 15 to 120) are elected by workers who have signed a contract of employment with the undertaking and also by the technical, engineering and other staff. The management Committees

made up of between 3 and 11 members nominated by the Workers' Councils from among the employees of the undertaking. The manager of the undertaking is appointed by the management Committee of the association grouping a number of undertakings or, if no such association exists, by the appropriate Government Agency. The manager is, ex officio, a member of the management Committee. These Committees are generally responsible for seeing that the regulations regarding industrial relations, salaries and wages, promotion, safety, social insurance and the improvement of the workers' living standards are properly carried out.

2.12 Works Councils in Poland were set up under the Decree of 6th February 1945. In practice, however, these Committees were incorporated in the trade union organisation, in which they functioned as the "basic units" and their statutory duties of safeguarding the workers' interests remained a dead letter. However, the recent indications are to explore the possibility of increasing the powers of the Works Councils so as to implement the Decree once more and to enlarge its scope in certain respect.

Composition of the Joint bodies.

3.1 In the majority of countries, legislation or regulations governing the setting up of works Councils prescribe a minimum number of employees above which an establishment is required to set up such a Council. In Austria for example, a Works Council is elected in any undertaking in which atleast 20 workers are employed while the number stipulated in countries like Germany, Czechoslovakia, and Poland are over 20 workers. In the Netherlands the law lays down a minimum of 25 workers, whereas in Sweden and Italy the minimum fixed is over 25 workers. In Belgium, France and Israel Committees are to be formed in establishments employing 50 workers or more while the number

in U.K. is over 50. In Poland, the law allows workers' management Committees to be set up in all undertakings provided that not less than 50% of the wageearners approve the idea.

Structure 4.1 The structure of Works Councils also varies from country to country. In some countries they are composed of workers' delegates while in others they are joint bodies. Their structure also may vary from one plant to another within the same country in accordance with the proportion of wage earners to the total number of employees.

4.2. In Austria and the Federal Republic of Germany the Works Councils may only include representatives of the workers. In Austria, the law specifies that in undertaking employing more than 50 workers separate Works Councils for the wage earners and for the salaried employees should be set up if each of these two groups comprises 20 persons or more.

4.3. Similarly, the internal Committees in Italy consist of only the workers made up of representaitves of the technical and clerical staffs and of the wage earners elected separately by direct secret ballot by all the work people whether they are members of a trade union or not.

4.4 In Belgium, France and the Netherlands the law required Works Councils to be joint bodies, although there may not be as many employers' as workers' representatives. Works Councils in Belgimum are composed of the head of the business and one or more delegates appointed by him together with a number of staff delegates. The number of staff delegates may be between 3 and 14 depending on the number of working-people. The number of seats allotted to the workers' and salaried staff's delegates also depends on the relative strength of these two groups.

4.5 In France the Works Council includes the head of the business or his representative and a delegation of employees. Delegates are elected from lists submitted by the organisations that are most representative of each

category of employees. A system of representation by occupation is adopted. The allocation of seats to different categories of employees at the division of the work people into voting groups is settled by the management with the trade unions concerned. If the manager fails to convene a meeting of the Works Committee in time, the latter may, at the request of workers' representatives, be convened by and meet under the Chairmanship of the Labour Inspector.

4.6 A similar position exists in the Netherlands where the manager in additional to his being a member is also the Chairman of the Council. The Council comprises members varying between 3 and 25, elected by the wage earners.

4.7 In Poland, the law stipulates at least 2/3 of the members of the workers' management council must be chosen by secret ballot from among the workers themselves. The manager is, ex officio, a member of the council but can not be elected Chairman or Vice-Chairman of the Council.

4.8 In Finland Works Councils consisting of two employers' representatives, 3 workers' representatives and one representative from the salaried staff are formed in establishments where the number of man hours worked during a single year does not exceed 240,000. In establishments where this limit of working hours is exceeded, the Council is composed of 3 employers' representatives, 5 workers' representatives and two representatives of the salaried staff. The Chairman of the Works Committee is elected by the Committee and chosen alternately, each year, from among the representatives of management and those of the staff. A Secretary is also elected by the Committee from among the members representing the staff.

4.9 In Canada and Israel the productivity Committees are joint bodies, the representatives from each of the

---7-

174-11

...up of management and workers' being equal. The ... representatives are elected solely by the workers (except better in the case of Canada) while the management representatives are appointed by the management, usually the senior executive and foreman in the case of Canada). In Israel every Committee elects one Chairman one from each group who take it in turns to preside. These the Chairman with the assistance of the Secretary, handle the Committee's business between meetings and supervise the work of sub-committees.

Role of trade Unions in Works Council and Joint Committees

5.1 In many countries, irrespective of whether the Works Councils are set up by agreement or law, trade unions take part in the appointment of members, (although in some cases once the Councils has been elected it is completely independent of the Unions). Close collaboration between the unions and the Councils takes place at all times, particularly if the unions are strong and have a large membership in the undertaking concerned.

5.2 In Sweden only trade union members are entitled to take part in the election of workers' representatives. This, however, does not apply if more than half the workers in the plant are not unionised. As regards salaried employees if not less than three-quarters of them employed in an undertaking are affiliated to the Confederation of Salaried Employees' Organisations, only those who are trade unionists are entitled to vote in the election of their representatives; if the proportion is less all salaried employees are allowed to vote.

5.3 In France, and Belgium, the workers' delegates on the Works Council are elected by a system of proportional representation from lists drawn up by the organisations considered to be most representative of each category of workers. (In Belgium these bodies are the nationally federated inter-occupational organisations with not less than 100,000 members or 10% of the labour force of the particular undertaking). Further, in France the workers' organisations which are recognised as

- 7 -

as representative in each undertaking authorised by law to appoint one delegate(who is an employee of the undertaking) to sit on the Council in an advisory capacity.

5.4 A similar procedure is followed in the Netherlands, where the members of Works Councils(except the Chairman) are elected from one or more lists of candidates submitted by the union or unions designated for this purpose.

5.5 In Canada although the wage earners' representatives on the joint production Committee are elected by secret ballot by the employers, they may be appointed by the unions wherever this practice has got the approval of both the workers and management. In addition, the President of the union is often allowed to attend meetings of these joint Committees.

5.6 In the Federal Republic of Germany, delegate from a trade union represented on a Works Council, may, at the request of a quarter of the Council's membership, attend meetings in an advisory capacity.

5.7 In Australia, a somewhat different system is found. The Works Council is composed of a Chairman(who is also the manager of the plant), a trade union representative from each of the six departments in the plant, the union Secretary(who is also the secretary of the Council) and six workers' representatives selected by the management, together with the training officer as joint Secretary.

5.8 In Italy, elections of internal Committee members and factory delegates are managed by the trade unions.

Functions of Works Committees

6.1 Works Councils are generally responsible for putting forward the workers' views before a decision is taken by the management. Depending on the countries and the regulations in force the functions of these Councils range from social questions(Welfare) to technical and economic matters. Frequently, it has been considered best to limit the scope of councils to matters of joint interest not

covered by collective agreements and in such cases the councils are advisory bodies pure and simple.

6.2. Social functions: Chiefly, the Works Councils are concerned with social matters like welfare facilities, amendment of labour laws or regulations, hirings and dismissals, resolving industrial disputes by conciliatory methods etc., Generally with the exception of a few countries like France, Austria and Federal Republic of Germany these councils do not deal with the wage questions and other working conditions. In U.K., Sweden and Israel, the joint Committees deal with various aspects of welfare and working conditions(heating, ventiliation, lighting etc.), vocational training questions, the personnel department and the prevention of accidents and also with such technical matters as the improvement of production methods, the raising of productivity, organisational methods, automation etc. The Works Councils in U.K. are purely advisory bodies and the final decision rests with the management. In Austria, Belgium and France law provides that workshop or working regulations or plant rules may not be issued or amended without their approval. These countries have also the right to manage or share in the management of welfare facilities provided by the undertaking for the benefit of the workers or their families. The Councils in Belgium also discuss the general criteria for hiring and dismissal of workers. In Italy too, the internal committees discuss plant regulations with the management before they come into force. Here any proposal to dismiss workers through falling off in business or a re-organisation must be notified to the Committee with full reasons thereof, and the matter thereafter is discussed with the management. In the event of any disagreement the matter is submitted to the appropriate bodies for investigation. In some countries like the Federal Republic of Germany and the

Netherlands, the Councils are responsible for ensuring that social legislation and collective agreements are carried out. In these as well as in some other countries like Japan, Finland, Italy and Switzerland they also make the first attempt at conciliation. In the Federal Republic of Germany no large-scale hirings or dismissals may take place without the Works Councils being consulted. In Austria, the Works Councils are entitled to establish welfare funds (this includes all funds to improve the well-being of the workers and their families) and to administer them without interference. In the Netherlands they take part in the running of welfare facilities attached to the undertakings. Also, the Councils should first be notified about the establishment or termination of each wage earner's contract despite the Councils' opposition. If the employer terminates the contract it may appeal to the conciliation office and by virtue of its right to a share in the management can even suspend the decision of the employer to close down the plant until a ruling is obtained from the State Economic Commission.

6.3 Technical functions: The technical responsibilities assigned to the Works Councils cover safety and production and productivity. These functions are however discharged purely in an advisory capacity. In the Federal Republic of Germany, the Councils must be allowed to express an opinion, wherever safety devices are introduced and whenever an inquiry is held in the case of an accident. Here as well as in Finland the Councils Co-operate with employers and labour inspectors in enforcing the safety regulations. Similarly, in the Netherlands Works Councils are responsible for seeing that the laws and regulations for the workers' protection are observed and that the facilities provided in the interests of safety and health and hygiene are maintained in good order.

In Canada, Norway, Israel etc. the Councils are called production Committees which are mainly interested to secure the expansion of production and the raising of the activity. Work Councils in Sweden not only express their views on system of organisation and planning for optimum production but also hold a watching over all technical and economic matters. In the Netherlands and Finland they suggest ways and means of improving technical and economic efficiency for intensifying production. Austrian Works Councils may make suggestions to the management regarding improvements in equipment. In France, the Council examine any suggestions for increasing output forward by the management or workers, while in Italy they give suggestions for increasing productivity.

6.4 Economic functions: Many countries have taken steps to give Works Councils some voice in the internal administration and in some cases in the management of the undertakings in the belief that workers have a vital stake in the efficiency of the undertakings. In France the powers of the Works Councils in respect of economic matters are purely advisory. They must, according to the law be consulted over matters affecting the organisation, management and general running of the undertaking. They must also be informed of the profits earned and in cases of some companies (with limited liability) they can also make suggestion as to the uses to which these profits should be put. In Belgium and Sweden the management must supply the Works Councils with full information on the financial results of the business. In the Federal Republic of Germany, joint economic Committees made up of between four and eight members(with at least one member from the Works Councils) are set up in factories with more than 100 workers. These Committees discuss

the financial position of the business, the [illegible] output and sales etc. In Austria, a Works Council by virtue of its right to a share in the management, is entitled to make proposals to the management in the interests of the concern as a whole as well as of the plant and its workers.

7.1 In the Federal Republic of Germany and Switzerland where [illegible] countries the Works Councils operate to general satisfaction and seem to have become a permanent feature of the industrial scene. In Canada and Finland these Councils have given encouraging results and satisfaction to all parties.. Their number is also on the increase. In U.K. although joint consultation at the plant level is ineffective sometimes the Works Councils are encouraged as the experiment is considered to be an excellent way of educating trade union leaders in the techniques of administration.

Although joint consultation has become a widespread practice in any ever-increasing number of countries and has generally proved itself worthwhile, a number of snags have been struck over in the establishment of these councils and the manner in which they discharge their duties. The dangers of keeping the workers informed fully about the state of business are experienced in some countries. On this account the Belgium manufacturers' Federation have taken the line that the Works Councils would have been more effective if their powers had been freely negotiated in each undertaking with the law being applicable only in the event of disagreement. On the other hand, the Belgium Trade Union movement is not satisified with the powers granted to the Works Councils or the scope of the joint consultation.

7.2 In France, Works Councils are undergoing a critical period. The commonest attitude is sheer apathy and it is hard to find men now to stand as candidates for the Works Councils. Sometimes they seem to have been shunted into a siding any by wasting their time in futile efforts have incurred and contempt of the workers when they are supposed to be representing. The reasons for [illegible]

psychological atmosphere. In many cases the managements deliberately try to hamper the councils or discourage them. In some cases, failure has also been attributed to the fact that many of the employers do not even know how to take the chair at a meeting in which they are asked to supply the information, give it in a language, which is over the workers' heads.

7.3 In some countries like Australia trouble has been caused by the fact that the wage earners and salaried staff take part in the work of the same council.

7.4 Paradoxical as it may seem, co-operation at the plant level is viewed with suspicion and disfavour in those countries where the trade union organisations are weak through fear of their losing control over the workers whose difficulties could be largely solved through the Works Committees, etc. Where trade unionism is well founded, the Works Committees receive better treatment at the hands of the unions.

International standards relating to Works Committees etc.

8.1 The expansion in the use of joint consultative machinery at the plant level led the International Conference to adopt a Recommendation (No.94) in 1952 concerning consultation and co-operation between Employers and workers at the level of the undertaking. This Recommendation stipulates that Works Committees etc., should deal with matters of mutual concern to the employers and workers but not within the scope of collective bargaining machinery or not normally dealt with by other machinery concerned with the determination of terms and conditions of employment.

8.2 The question of bipartite co-operation at the unit level has also been discussed by several of the I.L.O. Industrial Committees. It has been recognised that bodies for consultation and co-operation should have

the essential function of inculcating an understanding of each other's point of view between all parties in the undertaking on basis of mutual confidence. Also, the successful functioning of the Works Committee etc., depends on the willingness of the management of an undertaking /to inform the joint body at regular intervals regarding/ the activities of the undertaking, future plans and provide the joint body with general information about the economic and the technical situation of the undertaking.

8.3 While no comprehensive list of the functions that could be assigned to joint consultative bodies has been drawn up by the I.L.O., the following subjects have been considered suitable for consideration by these bodies:-

(a) information on general problems which have an influence on the operation of the undertaking;

(b) information on the employment situation;

(c) conditions in the plant, such as ventilation, lighting, noise, temperature, factory hygiene;

(d) amenities, such as rest rooms, health services housing, canteen services, recreation;

(e) safety and accident prevention;

(f) vocational training; and

(g) measures for increasing efficiency.

8.4 Recently, the International Labour Office had called for detailed information from Member States regarding the extent to which the principle of co-operation at the level of the undertaking is being followed. This information, which would be useful as guidance material will become available sometime later.

---

authorities have expressed their inability to set up these committees in view of the prevailing labour conditions and apathy amounting to opposition from the trade union organisations concerned. The question of exempting them from setting up works committees, ... is already receiving the attention of the Ministry of Labour & Employment. Works committees are also not functioning in any of the banking or insurance organisations belonging to the public sector as no request was received from the employees working in these organisations for the formation of these committees. The analysis given below therefore pertains to 161 public sector undertakings falling in the Central sphere and it excludes the undertakings referred to above.

3. Size of the Undertaking and the Works Committees:

The majority of the establishments from which replies have been received employ more than 500 workers and in more than 25% of the establishments, the workers employed were more than 2000. From the reports received, it has been observed that the successful working of the works committees is in no way inter-dependent on the number of workers employed in any establishment. It depends more or less on the keenness of interest evinced by the representatives of both sides i.e. the workers as well as the management and the size of the establishment has practically no bearing on the interest taken by the parties concerned in the successful working of the committees.

4. Composition of Works Committees:

Rule 39 of the Industrial Disputes (Central) Rules, 1957, provides that the number of representatives of the workers on these committees will not be less than the number of representatives of the management and that the total number of members shall not exceed 20. No restriction, however, has been placed, in the rules, on the management's representatives being less in number than the representatives of the workers. In 9, i.e. in about 6% of the establishments (out of the total of 161), it was observed that the

representatives of the management were less in number than that of the employees. The main reason usually given for this disparity in number was shortage of adequate number of officers in these establishments. The disparity in some cases is reported to have given rise to certain practical difficulties such as election of Chairman and Vice-Chairman as well as Secretary and Joint Secretary of the Works Committees. In accordance with Rule 51 of the Industrial Disputes (Central) Rules, 1957, theoffices of Chairman and Vice Chairman are not to be held by the representatives of the employers or workmen for two consecutive terms and similarly the offices of Secretary and Joint Secretary are not to be held by the representatives of the employers or workmen for two consecutive years. This inter-change is not possible in the installations where there is only one officer.

5. Frequency of the meetings of the Committees.

In accordance with the rules, themeetings of the works committees are to be held once in a quarter and more frequently if possible. On the whole it was noticed that the meetings were being held once in a quarter in almost all establishments except in a few cases, the number of which was limited to 3%. The reasons which have been furnished for irregularity in holding the meetings are:-

(i) non-submission of agenda by the representatives of workers as well as management.

(ii) lack of quorum.

(iii) administrative difficulties such as lack of space, holidays etc.

(iv) absence of representatives of both the sides on account of various reasons including mis-understanding among the parties concerned.

With a genuine goodwill and desire to ensure that the works committees are functioning successfully, these difficulties could be easily met.

6. Minutes of the Works Committee.

There is no uniformity in the system of maintaining the Minutes of the committee meetings. Where the committees are active, minutes are written in an elaborate manner but in cases

where the committees are more or less inactive, the minutes are written, it appears, only to meet the requirements of the law. They do not furnish details of the issues under discussion nor the arguments advanced by both the parties are incorporated therein. In a very few cases, the minutes contain question put up by the representatives of the workers and answers given by the representatives of the management. Thus there is enough scope for improvement in this connection.

7. Subjects discussed in the meetings:

The functions of the works committees, in accordance with the Act, are to promote measures for securing and preserving amity and good relations between the employers and workmen and to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters. The Act as well as the Rules are silent as regards the exact matters which are to be discussed by these committees. In the Defence Installations, through administrative directives, effort has been made to give guidance to these committees as regards the subject matters to be discussed therein but in other installations falling in the public sector, no such guidance is available to the members of these committees. This lacuna, many a time, furnishes a fertile ground for disputes when workers insist on discussing certain items in these meetings, which the management regards as purely managerial functions such as matters of discipline etc. It has been noticed that managements are usually reluctant to suggest any item in the agenda by themselves. The workers' representatives, on the other hand, try to bring in all sorts of issues in the agenda which leads to a clash between the representatives of the two sides. There is a marked tendency among the representatives of the workers to regard works committees as something like Municipal Councils

wherein the could ask questions or criticise the administration. This attitude on the part of workers' representatives, often results in misunderstanding being caused which once established is rather difficult to remove. A lot, therefore, depends on the attitude and frame of mind not only of the workers' representatives but the management-members of the committee as well. The workers' representatives generally tend to regard these committees as a platform where they could grab and seize all advantages they can instead of securing just remedies for the really aggrieved workers. The management's side, at times, fails to understand the difficulties of the worker - members of the committees who have to stand pressure from a large number of workers especially when there are a number of grievances. In the event of their failing to represent these grievances adequately, they lose the confidence of the workers who had elected them. It has often been suggested that the scope of these committees should be properly defined under the Act while some are of the opinion that a healthy tradition should be established as regards the subject matters to be discussed in these committees and these should be left to be decided upon mutually by both the parties.

(a) The items which are suggested by the workers sides generally relate to their difficulties such as conditions of service including working hours etc. A list of subjects generally brought forward for discussion by the workers' representatives is given below:-

> Grant of loans, holidays, advance payment of wages before important festivals, improvement of quarters, recreation and medical facilities to employees and their families. Protective clothings, payment of bonus and leave with wages, promotion of good relationship, matters of general welfare, labour welfare fund, measures against illiteracy announcement through loud-speakers, hot weather requirements, labour union office construction of canteen service, training in first aid, medical examination of workers, water supply, purchase of games material, market rates, improvement in working environments, cinema Projectors, electification of quarters, small pox vaccinations creaches, transport facilities, cheap grains etc.

(b) The subject matters referred to the committee by the representatives of the management were as under:-

> Discipline and punctuality, industrial relations, adjustment of surplus personnel, welfare amenities, medical facilities. Promotion of amity, subjects covering moral

and social education, health, sanitation etc. National Savings Certificates, Co-operative society, financial aid to sports clubsfrom Welfare Fund, Award of prizes to outstanding candidates in training schemes, service conditions etc.

(c) The items which were considered as ultra-vires by the managements and on which discussion was usually not allowed, were as under:-

Wrongful termination of services of workers. Investigation in disciplinary cases, confirmation, higher pay and special allowances, provision of clerical staff in I.O.'s of ico, individual representations, trade tests by workers' question of pay scale, discussion on wage rates.

8. Decision and Conclusions reached in the Committee:

The study revealed that in approximately 60% of the undertakings, decisions reached were usually unanimous. Most of these decisions pertained to the matters which were within the administrative controlof the Head of the Establishment concerned. In nearly 48% of the undertakings, as many as 90% of the decisions arrived at were implemented within a reasonable time. In as many as 33% of the undertakings, the average time taken to give effect to the decisions or recommendations of the works committees was less than one month. It was also noticed that decisions are given effect to fairly quickly except on certain major issues requiring Government sanction. In 53% of the Establishments, certain decisions taken remained unimplemented due to the reasons stated above. Many of the recommendations of the committees had to be referred to higher authorities or Ministries with the result that the sanction as well as implementation were unduly delayed. Policy matters could not either be decided or implemented for a long time. The reasons which are generally furnished for delay or non-implementation of the decisions are summarised below:-

(a) matters involved huge financial out-lay.

(b) non-availability of raw materials which are generally imported and non-availability of building materials.

(c) lack of co-operation, friction and local politics in a few cases.

(d) matters beyond the financial or administrative powers of the Head of the Establishment.

174-II

(c) procedural difficulties.

In 81% of the Establishments, no difficulty, procedural or otherwise, was encountered in the smooth functioning of the works committees. Procedural difficulties generally arise due to vagueness of the scope of the works committees, controversy regarding the powers given to the Chairman to disallow certain items, inclusion of a certain item in the agenda, holding of works committee meetings without proper notice or circulation of agenda, opposition of trade unions to the inclusision of certain items in the agenda.

9. General difficulties.

General difficulties reported during survey in the smooth function of those committees were as follows:-

(i) Lack of appreciation on the part of the management and workmen's representatives of the functions and significance of the committees.

(ii) illiteracy and lack of understanding amongst the workers especially those employed in backward areas.

(iii) disinclination of workers' representatives on the works committee to participate in the deliberations of the committee.

(iv) Workers expect too much out of these representatives and they being unable to deliver the goods become unpopular and are not inclined to serve on the committees.

(v) Lack of co-operation and in some cases even opposition of the trade union leaders to the constitution and the functioning of the works committees. They fear that their representative character will cease if works committees function. There have also been instances wherein it was reported that the trade unions regarded works committees as their rivals.

(vi) Opposition of trade unions towards the formation of works committees due to inter-union rivalry.

10. Factors responsible for successful functioning of works committees.

Factors which were found helpful for the successful functioning of works committees were as under:-

(i) existence of co-operation and cordial relations between the workers and managements and also with the trade unions.

(ii) Sympathetic attitude by the managements especially in encouraging workers to put forward their grievances and suggestions.

(iii) foresight of the managements in having prior consultation with the works committees before making changes in respect of welfare measures, service conditions etc.

(iv) higher education standards among the workers.

(v) Model constitution and bye-laws for the works committees have been framed.

11. Sub Committees of the Works Committees.

In a majority of the Establishments, sub-committees of the works committees were set up. These included canteen committees, production committees, welfare fund committees, estate advisory committees, Standing sub-committees to scrutinise the agenda of the works committees. Besides those certain other committees also appear to have been set up on an ad hoc basis and these were / sub-committee, Rate control committee, Puja committee etc. It /Venamahotsava was also observed that those sub-committees are generally formed by the works committees which are running smoothly. In establishments where there has been misunderstanding and consequent friction in the works committees, efforts to form sub-committees could not succeed. In most of the cases these sub-committees did not have equal number /of representatives of the management and workers.

12. General Remarks.

(i) In an appreciably large number of public sector undertakings it has been observed that unlike private sector undertakings, inter union rivalry has not affected the smooth working of the works committees. This is perhaps due to the fact that in these undertakings usually one union is recognised and therefore the unrecognised unions, if any, often have ineffective existence.

(ii) In private sector undertakings, the officers in charge of Establishments have usually wider administrative and financial powers but in the public sector undertakings, the powers delegated to these officers are limited. Whenever proposals made by the worker-members of the committee are reasonable, the officer-in-charge, installations in the public sector agree with them and recommend the same to the higher

authorities for their sanction and implementation. This involves considerable time lag and at times the proposals recommended by these officers are not sanctioned by the higher formations or Ministries. This causes disappointment and furstration amongst the workers.

(iii) As the scope of the works committees has not been adequately defined either in the Act or in the Rules, certain limitations are often placed by the managements on the items to be brought forward for discussion. This has given rise to a persistent demand on the part of the worker-members of the committees that the scope of this committee should be properly defined and more latitude allowed to them to discuss problems concerning conditions of work, pay scales and other terms and conditions of service.

(iv) The greatest measure of success amongst the public sector undertakings has been achieved by the Defence Installations in the formation of works committees. Much of this success is due to the cadre of Labour Officer which was established in these undertakings much earlier. As most of the Defence undertakings are located outside the urban areas, the scope for improvement and for adoption of welfare measures was considerable and the representatives of the workmen as well as management were not found lacking in utilising the same

Appendix III

Draft Model Principles for reference of disputes to adjudication.

A. 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 for adjudication if there is a prima facie case of-

(1) victimisation or unfair labour practice,

(2) that the standing orders in force have not been properly followed or that the principles of natural justice have not been followed, and

(3) the conciliation machinery reports that injustice has been done to the workmen.

In all the aforesaid cases, however, if there is prima facie evidence to show that the workmen concerned have resorted to violence or otherwise committed a serious breach of the Code of Discipline, then adjudication may ordinarily be refused.

B. Collective disputes.

No dispute may, ordinarily be referred for adjudication-

(1) Unless efforts at conciliation have failed and there is no further scope for conciliation and the parties are not agreeable for arbitration.

(2) If there is an illegal strike or lockout or a strike or lockout resorted to without seeking settlement by constitutional means and without proper notice, unless such strike (or direct action) or lockout,

the case may, be is called off.

(3) If the demand relates to a claim for wages for the period of a strike, or the demand is such, which following judicial decisions the Tribunals have consitently refused to concede, e.g. the demand about recongnition of union.

(4) 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.

(5) If the matters in dispute are pending before a Committee appointed by Government.

II. In ordering adjudication the following factors will be taken into account:-

(1) The reasonableness of demands and their justiciability.

(2) The repercussion on the other units of the same industry or allied industry.

(3) The capacity of the industry to pay or accede to demands like increased wages, etc.

(4) The standing of the union raising the dispute and the strength behind the demands.

Note:

It will be useful if 'norms' are laid down with regard to various conditions of service, welfare provisions, etc., in industries. They will be of help in deciding whether a particular dispute should or should not be referred to adjudication.

174-II

Indian Labour Conference (17th Session, July 1959)

Item No. 2: Industrial Relations

Supplementary Memorandum - II

Procedure for election of Officers to Works Committee.

1.1 In paras 4.1 - 4.3 of the Memorandum on 'Industrial Relations' it has been suggested that a small tripartite Committee may be appointed for drawing up "guiding principles" relating to the composition and functioning, etc, of Works Committees. Another point that merits consideration in connection with Works Committees relates to the procedure of election of Chairman and Vice-Chairman for them. Rule 51(2) of the I.D. (Central) Rules, 1957, which governs election of officers for Works Committees, is reproduced below:

"51. Officer of the Committee. (1) ***** **

2. (2) The Committee shall elect the Chairman and the Vice-Chairman provided that where the Chairman is elected from amongst the representatives of the employers, the Vice-Chairman shall be elected from amongst the representatives of workmen and vice versa.

Provided further that the post of the Chairman or the Vice-Chairman, as the case may be, shall not be held by a representative of the employer or the workmen, for two consecutive terms."

Previous to the promulgation of the above rule in March, 1957, the provisions of the then prevailing Industrial Disputes (Central) Rules permitted the nomination of the Chairman from among the representatives of the employers and the Vice-Chairman to be elected by the Committee from amongst the Workers' representatives - on the Committee.

1.2 It has been urged that the new rule about the election of the Chairman and the Vice-Chairman is operating adversely in the setting up and functioning of Works Committees. It is stated that the present provision of electing Chairman from employers and workers' side on alternate basis has not been found to be conducive to the smooth functioning of the Works Committees.

1.3 A note on functioning of Works Committees in other countries has already been attached with the original Memorandum. Further studies undertaken in this respect show that the practice varied from country to country. While in Netherland and Australia, the employers' representative is the Chairman, in Finland the practice of alternate election from the two sides was in vogue.

1.4 In the private sector in U.K. the Joint Works Committees which present the closest analogy to our Works Committees follow the principle of the Chairman being appointed by the management. In the Government industrial establishments in U.K. two types of councils, viz., Departmental Joint Councils and Trade Joint Councils are in vogue. The former somewhat corresponds to Works Committees in India. The constitution of the Departmental Joint Council provides that the Chairman shall be a member of the Council appointed by the Department concerned and the Vice Chairman a member appointed by the Trade Union side of the Council and that a Secretary shall be appointed from each side of the council.

1.5 The implementation of the recommendation of Works Committees will ordinarily devolve on the management. In

...contd/-

the collection of information and preparation of material for Works Committees also, the office of the management will be in a better position to help than the workers' side. Taking these factors into consideration, a Works Committee is likely to be more effective if the Chair of the Committee is taken by a senior person from the management side. It is suggested that the proviso to rule 51(2) which requires that the post of the Chairman or the Vice-Chairman, as the case may be, shall not be held by a representative of the employers and the workmen for two consecutive terms may be deleted and that the question as to who should be the Chairman may be left to each Works Committee.

1.6 The views of the Conference are invited on the suggestion set forth above.

.....

174-II

INDIAN LABOUR CONFERENCE (17TH SESSION)

Madras July 1959.

Item No. 2:- Industrial Relations
Supplementary Memorandum -IV
Industrywise adjudication.

The Central Government had in the past ordered industrywise adjudications in the following industries:-

(1) Banking Industry
(2) Coal Mining Industry.

Regionwise adjudications had also been ordered in respect of the following industries:-

(1) Mica Mines in the States of Bihar & Madras.
(2) Manganese mines in the State of Madhya Pradesh (before reorganisation).

2. In such cases, certain practical difficulties had to be faced which do not normally arise in the case of references which are confined to one or two Establishments. The following were some of these difficulties.

(i) Considerable time was taken to collect the names of all the units in the industry as these had to be enumerated in the schedule to the order of adjudication. In fact by the time the information was collected some of it became obsolete in view of the changes in proprietorship, closures, etc.

(ii) The Tribunals required considerable time to go through the formalities of issuing notices to individual parties, receiving their replies, examining their statements and accounts etc.

(iii) There was the possibility of some individual party to the dispute approaching the High Court or Supreme Court and obtaining a stay order on a technical point, thus preventing the Tribunal from proceeding further even though most of the parties may have no objection to the proceedings going on

(iv) Tribunals [illegible] considerable time [illegible] give their awards in industrywise adjudications.

3. Inspite of these difficulties, industrywise adjudications sometimes become inevitable. The Conference may however like to consider ways and means of obviating some of the difficulties of the type mentioned above.

4. In a recent case, the Supreme Court has held that an award will continue to remain in operation even if either of the parties terminates it under S.19(6) of the Industrial Disputes Act 1947, unless it is replaced by another award. But this would not prevent the parties raising disputes over the matters which have been already settled by a previous adjudication

....2

5. The Industrial Disputes Act 1947 does not make any distinction between disputes in respect of individual establishments and industrywise disputes as far as the period of operation of an award is concerned. In all the cases, the appropriate Government can extend the period of operation of an award upto three years. It is arguable that an award in an industrywise adjudication, which is given after much effort on all sides, should not be placed on a par with other awards. A suggestion for consideration is whether in respect of awards given in industrywise adjudication, the appropriate Government should be empowered to extend their period of operation upto a period of five years. In fact the period of operation of the Banks Award was fixed, for nearly five years vide Section 4 of the Industrial Disputes(Banking Companies) Decision Act, 1955. The U.P. Government are also amending the U.P. Industrial Disputes Act, 1947, giving powers to the State Government to extend the period of operation of an award upto a period of five years.

6. The Indian Labour Conference may consider the following points.

I. What steps are feasible to eliminate certain difficulties which at present tend to delay proceedings in Industrywise adjudications.

II. Whether the Industrial Disputes Act 1947 may be suitably amended so that the appropriate Government may be given powers to extend the period of operation of awards in industrywise adjudications upto a period five years.

(iv) Should there be provision for medical care?

A suggestions was made that there should be provision for medical care for the following reasons:-

> "The amount of workmen's compensation which may fall to be paid as a result of a particular injury depends very largely on the medical attention given to the case. If prompt and adequate medical care is provided, the deterioration of the workmen's condition will be prevented and the recovery be speedier. Absence of medical care will lead to aggravation of the workmen's condition, may prolong the period of disablement and may result in death where it may be avoided, or total or partial permanent disablement to an extent which might have been avoided or reduced. If the financial responsibility of the claim does not directly fall on the employer, it will be unsafe merely to rely on his providing adequate medical care and it seems that the Corporation must make some arrangements for prompt and adequate medical care to injured workmen wherever it extends workmen's compensation insurance cover."

> "Where full time medical officers cannot be appointed, arrangements may be made with suitable private medical practitioners to attend to any cases either on the basis of a monthly stipend or a small retaining fee plus a fee for actual attendance and cost of medicines."

3. The points raised in paras 2.5 & 2.6 are for the consideration of the Conference.

APPENDIX I

Extract from the report of the Royal Commission on labour in India.

In respect of the actual scales, we are of opinion that a substantial enhancement is desirable; in the case both of the more poorly paid workmen and of those in receipt of high wages. The present minimum is so low as to be practically inoperative, for the adult wage is seldom as low as Rs.8 monthly; and, in our view, an allowance of half-wages is too small when the wage is low. We recommend that, for adults in receipt of not more than Rs.30, payments for temporary disablement be based on two-thirds of wages, and for minors on the full-wage rate. The scale should be subject to a minimum of Rs.5 for each half-monthly payment, in place of the present minimum of Rs.2, but the rate of compensation should not, of course, exceed the rate of wages. This will result in all adults in receipt of not more than Rs.15 monthly getting full wages during temporary disablement (except during the waiting period). No person receiving more than Rs.30 a month should receive less compensation than he would have got if his wage had been Rs.30. Further, we recommend the fixing of the minimum compensation for death in the case of adults at Rs.600 and for complete permanent disablement at Rs.840. The minima for partial permanent disablement should be correspondingly raised. This is equivalent to making the minimum wage for compensation, except in the case of temporary disablement, equal to Rs.20. At the other end of the scale, we consider that the maxima are unduly low. The workman on Rs.250, if temporarily disabled, gets no more than the workman on Rs.60; if he is permanently disabled, he gets the same as the workman on Rs.80.

Proposed Scale.

We recommend enhanced compensation on a scale which can be most clearly indicated by giving the alterations necessary in Schedule IV. In place of the fourteen existing wage classes, we would make seventeen, the upper wage limits for which should be (in rupees) 10, 15,18,21,24,27,30,35,40,45,50,60,70,80,100,200 and 300. Except in the last two classes, the assumed wage should be the highest wage of the class and not, as at present, the mean wage. Thus the eighth class would consist of persons receiving more than Rs.30 but not more than Rs.35 and the assumed wage for that class would be Rs.35. The division into two classes of those getting not more than Rs.15 will affect minors only, and the compensation for death or permanent disablement to adults will be identical for the first three classes and will be based on a wage of Rs.20, We recommend for the last two classes assumed wages of Rs.125 and 150 respectively, and that the maximum half-monthly payment, which is at present Rs.15, be raised to Rs.30. The changes in the method of calculating assumed wages will produce a small enhancement in the general level of the scales, apart from the substantial enhancements arising from the raising of both the minima and the proportion of wages payable to the poorer workmen; while the effect on workmen at the top of the scale will be marked. If our recommendations are adopted the maxima for death and permanent total disablement will be raised from Rs.2,500 and Rs. 3,500 to Rs.4,500 and Rs.6,300 respectively, while all workmen getting over Rs.100 a month will receive compensation for temporary disablement at the rate of Rs.60 a month. The compensation in the case of fatal accidents to minors should

. . . 2

not be changed; and, as at present, compensation for permanent total disablement to minors should be equivalent to 84 months' wages." Provision for an increase at the age of 15 years in the rate of compensation to minors temporarily disabled will no longer be required and it is unnecessary to repeat in sections 4(1) A(i) and 4 (1) B (i) of the Act maxima which are determined by Schedule IV.

[Schedule as inserted by the Amendment Act 1933 (15 of 1933)]

SCHEDULE IV

(See section 4)

COMPENSATION PAYABLE IN CERTAIN CASES

Monthly wages of the workman injured.		Amount of compensation for -		Half-monthly payment as compensation for temporary Disablement of Adult.
		Death of Adult	Permanent Total 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	--	4,000	5,600	30 0

174-II

Appendix III

SCHEDULE IV · /As existing at present/

(See Section 4)

COMPENSATION PAYABLE IN CERTAIN CASES

Monthly wages of the workman injured		Amount of compensation for -		
		Death	Permanent Total Disablement	Half-monthly payment as comepensation for temporary Disablement.
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	15,00
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

APPENDIX- IV

REPORT

OF

THE ACTURIAL COMMITTEE

ON

WORKMEN'S COMPENSATION

The terms of reference of the Acturial Committee as laid down by the Ministry of Labour & Employment in their office memo. No. S.S.152(39) dated 21.6 1958 and subsequent clarification dated 29th October 1958 are as follows:-

(I) to assess the relative burden on employers of the -

(a) present liability under the Workmen's Compensation Act:

(b) liability if the benefits are increased to correspond to those in the Employees' State Insurance Act; and

(c) liability in respect of benefits as proposed by the Ministry of Labour & Employment -vide copy of Sectional Note 7 attached.

(II) to recommend schedules -

(a) for assessment of lump-sum payments by employers, so that the Employees' State Insurance Corporation or other Central Agency could take the liability for periodical payments in case of death or permanent disablement in respect of alternatives (b) and (c) under item (I) above; and

(b) for payment of a premium as percentage of the wage roll of persons covered, for different industries for alternatives (b) and (c) under item (I) above; and

(III) to assess the percentage increase in liability by inclusion of persons above the wage of Rs 400/- and upto Rs 500/-.

Sectional Note 7 referred to above seeks to provide for the following revised benefits under the Workmen's Compensation Act.

(a) Where death results from the injury - a monthly payment equal to forty percent of the wages for a period of fifteen years from date of death.

(b) Where permanent total disablement results from the injury - a monthly payment equal to fifty percent of the wages for a period of fifteen years or till date of death of the workman, whichever is later;

(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;

(d) Where temporary disablement, whether total or partial, results from the injury and lasts for more than three days- a monthly payment equal to fifty percent of the wages from the date of disablement to the date of his recovery: (as passed by the recent amendment)

While carrying out its task, the Committee has been deeply conscious of the impracticability of obtaining the relevant statistical data from the records of the various Commissioners under the Workmen's Compensation Act. It has, therefore, proceeded with its work on the basis of the material available in annual reviews on the working of the Workmen's Compensation Act that have been published in the Indian Labour Gazette supplemented by certain detailed statistics obtained from the Employees' State Insurance Scheme. It may be mentioned that the E.S.I.Scheme covers only workers in factories using power and employing at least 20 persons, whereas Workmen's Compensation Act applies to a large number of other industries. As regards the annual reviews, they give averages for the various industries as a whole, which are based on the primary figures furnished by the Commissioners from the annual returns received from the employers under Workmen's Compensation Act. There is hardly any proper machinery for ensuring correctness and completeness in the returns and their subsequent compilation. In the circumstances, the material given in the annual reviews can not be expected to be very reliable. The absolute figures given in the reviews may not be very dependable but the ratios obtained therefrom may be accepted for practical purposes on a rough and ready basis for an initial consideration of the proposals to enhance the rates of compensation under the Workmen's Compensation Act. The Ministry in their clarification dated 29.10.58 made it clear that they desired only a rough approximation . After a decision has been reached and the changes have been enacted, an appropriate machinery should be set up to collect the necessary statistical data in the course of actual working of the new provisions, so as to enable a review of the position to be made with appropriate data at the end of 5 years, say. Such a course is absolutely essential in the interest of soundness of the Scheme that may be adopted and is widely accepted. In U.S.A. there is a National Council on Compensation Insurance, which collects experience, develops ratemaking methods and calculates rates in use. Nearer home, private companies insuring Workmen's Compensation Act risks under Tariff Rates have been collecting statistical data with the object of assessing experience.

(2.1) Before proceeding to give our report on the terms of reference, we may recapitulate the provisions under consideration regarding compensation in the different contingencies under employment injury.

(a) Death of the worker - (i) Under the present Workmen's Compensation Act Schedule the specified survisors get a lump sum varying with the average wage of the deceased worker.

(ii)The E.S.I. Scheme provides for the payment of pensions at the disablement benefit rate called the 'Full Rate' as follows:

50% to the widow or widows of the deceased worker till remarriage or death, whichever is earlier.

40% to each child upto the age of 15, or 18, if receiving education, the pension being terminated on the marriage of a daughter, if earlier.

All shares of the dependants are reduced prorata so that the total does not exceed the full rate at any time. If no widow or child is left surviving, other specified dependants can be granted pension at such rate as Employees Insurance Court may decide.

It will be seen that the total amount of pension payable varies with the number and relationships of the survisors.

The full daily rate is 50% of the wage obtained by averaging the prescribed assumed daily wage determined by the wage slabs in which the worker's earnings during the preceding 12 months fall. The assumed daily wage for a wage slab is its mid-value except for the slabs at the two terminals. Thus, on the average, the average daily rate works out to $\frac{1}{2}$ of the average daily wage of the worker. The benefit is payable for seven days of the week and hence the benefit rate is 7/12 of the daily wage as commonly calculated by dividing earnings during the week by the number of working days.

(iii)Under Ministry's proposal, the benefit is to be a pension of 40% of wages for 15 years to the specified survisors as laid down in clause 2(d)(ii) read with clause 8(5) of the Workmen's Compensation Act.

(b) Permanent Disability - (i) Under Workmen's Compensation Act, lump sum is paid according to the degree of disability and varying with the wage slab.

(ii) Under E.S.I. Scheme, the benefit is a life pension at full rate multiplied by the extent of disability.

(iii)Under Ministry's proposals, the benefit is to be a pension at 50% of the average wage multiplied by extent of disability for life or 15 years, whichever be later.

(c) Temporary Disabiliuty - (i) Under Workmen's Compensation Act half-monthly payments varying with the wage slab are made for the duration of disability.

(ii)Under E.S.I. Scheme, the benefit is periodical payments at full rate for the duration of the disability.

(iii) Under Ministry's proposals, the benefit is to be periodical payment at 50% of the average wage for the duration of the disability.

(2.2) It may also be stated at the very beginning that throughout our calculations we have confined ourselves to the costs of granting the benefits, ignoring the element of administration cost. The latter depends on the type of administrative machinery proposed to be employed, about which we have not been supplied any details. It is realised that the details in this matter can be settled only after the type of benefit to be granted is finally decided. We touch on this problem in another connection in para 6.1 below.

(3) Bases for valuing Periodic Payments: The E.S.I.Scheme and Ministry's proposals provide for periodic payments to be made for life or a fixed term. For valuing these benefits, rate of interest and mortality have to be assumed. For long term purposes, as involved here it seems proper to take the rate of interest at 3% per annum. In regard to mortality we have to consider industrial workers, who have to undergo a heavy occupational strain. There is no medical selection on recruitment but due to the very nature of work expected of them, generally speaking, the workers have to be able-bodied and physically strong. On balance, it is considered appropriate to adopt the general population mortality as shown by the Census of India Life Tables 1951 reduced by 2 years for the purpose of valuing periodical payments to the disabled worker or to his dependants in case of his death due to accident.

(4.1) We may now take up term of reference I relating to the assessment of the relative burden on employers under the three Schemes described in para 2 above. In the first instance, we may determine the relative levels of benefits in the three contingencies of death, permanent disablement and temporary disablement separately and later on combine them into an overall figure to obtain the relative burden on employer. It would appear to be enough, if level of benefit is discussed with reference to factory industry. It may, as a practical expedient, be assumed that this fairly reflect the relative position in other industries also. Correctly speaking, the position may differ from industry to industry due to differences in the distributions by age and wage of the claimants for the various benefits adopted in the calculations. However, the necessary data to judge the extent to which such distributions vary from one industry to another are not available. It seems reasonable to hold that the variation is not so large as to distort the relative levels materially. It may be recognised that the percentage distributions are used merely as weights in determining average benefit per case. Variations in the weights is not so significant as those in other elements like rate of incidence of injury, degree and duration of disability, but these come in only later at the stage of combining the results into an overall figure.

Calculations, described fully in App.I, give the relative levels of benefits as determined by cost per case as follows:-

Table - 1

Scheme	Contingency					
	Death		Permanent Total disability		Temporary disability	
	Amount	Ratio	Amount	Ratio	Amount	Ratio
	Rs		Rs		Rs	
W.C.Act.	2,831	100	3,947	100	32	100
E.S.I.Scheme	9,806	346	11,850	300	40	125
Ministry's Proposals	6,058	214	12,560	318	40	125

The above table shows that in case of death, from the point of view of its level, benefit in the E.S.I.Scheme is at 3.46 times that under W.C. Act and that in Ministry's proposals it is at 2.14 times only. In the case of total disability, in E.S.I. Scheme the benefit is 3 times that in W.C. Act and in Ministry's proposals it is 3.18 times. In the case of temporary disability, the increase is not so great. The E.S.I. and Ministry's proposals are the same and mean an increase of 25% over W.C. Act benefit.

(4.2) The burden on the employer in the various industries is affected by the incidence of the rate of injury, degree and duration of disability in the industry and cost per case. In their combined effect, these determine total amounts payable under death, permanent disability and temporary disability. The figures of amounts actually paid under W.C.Act may be taken as given in the annual reviews for the period 1952-56. To determine the overall relative burden on the employer under the other two alternative Schemes, it is only necessary to raise these amounts under W.C. Act by the relevant ratio given in (4.1) above for the different contingencies, as for an industry the other determinants remain the same under the three Schemes. As has already been explained in the preceding paragraph, from practical considerations, the ratios given in (4.1) may be taken to be applicable to all industries. The following table shows the figures of relative burden.

Table - 2

Figures in col.7 show the relative burden of the employer under E.S.I. Scheme and col.9 under Ministry's proposals, taking the burden under W.C. Act to be 100. It will be seen that for the different industries the relative burden under the E.S.I. Scheme varies between 2½ and 3 and that under Ministry's proposals between 2 and 2½ . A major

reason for this difference is the fact that compared to E.S.I. Scheme the level of benefit in case of death is lower under Ministry's proposals, In fact, where cost of death benefit is higher under W.C. Act, the relative burden under the E.S.I. Scheme also comes out to be markedly higher than that under Ministry's proposal for this reason.

5. As required in the term of reference II (a), we now give schedules for lump sum payments to be received according to the details of each employment injury case. These should, obviously, be the bases of calculations made in connection with term of reference I. These lump sums will be paid into a pool, out of which periodical payments due will be made. Table 3 gives schedules of lump sum payments, which an employer should be required to make per rupee of share receivable annually by the widow and the child to a central agency in discharge of his liability in case of death under E.S.I. Scheme.

TABLE - 2

Industry	Annual Compensation paid under W.C. Act.				Over-all burden calculated under E.S.I. Scheme		Over-all burden calculated under Ministry's proposals	
	Death	P.D.B.	T.D.B.	Total	Total	Ratio(6)/(5)	Total	Ratio(8)/(5)
1	2	3	4	5	6	7	8	9
	Rs	Rs	Rs	Rs	Rs		Rs	
1. Factory	30,87,177	62,57,435	39,17,058	1,32,61,670	3,43,50,260	259	3,14,01,525	237
2. Mines	21,73,569	17,97,087	7,54,836	47,25,492	1,38,55,355	293	1,13,09,720	239
3. Plantations	1,68,896	80,722	78,324	3,27,942	9,24,451	282	7,16,038	218
4. P&T	1,39,900	19,110	23,590	1,82,600	5,70,872	313	3,89,644	213
5. Docks & Ports	2,31,912	4,83,642	2,28,950	9,44,504	25,39,530	269	23,20,462	246
6. Building & Const.	9,94,279	5,18,270	1,38,523	16,51,072	51,68,169	313	39,49,010	239
7. Railways	29,84,831	12,24,613	18,17,548	60,26,992	1,62,73,289	270	1,25,53,742	208
8. Traways	75,192	8,219	79,587	1,62,998	3,84,305	236	2,86,531	176
9. Municipalities	60,625	25,000	5,644	91,269	2,91,818	320	2,16,293	237

174-II

Table - 3

The lump sum payable under Ministry's proposals is to be Rs 4.8464 per rupee of the average annual wage.

Table 4 gives the lump sum payment per rupee of the amount receivable annually in case of permanent disablement.

Table - 4

It is not possible to give similar tables for temporary disablement, since the amount depends on the duration of disability, which is not possible to prejudge at the time of the accident. Under this system, the liability in case of temporary disablement has to be left with the employer.

(6.1) In the term of reference II (b) we are required to recommend premium as percentage of wage roll, on paying which liability for employment injury will be passed on to a central agency. This means that liability for temporary disablement also will be taken over by the central agency. This is feasible but requires appropriate agency throughout the country for supervising claims, which may be small as well. In this context, the question of administrative costs becomes more important. Insurance companies in India working on tariff rates cover the entire risk under W.C. Act but by mutual agreement they have arranged to clear their claims through a Central Bureau of Claims. The Bureau has its organisation at each important locality to look after payment of claims. They have laid down some sort of a norm for duration of temporary disablement for specified types of injuries, and cases extending beyond the norm are look/ed into by their inspection

TABLE - 3

A -Widow

* Age at Widowhood	Lump sum per Re 1/- (Rs.)	* Age at Widowhood	Lump sum per Re.1/- (Rs.).	* Age at Widowhood.	Lump sum per Re.1/- (Rs.).
1	2	1	2	1	2
15.	20.96	31	16.85	46	13.48
16.	20.78	32	16.61	47	13.24
17.	20.58	33	16.38	48	12.99
18.	20.36	34	16.15	49	12.73
19	20.12	35	15.93	50	12.48
20.	19.86	36	15.71	51	12.21
21.	19.58	37	15.50	52	11.94
22.	19.31	38	15.28	53	11.67
23.	19.02	39	15.07	54	11.39
24.	18.74	40	14.85	55	11.10
25.	18.45	41	14.64	56	10.81
26.	18.17	42	14.41	57	10.52
27.	17.89	43	14.19	58	10.22
28.	17.62	44.	13.96	59	9.92
29.	17.36	45	13.72	60	9.61
30	17.10				

B-Child

* Age of child.	Lump sum per Re.1/- Rs. (a)	Rs. (b) (If studying)	* Age of child	Lump sum per Re.1/- Rs. (a)	Rs. (b) (If studying)
1	2	3	1	2	3
0	12.12	--	9	5.50	7.90
1	11.46	--	10	4.65	7.12
2	10.79	--	11	3.77	6.32
3	10.10	--	12	2.87	5.50
4	9.39	--	13	1.94	4.65
5	8.65	10.79	14	0.99	3.77
6.	7.90	10.10	15	--	2.87
7.	7.12	9.39	15	--	1.94
8.	6.32	8.66	17	--	0.99

*last birthday.

TABLE - 4

Age at disablement (last birth day)	Lump sum per Re-under E.S.I.	Lump sum per Re-under Ministry's Proposals.	Age at disablement (last birth day)	Lump sum per Re-under. E.S.I.	Ministry's proposals
1	2	3	1	2	3
18.	20.28	20.65	40.	14.87	16.09
19.	20.09	20.47	41.	14.59	15.87
20.	19.88	20.28	42.	14.30	15.66
21.	19.67	20.09	43.	14.01	15.44
22.	19.44	19.89	44.	13.71	15.23
23.	19.22	19.70	45.	13.41	15.02
24.	18.99	19.50	46.	13.10	14.81
25.	18.76	19.30	47.	12.79	14.61
26.	18.52	19.09	48.	12.49	14.41
27.	18.28	18.89	49.	12.18	14.22
28.	18.04	18.68	50.	11.87	14.03
29.	17.79	18.47	51.	11.56	13.84
30.	17.54	18.26	52.	11.25	13.67
31.	17.28	18.04	53.	10.94	13.50
32.	17.03	17.83	54.	10.63	13.34
33.	16.77	17.61	55.	10.33	13.18
34.	16.50	17.40	56.	10.03	13.04
35.	16.24	17.18	57.	9.72	12.90
36.	15.97	16.96	58.	9.42	12.77
37.	15.70	16.74	59.	9.12	12.64
38.	15.43	16.53	60.	8.82	12.53
39.	15.15	16.31			

and medical staff. Some similar arrangement will have to be set up by the proposed central agency, and the relevant cost will have to be added to the rates suggested below. We may also touch upon the connected problem of rebate for low claims. The Bureau keeps a record of the Claims in respect of each employer and determines the rebate payable to employers, whose claim record is very light. This encourages the employers to adopt safety measures, including installation of safety devices and carrying on of safety propaganda. This objective is sought to be attained in the E.S.I. Act by providing for the right to recover from the employer the actuarial present value of the periodical payments devolving in a case of employment injury by reasons of his negligence to observe any of the statutory safety rules. It is obviously desirable to get the employer interested in keeping down claims, but how exactly it will be done whether by offering rebate or vesting power for punitive action in case of negligence to provide safety devices should be decided when prescribing the rates. The problem should be kept in mind but need not be discussed in this preliminary report.

(6.2) It is obvious that despite preventive measures there are great inequalities in employment injury risks between different industries and units in the same industry due to natural causes such as differences in processes, machinery etc. Contributions may, therefore, be fixed according to risk; for this purpose the principle of 'merit rating' or 'experience rating' is widely applied. Under it, an average premium based on as assessment of the natural risks of the class is established for each class of undertaking. Variations, up or down, are made in the premium charged from each undertaking according either to the number and severity of accidents occurring in it or to the appraisal of its equipment and organisation, special credit being given for the installation of safety devices. Apart from the incentive of lower premium, this process of merit rating itself serves to draw the attention of the employer to the possibilities in the direction of accident prevention. In India, the need for such incentives is very great, since the enforcement of statutory provisions regarding installation of safety devices is not always fully effective. Thus, the pooling of risks, accepted in most social security schemes, is, to a considerable extent, intentionally ignored in a great majority of employment injury schemes. In most of the European countires, Newzealand and U.S.A. contributions are graduated according to risk. However, the application of the principle of merit rating in a scheme of compulsory social insurance has a serious objection. Preventive measures can affect employment injury risk only to a moderate extent; most of the inequalities in risk are due to natural and inevitable circumstances, under which the workers have to work. In the case of a national insurance scheme, such as we are considering here, this raises an ideological question whether the high risk in an industry or undertaking should be borne individually or by the whole economy through prescribing uniform contributions not graduated according to risk. There is a definite tendency to substitute uniform contributions for those varying with the degree of risk involved or at any rate to restrict risk differentiation to a few categories only. In countries like Bulgaria, U.S.S.R., where employment injury benefits form a part of a coordinated social security scheme granting other types of benefits e.g. sickness, pension, the contribution is composite and uniform. In Austria and U.K. where there are special schemes of employment injury, contribution rates fixed by law do not vary with the risk. In Austria, contribution for non-agricultural

workers are equal to 2% of wages in the case of manual workers and to 0.5% of salaries in the case of salaried employees; in the case of agriculture it is a fixed percentage of land tax. In U.K. contribution is fixed at a flat rate, which, compared to women and youths, is higher for men. Considering the stage of industrial development in India, while it may not be desirable to have one uniform rate of contribution for all industries, it may equally be undesirable to have contributions on merit rating system based on an assessment of individual risk of each undertaking. It may be appropriate to lay down premium for an industry depending on the level of the risk for the industry as a whole. It is on this basis that premium rates suggested below have been worked out.

(6.3) The annual premium as a percentage of wage bill may be calculated on 'assessment' system i.e. every year's premiums should meet the cost of benefits payable during the year without aiming at providing any reserves to becarried forward. Calculations, the details of which are given in Appendix II, bring out the following rates, exclusive of administration expenses:-

T a b l e - 5

(6.4) In view of what we have stated in para 6.2. above, we have not considered it necessary to deal with the alternative of merit rating system, under which premiums are charged according to risk. This system requires classifying industries and processes by the extent of employment injury risk, for which we do not have the necessary statistical data. However, the tariff rates charged by the insurance companies for granting cover against W.C.A. liability can give an idea of the dispersion

TABLE - 5

Industry	Under E.S.I. Scheme				Under Ministry's Proposal			
	Death	P.D.	T.D.	TOTAL	Death	P.D.	T.D.	TOTAL
1	2	3	4	5	6	7	8	9
	Rs	Rs	Rs	Rs	Rs	Rs	Rs	Rs
1. Mines	1.209	1.468	.336	3.013	.696	1.549	.336	2.581
2- Building & Construction.	1.080	.829	.120	2.029	.622	.875	.120	1.617
3. Docks & Ports	.386	1.181	.311	1.878	.222	1.247	.311	1.780
4. Factory.	.159	.486	.170	.815	.091	.513	.170	.774
5. Tramways.	.357	.056	.303	.716	.205	.059	.303	.567
6. Railways.	.307	.184	.151	.642	.177	.194	.151	.522
7. Municipalities.	.109	.061	.008	.178	.062	.064	.008	.134
8. Post & Telegraph	.119	.028	.017	.164	.068	.029	.017	.114
9. Plantations.	.060	.036	.021	.117	.034	.038	.021	.093

-.-.-.-.-.-

in the premium rates charged for the various industries. The following figures show the number of industries or processes, for which specified tariff rates (given in annas per cent of wage bill) are charged.

Table - 6

Tariff Rate (annas %)	No. of industries or processes
Below 5	50
5 - 10	212
10 - 15	164
15 - 20	79
20 - 25	141
25 - 30	17
30 - 35	39
35 - 40	5
40 - 45	21
45 - 50	20
50 & above	38

The modal rates are 5-10 as, 10-15 as. and 20-25 as.

The above figures give no idea of the burden on the employer but serve to show the diversity in the extent of risks covered.

(6.5) Just to illustate the working of the merit rating system, we give below some details from the Scheme in Mexico which have been obtained from the Mexican Social Insurance Institute. From the type of calculations made above, it was found that 1.85% of wage bill should be collected from the industry as a whole to cover the entire liability for Workmen's compensation. To recover this amount from the entire industry, employers are classified according to their normal risk grade on a centesimal rating scale. Subject to rating up or down on the assessment of special risks, if any, particularly with reference to safety device, the basic average premium (given as percentage of wage bill) charged for the various risk grades are as follows:-

TABLE - 7

Riks Grade	Scale Rating	Premium %
I Ordinary	1 - 5	0.225
II Low	4 - 14	0.675
III Medium	11 - 37	1.800
IV High	30 - 60	3.475
V Maximum	50 - 100	5.625

The overlapping scale rating may be noticed. Scale rating is fixed by an expert Committee, which has the right to inspect the workplace for raising or lowering the basic rate charged. It is obvious that for the operation of such a scheme a well-equipped administrative machinery is required. If this sort of scheme is required to be introduced in India, inspectors of undertakings under the various industrial acts may be used for this purpose as well.

(7.1) Coming lastly to our third term of reference, it may be stated that we have no data on the percentage of workers, which will be brought in due to inclusion of persons getting wages between Rs. 400 to Rs. 500 p.m. nor is there any idea of the employment injury risk, run by them. However, some data relating to Employees' Provident Fund Scheme for Delhi centre may be referred to in this connection. The Scheme furnished actual wages earned by each of 5721 employees in April 1958 working in 2 units in Cement, 56 units in Electrical, Mechanical and General Engineering Products, 2 units in Iron and Steel, 3 in Textiles, 2, in Edible Oils and Fats, 12 in Printing, 1 in Refractories, 1 in Tiles, 4 in Heavy and Fine Chemicals, 1 in Oxygen, Acetylene and Carbondioxide Gases Industry, and 8 in newspaper establishments. The Scheme covers employees drawing upto Rs. 500 p.m. These data showed that 91.45% of employees got below Rs. 200 p.m., 5.28% between Rs. 200-300 p.m., 1.89% between Rs. 300-400 p.m. and 1.38% between Rs. 400-500 p.m. From the nature of the industries covered, it does not appear that the percentage of employees getting between Rs. 400-500 p.m. will be any substantially higher in the various industries covered for the workmen's compensation.

(7.2) As regards incidence of employment injury, some data relating to E.S.I. Scheme may be given. The Scheme covers factory employees getting below Rs. 400/- p.m. It shows that out of 4053 permanent disablement cases recorded, at least 99.5% occured among those getting below Rs. 200/- and the remaining 0.5% among employees earning over Rs. 200/- p.m. The annual reviews on the working of W.C. Act show that, during 1952-56, of 6,250 deaths, 97.1% were among workers getting below Rs. 200 p.m., 2.4% among those getting between Rs. 200-300 p.m., and 0.6% among those getting between Rs. 300-400 p.m. of 9,077 cases of permanent disability, 97.8% were among those getting below Rs. 200 p.m., about 2% among those getting between Rs. 200-300 p.m. and 0.2% among those getting between Rs. 300-400 p.m. of 10,888 cases of temporary disablement there were only 8 cases in the wage group Rs. 200-300p.m. and none in the higher wage group. These employment injury percentages are much below the corresponding employment percentages in the wage groups given in para 7.1 above. This shows that the incidence of employment injury is much lighter in the wage groups above Rs. 200 limit. It becomes lighter still as the wage level goes up. From this, it may be concluded that the incidence of employment injury is likely to be particularly light in thewage group Rs. 400-500.

(7.3) From the data given in the preceding two sub-sections, it will beseen that a very small number of employees get wages between Rs. 400 to 500 p.m. and that the incidence of employment injury is very light. This seems to be reasonably certain, since in industrial employment posts having wages between Rs. 400-500 p.m. are mainly supervisory and do not require continuous handling of machines, which involve workers in accidents. From these considerations, it seems fairly clear that the increase in liability due to inclusion of employees getting Rs 400-500 p.m. is likely to be nominal but it is difficult to give any precise figure because of lack of necessary data.

H.L. Bhatia

New Delhi,
4th February 1959

S.P. Jain (Convener)

174-II

C O N T E N T S:

—

Appendix I

Calculation of Level of Benefits.

We may consider the three contigencies of death, permanent disability and temporary disability separately.

1. Death of Worker:- (1.1) Under the E.S.I. Scheme, a card of each death due to employment injury is prepared, which, inter-alia, gives the age of the deceased, daily full rate of benefit admissible and the details of surviving dependants. On the average, the full rate of benefit is ½ the average daily wage during the preceding year. Thus, this record can be used to obtain the age and wage distribution of workers dying due to employment injury. This distribution is respect of 189 cases, that were on record so far, provided the basis of our present calculations. The average wage of this distribution came to Rs.102. p.m., which agrees with the average of Rs.1250/- per annum obtained independently. The claims are found to be mainly concentrated at certain wage rates, which, in the all-India context, appear to represent model wages for unsilled, semi-skilled and skilled workers. Of 189 cases, 28 occured to workers having a monthly wage of Rs.65, 26 to workers with a monthly wage of Rs.91 and 40 to those having a monthly wage of Rs.130.

(1.21) Cost under Workmen's Compensation Act - The distribution was recast so as to conform to the wage slabs prescribed in the Workmen's Compensation Act. The following table 1 gives the result alongwith the amount of compensation payable:-

TABLE

Monthly wages of the deceased worker in Rs.	No. of deaths	Total compensation.
15-18	1	600
30-35	8	8,400
35-40	3	3,600
40-45	1	1,350
45-50	7	10,500
50-60	8	14,400
60-70	31	65,100
70-80	11	26,400
80-100	41	1,23,000
100-200	66	2,31,000
200&over	12	50,700
	189	5,35,050

The above figures give an average compensation of Rs.2831 per case. According to the figures published in the annual reviews in the Indian Labour Gazette this average for factories for 1952-56 was Rs.2,094. Some of the difference in the two figures may be due to the additional factory sector covered by the Workmen's Compensation Act, viz, factories not using power and if using power employing between 10-20 workers. In this sector, wages of workers are comparatively lower than those in the sector covered by Employees State Insurance. Further, if there is any suppression of claims under Workmen's Compensation Act, as is generally believed to be the case, it is likely to be greater im the higher wage group. In E.S.I. experience the liability is not borne by the employer, and the element of suppression may not be much operative. For this reason, E.S.I. figure per claim should be

/so

2/.....

higher. In any case, the two figures are dimensionally consistent enough to justify the adoption of the E.S.I. Scheme distribution for the purpose of assessing relative burdens under the alternative schemes.

(1.2) Cost under E.S.I. Scheme:- The beneficiaries on death are widow and childern. In order to value the cost of their benefits it is necessary to know the ages of surviving widow and childern. This was obtained from the records of cases under the E.S.I. The results adopted in the present calculations are given in Annexure I, which are the ones also discussed in Annexure 4 of the Report of the Study Group on Social Security. The benefits to be valued here are, however, different and, accordingly appropriate annuity values for the cost of the benefit in case of death of worker at various ages were worked out by the formula given in the annexure. In order to find the cost of granting benefits to 189 cases, we have to obtain the product of these annuity values with the total of full rate benefit payable to deceased workers in the relevant age group. The total of benefit rate payable in each age group was obtained by a further analysis of the cases included in the distribution of Table 1. The total rates so obtained and the capitalised value per unit are given below in Table 2.

Table -2

Age of the deceased worker	Total benefit rate (in annas)	Capitalised value per Unit	(3)x(2)
1	2	3	4
Below 25	1242	16.075	19965.15
25-29	1076	15.289	16450.96
30-34	478	14.738	7044.76
35-39	302	14.021	4234.34
40-44	1412	13.644	19265.33
45-49	143	13.016	1861.29
50-54	210	12.196	2561.16
55 & over	1087	9.069	9858.00
	5950		81240.99

It will be seen that the total benefit rates progress irregularly with age. This is so due to the concentration of death claims at certain wage levels already noticed in para 1.1. The average capitalised value of the periodic payments to dependants per case of death comes out to be Rs.9806.

The Employees' State Insurance Corporation raises a reserve on the occurrence of an employment injury death. During the two years ending 31st March, 1958, there were 127 cases, in respect of which capitalised reserve made was Rs.10,67,300 giving an average of Rs.8404 per case. The actuarial basis relating to rates of interest and mortality, on which these figures were arrived at, are different from the ones adopted in the present calculations. However, these figures point to the average figures of Rs.9806 per case obtained in the present calculations being reasonable.

(1. 3) Under Ministry's Proposals - The pension benefit of 40% of wages for 15 years is to be taken payable certainly, as the entire amount is payable to one or more of the surviving specified dependants as the W.C. Commissioner may think fit. Taking the

... to be Rs.1250 per year as shown by the E.S.I. Act data and supported by the Payment of Wages Act figure of Rs.1212 per annum in 1956, the average amount of claim per death case comes to Rs.6058.

2. Permanent Disability (Total and Partial)

(2.1) Under the E.S.I. Scheme a record of each case of permanent disability claim is maintained. This gives the full daily benefit rate, the age of the injured worker and the extent of disability awarded after medical examination. This information was analysed to obtain the requisite distributions by age and wage. With regard to the full daily benefit rate, it may be explained that it is As.7 for daily wages below Re.1, As10 for the wage slab Rs.1-1.50, As.14 for Rs.1.50-2 and so on. Owing to shifting in the wage slab due to changes in wages earned during the preceding year, in individual case the full daily benefit rate does not work out to these exact figures. There is a scatter round these figures. Accordingly, P.D.B. cases were grouped in benefit rate classes below As.8.5, As.8.5-12 as., 12-17 as 17-24 as, 24-34 as, 34-48 as, 48-68 as, 68 as. and over and each class was taken at its midvalue when taking the exact wage for a group. Since the extent of disability affects the cost under the three alternative proposals in the same way and is practically independent of the age and wage of the worker, for purposes of relative cost ratios it will be enough to consider the case of total permanent disablement and to ignore extent of disability factor.

(2.2) Cost Under W.C. Act - The permanent disability compensation payable under the Act was determined with reference to the exact wage corresponding to the full benefit rate class. The distribution of P.D.B. claims per 100 total cases and the compensation payable so obtained are given in table 3.

Table 3

No. of cases (1) Rs	Compensation per case (2) Rs	Total compensation. (3) Rs
0.39	1,134	442
3.05	1,470	4,484
7.33	2,000	14,660
21.07	2,940	61,946
33,84	4,200	1,42,128
31.40	4,900	1,53,860
2,92	5,900	17,228
100.00		3,94,748

On the above basis, average compensation per total disablement case comes to Rs.3947. According to E.S.I. data the average degree of disability was 13.5%. Thus, considering total and partial disability cases together, claim per case works out to Rs.532. According to the annual reviews on W.C.Act this figures for factories for 1952-56 was Rs.454. The agreement of the two figures is reasonably good enough for inspiring confidence in the adoption of the above distribution to assess relative costs under the three alternatives particularly in view of the circumstances explained in para 1.1 above with reference to death cases.

[illegible] - The following table 4 shows the distribution by age of the total rate of benefit, being the product of number of cases and the [illegible] and capitalised value of the payment of Re.1 p.a. for life of the injured worker; figures shown in Col.5 are not relevant here - they are meant for para 2.23

Table 4.

Age	Total benefit rates (in annas)	Capitalised value per Unit(ESI)	Total value (3)x(2)	Annuity value per unit (M.P)
1	2	3	4	5
Below 25	24,005	19.445	4,66,777	19.894
25-29	26,577	18.284	4,85,934	18,886
30-34	23,956	17.026	4,07,875	17,828
35-39	17,515	15.702	2,75,020	16,743
40-44	12,500	14,301	1,78,762	15,658
45-49	7,255	12,795	92,828	14,608
50-54	6,487	11,248	72,966	13.668
55 & over	3,239	9,723	31,493	12.896
			20,11,655	

The above figures give the value of compensation per case of total disablement to be Rs. 11,850.

(2.23) Cost under Ministry's proposals.- They differ from ESI Scheme as regards the duration for which compensation is payable. The capitalised values per unit under Ministry's proposals are shown in col. 5 of Table 4 given in para 2.22. It will be seen that they are higher/than the values under the ESI Scheme, obviously due to payments being guaranteed for a period of 15 years. The difference increases with age and is quite substantial after age 40. The sum of the corresponding figures of total value comes to 21,31,970. Accordingly, the value of compensation per case of total disablement Comes to Rs. 12,560.

3. Temporary Disablment.

(3.1) The ESI Scheme shows that the average duration of temporary disablement spell is 20 days, when cases lasting less than 7 days are not included. For the purpose of relative costs, it may be taken that compensation will be payable for an average period of 20 days.

(3.21) cost Under W.C.Act. In the absence of a knowledge of the wage distribution of temporary disablement cases, the distribution obtained with reference to permanent disability as in Table 3 of para 2.21 above may be adopted. The following table gives the percentage distribution of claims and compensation payable per months

Table 5.

No. of cases.	Compensation per case (Rs.)	Total compensation.
(1)	(2)	(3)
0.30	17.0	7
3.05	19.0	58
7.33	23.75	174
21.07	35.0	737
33.84	50.0	1,692
31.40	60.0	1,884
2.92	60.0	175
		4,727

The average compensation per case for 20 days duration thus comes to Rs.32.According to the annual reviews on W.C.Act, the average claim per temporary disability for factories for 1952-56 was Rs.25. The agreement between the two figures is fairly good for showing the appropriateness of the distribution assumed.

(3.22) Under ESI Act and Ministry's proposals - The average wage for 20 days on the basis of Rs. 1250 per year of 292 working days comes to Rs. 80. Hence, the compensation payable for temporary disability case is Rs. 40.

A N N E X U R E I

Family Pension

In the E.S.I. Scheme, dependents' benefit to widow and children becomes payable on the death of an insured person due to employment injury. Accordingly, on such death a card is prepared, which inter alia, shows the ages of the insured persons, the widow and the surviving children. The experience is limited, as only 205 cases are on record so far. However, the material was analysed to serve as a broad guide in determining the figures to be assumed for purposes of calculation.

It was found that in 22 cases neither a widow nor any child was left surviving and in 8 cases only children survived, there being no widow. These figures indicate that in a very high proportion of cases widows and children are left as survivors. It is erring on the safe side, if the small fraction of cases not leaving surviving claimants is ignored. Accordingly, it has been assumed that in every death case there will be a surviving widow and children as discussed below.

The data show that 25% of workers leave no child on death. Childlessness is a known feature of Indian fertility pattern. 1931 census results showed 6% of marriages, which had lasted 15 years or more, as sterile. This percentage is 11 for marriages, which had lasted 10-14 years 16 for 5-9 years, 30 for 0-4 years. Workers can get involved in accidents at all durations of marriage and hence 25% of childless cases is not entirely out.

Based on an analysis of the E.S.I. Scheme data, the following ages of children (below age 15 or 18 if receiving education) and wives to husbands in the various age groups have been adopted:-

Age of husband	Wife younger by years	Age of Child		
		First youngest	Second youngest	Third youngest
20-29	3	1	4	7
30-39	6	3	5	8
40-49	6	4	8	10
50-54	8	5	8	10
55-59	8	10	13	15

The number of children in the family of workers in the various age groups has been taken as follows:-

Age Group	Percentage of workers having number of children below 18 at least at death			
	0	1	2	3 or more
20-29	15	85	65	10
30-39	10	90	80	60
40-49	5	95	85	55
50-54	5	95	75	40
55 and over	40	60	50	40

The appropriatencess of the above figures may be seen from the results obtained elsewhere. National Sample Survey in its study on 'Couple Fertility' shows an average difference of 7.1 years in the age of wife and husband in the urban areas in India. This average in the case of England was 2.7. According to the National Sample Survey results, the interval between first and second birth is 2.8 and between 2nd and 3rd birth it is 2.7. Data concerning London Fire Brigade gave the following comparable figures.

Age of husband		Wife younger by years.
27	...	1.8
32	...	2.8
37	...	3.3
42	...	3.9
47	...	5.2

Ignoring children's mortality (which means erring on the safe side) and assuming that there will be no more than 3 children, the value of benefit to the family of a worker dying between age 20-24 will be given by

when children's benefit is payable up to age 15.

The expression in case of a worker dying between 25-29 is the same but wife is to be taken aged 22 instead of 17. Similar expressions can be obtained for other ages.

A P P E N D I X - II

Calculation of Premium as a Percentage of Wage Bill

1. On assessment system, annual premium as a percentage of wage bill in case of death is given by $\frac{1}{k} \times r \times p \times a$, where r = rate of incidence per annum, p is percentage of wages paid as benefit, a is the average capitalised value of payment per unit and k is the proportionate number of contributions that will be paid by a worker. Industrial workers generally, do not get wages for days not worked due to sickness, disability, maternity, as also when on unauthorised leave, strike or lock out. In such contigencies, contribution will not be payable. It has been taken that on an average, only 85% of contributions in respect of a worker will be received. The statistical basis on which this assumption is made is given in Annexure 5 of the Report of the Study Group on Social Security, 1958. Annual premium in case of permanent disablement is given by $\frac{1}{k} \times e \times r \times p \times a$, where e is the average extent of disability.

Similarly, annual premium in case of temporary disablement is given by $\frac{1}{k} \times d \times r \times p$, where d is the average duration (in year) of tempofary disability.

We shall now discuss the manner in which the various elements required for calculation were obtained from the available data.

2. Determination of r (rate of incidence) - The data published in the annual reviews on W.C. Act for the years 1952-56 may, after certain adjustments, be used for fixing the rate of incidence for the various contingencies. These data suffer from incomplete reporting and it is, therefore, necessary to increase the rates suitably, keeping in view the fact that the liability for payment of benefits is to be shouldered by a Central agency and not by the employer, who would have been interested in keeping down claims, if he were to pay. In the case of factories, ESI Scheme and Factories Act form independent sources of information on accidents in the industry but there are no similar sources for other industries. In the circumstances, the adjustments have to be based on the data for factories only. We discuss below the position in regard to the three contingencies.

(2.1) Death

Statistics collected under Factories Act show that rate of fatal accidents has never been more than 0.10 per thousand. The E.S.I. experience over the last three years gives a rate of .056 per thousand and the Interim Valuation Report recommended a rate of 0.20 for men and 0.10 for women. The average for 1952-56 from W.C. Act statistics comes to 0.16. From the evidence presented above, it seems that the average given by W.C. Act data may be adopted without any adjustment.

(2.2) Permanent Disability

The Interim Report of E.S.I. Scheme recommended a rate of 2 per thousand for men and 1 per thousand for women. Employment of women in factories is only 10%, and hence the rate experienced by them is not of much weight in the context of the industry as a whole. The rate of incidence of permanent disablement experienced under the E.S.I. Scheme was 1.3 per thousand, but this experience has not stabilised yet. In the circumstances, it seems reasonable to adopt a rate of 2 per thousand for calculation purposes. According to W.C. Act data the rate during 1952-56 was 1.54. This means that W.C. Act rates should be increased by 1/3 of the recorded rate.

(2.3) Temporary Disablement - Factories Act statistics show the rate of incidence of non-fatal accidents involving absence from work for 48 hours or more in units using power to be about 40 per thousand. The E.S.I. Scheme data for the last three years shows an average of 32 per thousand with an average of 20 benefit days per spell. Here, as in the W.C. Act, no benefit is payable for disability lasting less than seven days. According to W.C. Act data, the rate during 1952-56 was 17.7 per thousand. Considering that it is proposed to reduce the waiting period to 3 days and this, too, is to be waived if disability lasts beyond 28 days, it seems proper to work on the basis of rate of incidence at 40 per thousand and duration 25 days per spell. This means that the recorded rates under W.C. Act should be doubled. It may be of interest to note that on the above basis, the average benefit for temporary disablement in factories works out to 1 day's wages. The Interim Report recommended 1½ days' benefit for men and ¾ day's for women.

The adjusted rates for the various industries obtained as above are given in Table 1.

Table 1

3. Determination of e - (Extent of disability) - The statistics of ESI Scheme for 1957-58 show an average of 13.5%. In 41% cases, the extent of disability was below 5%, in 23% cases it was between 5 - 10% and only in 7.6% cases, it was between 11-15%. The percentage tapers down sharply for higher degrees of disability. It was only 10 for total disability. It,thus, seems that, for calculation disability may be taken at 20%. The Interim Report recommended

30% for partial disability cases, but it is apparently too high. It has been possible to fix the extent of disability objectively in the case of factories but practically nothing is available in respect of other industries. Accordingly, an indirect method described below, had to be adopted for determining this extent in the case of other industries.

Based on the W.C. Act data for 1952-56, amounts of claim per case of death and permanent disablement for each industry were worked out. Taking the amount in the case of factories as 100, simple index numbers of claim per case were calculated separately for death and permanent disablement for each industry. The numbers so obtained are shown in cols.5 and 6 of Table 1. Under the W.C. Act, the average amount per case of death depends only on the wage distribution of claims. Thus, the simple index number in col. 5 roughly gives an index of the wage distribution of claimants in the industry relative to that in the case of factories. The amount per case of permanent disability is determined not only by the wage distribution of claimants but also by the extent of disability. Thus, the index number in col. 6 is controlled by the two factors of wage distribution and extent of disability. If the latter factor were not operative, the figures in cols. 5 & 6 should have been equal, provided the wage distributions of claimants in cases of death and permanent disability in the industry considered were the same. There is no prima facie strong reason why the two distributions for the same industry should be materially different. For practical purposes, the two may be taken as similar and hence the ratio of the index number in col. 6 to that in col. 5 may be taken to reflect the level of incidence of extent of disability relative to factory industry. The ratio so obtained is shown in col. 8. It is, in effect, an index of average extent of disability experienced in the employment injury cases in the industry, taking factories as 100. It will be seen from col. 8 that compared to factories the extent is less in Docks and Ports and varies between 1½ times to twice in other industries. Co. 9 shows the extent of disability so obtained for the various industries.

4. Determination of d (Average Duration) - As already explained in para 2.5, the average duration per case of temporary disablement for factories may be taken at 25 days. There are no data to determine this average directly for other industries. The problem being similar has been tackled similarly as in the case of permanent disablement. A simple index number of claim per case was worked out for each industry. It is shown in col. (7). The amount per case of temporary disability is determined by the wage distribution of claimants and duration of disability. Arguing as in the case of extent of disability in para 3 above, we see that the ratio of the figure in col. 7 to that in col. 5 given an index of average duration relative to factory industry. This is shown in col.10. It will be seen that the average duration in other industries does not vary much except in plantations, where it is much lower, and Building and Construction, Municipalities and Tramways, where it is much higher. Col. 11 shows the average duration so obtained for the various industries.

5. Determination of a - The average capitalised value of periodical payments per unit may be got by taking a weighted average of the value for the different age groups, the weights being the proportionate number of cases in the age groups. The weights were obtained from ESI Scheme data in the case of

M4-II

permanent disablement from the records of 4026 disability cases. These are as follows:-

	Weights	
	Deaths	P.D.
Below 25	11.4	24.6
25 - 29	19.6	21.1
30 - 34	17.2	17.6
35 - 39	14.9	14.1
40 - 44	12.6	10.6
45 - 49	10.3	7.1
50 - 54	8.1	3.6
55 & over	5.9	1.3
	100.0	100.0

The average capitalised value in the case of E.S.I. Scheme worked out to 14.036 in the case of death and 16.808 in the case of P.D.B. Under Ministry's proposals it came to 12.116 in the case of death and 17.734 in the case of P.D.B.

TABLE I

Industry	Rate of incidence per thousand			Simle Index No. of claim per case			Extent of Disability		Duration	Value in days
	Death	P.D.	T.D.	Death	P.D.	T.D.	Index No. (6)/(5)	Percentage value	Index No. of (7)/(5)	
1	2	3	4	5	6	7	8	9	10	11
Mines	1.22	3.75	61.42	74	122	84	165	33.0	114	28.50
Building & Construction.	1.09	1.92	18.16	84	153	116	182	36.4	138	34.50
Docks and Ports	0.39	8.16	55.34	133	81	156	61	12.2	117	29.25
Factory	0.16	2.05	35.4	100	100	100	100	20.0	100	25.00
Tramways	0.36	0.17	45.12	120	165	168	138	27.6	140	35.00
Railways	0.31	0.53	37.04	122	178	104	146	29.2	85	21.25
Municipalities	0.11	0.13	1.16	103	204	152	198	39.6	148	37.00
Post & Telegraph.	0.12	0.07	3.12	110	183	124	166	33.2	113	28.25
Plantations	0.06	0.09	7.0	64	109	40	170	34.0	63	15.75

Statement shwing in brief the findings of the Acturial Committee with reference to the terms of reference.

Terms of reference to the Commitee.	Findings.			
	Death	Permanent disablement	Temporary disablement.	Remarks.
I. To assess the relative burden on employers of the .				
(a) present liability under the Workmen's Compensation Act;	Rs.2831 per case/100%/	Rs.3947 per case/100%/	Rs.32 per case/100%/	As regards relative burden on different industries, it varies between 2½ and 3 times under the Employees State Insurance Scheme and between 2 & 2½ times under our proposals.
(b) liability if the benefits are increased to correspond to those in the Employees State Insurance Act; and	Rs.9806 per case /346%/	Rs.11,850 per case/300%/	Rs.40 per case/125%/	
(c) Liability in respect of benefits as proposed by this Ministry i.e.	Rs.6058 per case/214%/	Rs.12,560 per case/318 %/	Rs.40 per case/125%/	
(i) Compensation for death-40% of wages for 15 years.				
(ii) Compensation for permanent total disablement.-50% of wages for 15 years or till death of workman.				
(iii) Compensation for temporary disablement. 50% of wages till recovery of workman.				

. . . .2

Terms of reference to the Committee.	Recommendations.			
	Death	Permanent disablement	Temporary disablement.	Remarks.
II. To recommend schedules -				
(a) for assessment of lump-sum payments by employers, so that the Employees' State Insurance Corporation or other Central Agency could take the liability for periodical payments in case of death or permanent disablement in respect of alternatives (b) and (c) under item (I) above; and	Under the E.S.I.Act The Schedules of lump sum payments, recommended are given in Table 3 on p.11 of the Report. Under our proposals. The lump sums payable is to be Rs.4.8464 per rupee value of the average annual wage.	Please see Table 4 on p.12 of the Report which gives the figure both under the E.S.I. Act and our proposals.		No schedules recommended. Liability left with the employer.
(b) for payment of a premium as percentage of the wage roll of persons covered, for different industries for alternatives (b) and (c) under item (I) above.	The premium rates depending upon the level of the risk are given in Table 5 on p.16 of the Report both under the E.S.I. Act and our proposals for death, permanent disablement and temporary disablement.			
III. To assess the percentage increase in liability by inclusion of persons above the wage of Rs.400/- and upto Rs.500/-.	From the data available it is seen that a very small number of employees get wages between Rs.400 to Rs.500 per month and that the incidence of employment injury is light. This seems to be reasonably certain, since in industrial employment posts having wages between Rs.400-500 p.m. are mainly supervisory and do not require continuous handling of machines, which involve workers in accidents. From these considerations, it seems fairly clear that the increase in liability due to inclusion of employees getting Rs.400-500 p.m. is likely to be nominal but it is difficult to give any precise figure because of lack of necessary data.			

33. Item 7 of the points taken by employees is, however, of importance and has a direct bearing on the Group's terms of reference. A worker in a factory who is invalidated or dies as a result of employment injury can get an invalidity pension, or, in case of death directly resulting from the injury, the family gets a survivorship pension. But the family of a worker engaged in, say, elephant catching and who dies as a result of employment injury gets only a lump sum compensation which, in terms of relief, is much smaller than the pensions admissible under the E.S.I.Act. Yet, prior to the enactment of the latter, the position of both the workers was identically the same as both were governed by the W.C.Act. If there was any likelihood of all persons covered by the W.C. Act receiving in the foreseeable future, the alternative and better benefits provided by the E.S.I.Act, it might have been only a matter of waiting. We recognise that progressive implementation of the E.S.I.Act will cover more and more of the categories now protected only by the W.C.Act. But it is obvious that there will still remain many occupations included in the Schedule to the W.C. Act which are not regular steady employments and the question of regular monthly contributions in such cases will be wholly outside practical politics.

34. Therefore, several cases will still remain where the provisions of the W.C.Act will continue to apply making the individual employer responsible for compensation to individual workers receiving employment injury or dying as a result thereof. But even in such cases, a system can be evolved by which the employer is required to pay a lump sum not to the worker or his family but to a public authority, the E.S.I. Corporation, in this case. The latter, in its turn, will arrange to disburse to the worker or his family periodical payments in the form of pensions. The quantum of pension will, of course, depend on the amount which the employer is required to deposit in the form of lump sum. If pensions are to be on the scale provided in the E.S.I.Act, the lump sum payable will have to be considerably more than what is provided in the existing schedule to the W.C.Act. This might cause serious hardship to the individual employer. The E.S.I.Act covers workers in organised industries where there is steady employment. No special hardship is, therefore, involved in requiring the employers to pay monthly contributions towards possible employment injury, irrespective of whether or not an injury is sustained during the period of employment under a particular employer. But in the case of purely temporary employment under different employers, many will escape liability altogether if no employment injury is sustained by a worker while in their employment. On the other hand, the employer under whom an injury is sustained will be called upon to pay a disproportionately large sum which may be even beyond his means as several of such employers may themselves be men of not great means. There will, consequently, be even the risk of suppressing the reporting of injuries.

35. To meet these difficulties a decision should first be reached as to the limits to which the amounts provided in the Schedule to the W.C. Act can be suitably increased. Though some increases were made some years ago, there is no doubt that the existing limits do not provide adequately for the large increase in wages and the cost of living that have occurred after the Schedule was last revised. Under conditions as exist today, the Group feels that the Schedule can be revised, to that the maximum liability on the employer can, in each case, be doubled. This is recommended and thereafter, actuarial calculations should be made as to what scale of recurring pensions may be provided from the lump sum payments of these amounts received by the Corporation. . . . 3

Appendix-VII

Lump-Sum Compensation Converted into Monthly instalments payable for 15 years, interest Compounded annually at the rate of 2½.

(in rupees)

S. No.	Monthly wage of workman	Lump sum compensation		Monthly Instalment payable for 15 years			
		Death	Permanent total Disablement	Corresp. to Col.(3)	Corresp. to Col.(4)	Corresp. to double Col.(3)	Corresp. to double Col.(4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	0-10	500	700	3.50	4.90	7.00	9.80
2.	10-15	550	770	3.85	5.39	7.70	10.78
3.	15-18	600	840	4.20	5.88	8.40	11.76
4.	18-21	630	882	4.41	6.17	8.82	12.34
5.	21-24	720	1008	5.04	7.05	10.08	14.10
6.	24-27	810	1134	5.67	7.93	11.34	15.86
7.	27-30	900	1260	6.30	8.81	12.60	17.62
8.	30-35	1050	1470	7.35	10.28	14.70	20.56
9.	35-40	1200	1680	8.39	11.75	16.78	23.50
10.	40-45	1350	1890	9.44	13.22	18.88	26.44
11.	45-50	1500	2100	10.49	14.69	20.98	29.38
12.	50-60	1800	2520	12.59	17.63	25.18	35.26
13.	60-70	2100	2940	14.69	20.57	29.38	41.14
14.	70-80	2400	3360	16.79	23.50	33.58	47.00
15.	80-100	3000	4200	20.99	29.38	41.98	58.76
16.	100-200	3500	4900	24.48	34.28	48.96	68.56
17.	200-300	4000	5600	27.98	39.17	55.96	78.34
18.	300 +	4500	6300	31.48	44.07	62.96	88.14

It is desirable, however, to ensure a simple form of pensionary benefits as the amounts, in any case, will not be as great as those provided in the E.S.I. Act. We have suggested the E.S.I. Corporation as the agency for distributing these pensions as it is already doing this type of work in regard to pensions under the E.S.I. Act. It is understood that the Corporation can make suitable arrangements for remitting sums due to persons or dependants living in outlying areas where the Corporation may not have its own offices.

36. We are aware that many cases of compensation under the Act now go by default as the law requires a claim to be lodged before the court which workers or their families often fail to do due to ignorance. Among the amendments receiving Government's consideration is one by which any authority specifically empowered can bring in before the court cases where compensation is payable even where the worker or his family do not make a claim. We would state, however, that if the E.S.I. Corporation is required to disburse invalidity or survivorship pensions as recommended above, this will be done only in cases where lump sum payments have been deposited. The Corporation will not be called upon to adjudicate any claims nor undertake any other functions under the W.C.Act. All those functions should continue to be performed by the various authorities prescribed in the Act.

—

Post By, U.P.E.
Express Delivary.

Date. 31/12 - - 1959.

143

From:-

Bipinchandra Chimanlal Shah,
Near Chora, Bawa walawas,
Kalol,(N.G.)

To
The Chief factony Inspector,
Bombay State, Faramsi Vadasi insti.tute,Bldg.
Dhobi Talao,
BOMBAY 2

Sub:- The Metro wood & Engineering works private Ltd. kalol - has not paid for the annual leavethe carrent wages to this warkers.

Respected sir,

APPENDIX VIII

Comparative statement showing the employment injury benefits available under the various alternatives

Injury resulting in	Monthly payments that can be made under the W.C. Act		Under the Government's proposals of Sept., 1955	Under the Employees State Insurance Act, 1948.
	If the liability remains unchanged	if the liability is doubled as recommended by the Study Group.		
(1) Death	Minimum Rs.3.50 Maximum Rs.31.48 (These payments will be for 15 years vide Appendix VII)	Rs.7.00 Rs.62.96	At the rate of 40% of wages for a period of 15 years from date of death	60% of the 'full rate' to the widow or widows of the deceased worker till remarriage or death, whichever is earlier. 40% of the 'full rate' to each child upto the age of 15, or 18, if receiving education, the pension being terminated on the marriage of a daughter, whichever is earlier. All shares of the dependants are reduced prorata so that the total does not exceed the full rate at any time. The 'full rate' is roughly equal to half of the average daily wages.
(2) Permanent total disablement	Minimum Rs.4.90 Maximum Rs.44.07 (These payments will be for 15 years vide Appendix VII)	Rs.9.80 Rs.88.14	At the rate of 50% of wages for a period of 15 years or till date of death of workman, whichever is later	Life pension at 'full rate' multiplied by the extent of disability.

(3) Permanent partial disablement	Payment will be proportionate to the loss of earning capacity, i.e. equal to the amount payable for permanent total disablement multiplied by the extent of disablement.		Life pension at 'full rate' multiplied by the extent of disability.	
(4) Temporary disablement.	Minimum Rs.10 or full wages, whichever is less.	Rs.20 or full wages whichever is less.	At the rate of 50% of wages from date of disablement till date of recovery, if disablement lasts for more than 3 days	At 'full rate' for the duration of the disability.
	Maximum Rs.60	Rs.120		
	[For a period not exceeding 5 years]			

INDIAN LABOUR CONFERENCE
(17TH SESSION)

MADRAS - JULY 1959

Supplementary note on item No. 3 - Service conditions of Domestic Servants.

As stated in the last para of the Memorandum on item 3 already circulated, all the State Governments and Union Territory administrations were requested to consider the desirability of appointing a Committee for enquring into the conditions of domestic workers and inform the Government of India of their reactions on the suggestion made in this Ministry's letter dated the 11th May 1959. Replies have been received from only the following 8 State Governments

Assam
Bombay
Kerala
Madras
Mysore
Orissa
Rajasthan
West Bengal

All Union Territory administrations have also replied. None of the replies (except the one from Tripura Administration) favour the idea of appointing a Committee for enquiring into the conditions of domestic workers at State level for one reason or other. Only the Government of Assam consider legislative measures necessary. The Government of Kerala have suggested that if any Committee is to be appointed to enquire into the conditions of domestic workers it should be on an all-India basis. The Delhi Administration are of the view that it would be better if the Unions of domestic servants themselves decide regarding the minimum terms that they should accept in the present conditions and see that their members do not accept service at less than the terms fixed by them for a particular class of domestic workers. A gist of the replies received from the State Governments/Union Territories is attached.

It is proposed to set up a Special Employment Office in Delhi, on a pilot basis to deal with registration and placement of domestic servants in Delhi A Scheme giving details is appended for consideration of the Indian Labour Conference.

Comments received from the Union Territories on the problem of domestic workers.

1. Andaman and Nicobar Island Administration — The number of domestic workers is very few and there is no Union formed by them. The information is being collected.

2. Delhi Administration — No survey about the conditions of domestic servants has so far been carried out. On account of varying conditions of domestic servants it would be difficult to draw any conclusions. Door to door investigation would be required. The Administration is not in favour of any legislation as it would mean unjustified interference in the private life of

	a citizen. It would be better if the Unions of the domestic servants themselves decide regarding the minimum terms that they should accept in the present conditions and see that their members do not accept service at less than the terms fixed by them for a particular class of domestic workers.
3. Himachal Pradesh Administration	The number of domestic servants is few and the administration has not received any complaints against the employers. No comments on the proposal for appointment of an enquiry Committee.
4. The Administration of Minicoy, Lacadiva & Amindivi Islands	There is no domestic servants problem in any of the Islands and as such there is no necessity for constituting a Committee for enquring into the condition of domestic servants.
5. Manipur Administration	Very few men are prepared to work as domestic servants. Employers are at more disadvantage than the domestic servants.
6. Tripura Administration	The information about the conditions of domestic workers in this Territory is not readily available at present and have no objection to the appointment of a Committee for enquring into the conditions of domestic servants.

Comments received from the State Governments on the problem of domestic workers.

...

1. Assam	It will be difficult for the Committee to collect information regarding domestic workers conditions as the Committee will have to go from door to door of every middle class household as no service records of domestic workers are maintained by individual employers. Suggest legislation to safe guard fixed hours of work, weekly holiday, month's notice for termination of service or pay in lieu thereof, regular payment of salary, provision of quarters, medical treatment and prohibition of employment of young persons etc.
2. Bombay	Not in favour of appointment of any Committee. Suggest that enquiries about the condition of domestic servants will be conducted under the Scheme of "Socio-Economic Enquiries" during Third Five Years Plan.
3. Kerala	No reliable data is available. Do not consider any legislation necessary. Suggest that if any Committee is to be appointed to enquire into the conditions of domestic workers, it should be on an All India basis.

4. Madras. No factual data available. Conditions of employment of domestic servants in the Madras State has not so far become a problem. There is no immediate need to appoint a Committee to enquire into the conditions of domestic servants in the State. Nor is it necessary to embark on legislative measures, for reasons of difficulties in implementation and adverse effect on employment potential.

5. Mysore The State Government are not in favour of setting up a Committee at State level nor are they in favour of any legislative measures being adopted to regulate the service conditions of domestic workers.

6. Orissa No information about the condition of domestic workers in the State is available. The engagement of domestic servants is not large enough - In the circumstances the State Government do not favour the idea of appointing an enquiry Committee at the State level.

7. Rajasthan. The State Government do not feel the necessity of appointing a Committee to enquire into the conditions of domestic workers since there are no trade Unions or Association of domestic servants there. The work has been entrusted to Ad-hoc Survey Section of their Labour Department who will take a few months to assess the actual position.

8. West Bengal No useful purpose will be served by appointing a Committee at State level. The background information may be collected through direct Government agency.

SCHEME FOR SETTING UP SPECIAL EMPLOYMENT OFFICE FOR DOMESTIC SERVANTS

INTRODUCTION

1. It is proposed to set up, on a pilot basis, a Special Employment Office in Delhi, as a Unit of the National Employment Service, to deal with registration and placement of domestic servants in Delhi. Domestic workers constitute a special category of employment seekers and a special office to handle them is likely to prove advantageous to them as also to employers who require such workers. We have set up in the past such special offices to cater to the needs of important occupational categories.

ORGANIZATION.

2. Location: The Special Employment Office will serve the employers and domestic servants in Delhi and New Delhi areas. It will be located in a centrally situated area in New Delhi well-served by public transport.

3. Procedure: The Special Employment Office will work on the same lines as any other Employment Exchange. At the time of registration, domestic servants may be asked to give the names of two responsible persons who are residents of Delhi. The names of the referees should be recorded and may be supplied to the employer at his request when the applicant is submitted against a vacancy.

4. The Office will, in addition maintain in a specially designed form a register of employers, who need domestic workers.

5. Administrative Arrangements: As the scheme is to function on a pilot basis, it may be centrally administered by D.G.R.&E. through the Director of Employment and Training, Delhi.

6. ADVISORY COMMITTEE.

It is considered that a separate Advisory Committee composed of the representatives of the parties as given below may be set up to advise the authorities concerned on the working of this Employment Office.

i) Director of Employment & Training, Delhi - Chairman
ii) One Representative of the Organization of the Domestic Servants of Delhi.
iii) One Representative of employers, preferably a housewife
iv) A Social worker preferably a Lady interested in the welfare of domestic servants.
v) A Member of Parliament.

Employment Officer in charge of the Special Employment Office will be the Secretary of the Advisory Committee.

7. The Special Employment office will handle only placement of domestic workers. The Welfare of Domestic Workers will be looked after to the extent possible by a Labour Welfare Officer appointed for this purpose under the Director of Industries and Labour, Delhi Administration. The Employment Officer in charge of the Special Employment Office will, when required, render assistance to the Labour Officer in this respect by supplying information regarding the terms and conditions notified by the employer at the time of placing the demand for domestic workers.

16

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

Most Immediate

No.LRI-1(36)/59
Government of India
Ministry of Labour & Employment

Dated New Delhi, the 22nd June, 1959.

From

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

To

1. All State Governments (excepting the Government of Andhra Pradesh, Jammu & Kashmir and Orissa).
2. All Union Territories(excepting the Laccadiv, Minicoy and Amindive);
3. All India Organisations of Employers(excepting Employers' Federation of India).
4. All India Organisations of Workers.

Subject:- Indian Labour Conference, 1959 - views on the proposals to be considered by date regarding receipt of.

Sir,

I am directed to invite a reference to this Ministry's letter No.LRI-16(1)/59, dated the 2nd May, 1959 on the above subject and to request that your views in the matter may kindly be expedited.

Yours faithfully,

(A.L.Handa) 22.6.59
Under Secretary

174-II

GOVERNMENT OF INDIA
MINISTRY OF LABOUR & EMPLOYMENT

.....

MOST IMMEDIATE

D.O.No.LRI-1(36)/59

Dated New Delhi the 24th June, 1959

Dear Shri Mirajkar,

Will you please refer to my D.O.No.LR-16(1)/59, dated the 18th/19 April, 1959 and our official letter dated the 2nd May, 1959 regarding the views on the proposals to be considered by the Indian Labour Conference? We have not so far received the views of your Government/Organisation on the Memoranda concerned and it would be difficult for us to examine the same and circulate a summary to the parties attending the Conference if your reply is not received by the 1st July, 1959 at the latest. I shall, therefore, be grateful if you will kindly expedite the information, so as to reach us by the 1st July, 1959, at the latest.

Yours sincerely,

Teja Singh Sahni
m/6/59

(Teja Singh Sahni)

To

Shri [illegible] S. Mirajkar,
President, All India Trade Union Congress,
4, Ashok Road, New Delhi.

Phone : 34-2044

11 JUN 1959

WEST BENGAL COMMITTEE

All India Trade Union Congress

249 BOWBAZAR STREET, CALCUTTA-12

Ref.

Date 29th May, 1959 .

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

Dear Comrade,

Enclosed herewith comments on the note prepared by the Ministry of Labour and Employment in connection with the forthcoming India Labour Conference.

We donot find in the agenda any item in respect of taking stock of the fate of the recommendations and agreements arrived at at the fifteenth and sixteenth India Labour Conferences - how and to what extent these have been implemented and observed.

We think that is necessary with regard to, in particular, important decisions such as fixation of minimum Wage according to the norm laid down by the 15th I.L.C., observance of the Code of Discipline, formation of wage Boards, Joint Management Councils, Industrial Committees and review of their activities where such committees have been set up. If it is not possible now to include a separate agenda for such review of the past recommandations and agreed decisions, these matters sh ould be raised in course of speeches to be made by our Delegates to the forthcoming Conference.

Our observations in that regard will be sent very shortly.

Yours comradely,

T. N. Ganguli

(SECRETARY)

COMMENTS prepared by DR. RAMEN SEN & T. N. SIDDHANTA on the note circulated by the Ministry of Labour and Employment being the Agenda of the forthcoming Seventeenth Indian Labour Conference.

(A) Machinery for collective Bargaining and settlement of Industrial Disputes:

i) Recognition of Unions: Since the Code of Discipline was adopted by the Standing Labour Committee and accepted by all Central Trade Union and Employers' Organizations, it is undeniable that the employers have not acted upto the obligation enjoined upon them in respect of recognition of unions. As a matter of fact not a single union has been recognised by the employers in pursuance of the Code. It has therefore been amply demonstrated that the position on this score will not improve if the question of recognition of unions is left entirely at the discretion of the employers.

In view of this, obligation should statutorily be imposed on the employers on the lines laid down in the Keral Industrial Relations Bill, 1959.

ii) Works Committees: We feel the necessity of specifying the type of subjects that might be discussed by the Works Committees in order that these Committees might, in the limited sphere at least, safeguard the interest of the workers.

With that end in view, we generally endorse the subjects drawn up by the I.L.O. to come within the purview of these Committees, and would add the following to those suggested by the I L O .

(a) Matters pertaining to Provident Fund - its investment, grant of loans, etc. in respect of those establishments where there is no Trustee Board and where the establishment does not come under the Government Scheme.

(b) Matters relating to E.S.I., Timely deposit of contributions to ESI Corporation and such other matters in respect of which corrective measures at the plant level are felt necessary.

(c) Matters arising out of accidents and compensation to victims.

(d) Questions relating to superannuation with particular reference to individual cases.

(e) . Proposal to lay off or retrench workers on the ground of falling off in business or reorginization must be notified to the works Committees with full reasons thereof and the matter thereafter is to be discussed by the Works Committees.

iii) Validity --

174-D

iii) Validity of Agreements reached through direct negotiations between the parties:

The fundamental basis of collective agreement is recognition of the Union which commands the confidence of the majority of the workers. The question of recognition of the representative Union is required to be tackled first. We generally agree with the provisions suggested for incorporation in the Industrial Disputes Act and the Rules made thereunder.

iv) Settlement of Disputes through Arbitration: We agree with the observations made by the Madhya Pradesh Government that the existing tribunals are swayed more by the niceties of Civil Law than by considerations of equity and social justice.

Tripartite Arbitration Boards are, therefore, preferable to Tribunals and Labour Courts. Labour Courts will, however, deal with disputes relating to individual Dismissals, Discharges, etc. in reference to item (vii).

v) Principles for Reference of Disputes to Adjudication: We consider the Draft Model to be unacceptable inasmuch as the same seeks to confer more discretionary powers on the State Governments in the matter of referring Disputes to adjudication. Such wide discretionary powers are likely to be abused by withholding reasonable demands of the workmen from reference to Adjudication.

We, therefore, suggest that excepting disputes coming under the purview of separate Directorates and having statutory remedies under different legislations, all other disputes should be referred to adjudication and there should not be any bar in that respect.

vi) Revival of Labour Appellate Tribunal: Due to increasing litigations resorted to by employers, opinions gathered strength in favour of abolition of the L.A.T. But even after the abolition of L A T the number of cases going up in appeal to the Supreme Court and High Courts has been continually increasing. Firstly, it is necessary that matters pertaining to industrial disputes should be taken away from the purview of the Supreme Court and High Courts. The final appellate body should be L.A.T. Our objection in respect of LAT was based on the phenomenon of increasingly large number of appeals being preferred mostly by employers. Simple abolition of LAT only diverted all appeal cases to Supreme Court and High Courts entailing prohibitive expenses foisted on unions. L A T can, therefore, be only revived if the Supreme Court and High Courts are kept beyond the purview of industrial disputes.

vii) CREATION OF SEPARATE MACHINERY FOR DEALING WITH DISPUTES RELATING TO INDIVIDUAL DISMISSALS, DISCHARGES, etc.

In our opinion action should be taken at the All-India level on the

an individual worker in the event of a dispute arising out of dismissal or discharge, which is not at present treated as an 'INDUSTRIAL DISPUTE' should be entitled to approach the Labour Court set up specifically to deal with such cases, either himself or through any union of his choice or through any other agent.

viii) Jurisdiction of a Tribunal appointed by one State Government in respect of a dispute concerning workmen employed in different States:

Necessary changes should be made in the Industrial Disputes Act in order to obviate such difficulties so that it may be within the power of a State Government to refer disputes in such undertakings to the local Tribunals, where setting up of a National Tribunal is not found feasible.

(B) PROBLEMS Relating to Trade Union Organization:

i) With regard to Outsiders: We might agree to the reduction of the statutary limit on the number of outsiders on the executive Committee of a Trade Union from the existing 50% to 25%. Those who have actually been workers and subsequently dismissed from service should, however, be treated as workers and not as outsiders for this purpose.

ii) Membership Fee: It is already agreed to.

iii) We feel it necessary that the work of the Registrars should be decentralised to avoid delay in registration of unions.

iv) We are opposed to conferment of any statutory authority on the Registrar to inspect the records and accounts maintained by the Unions, as it will lead to, firstly, discrimination against A.I.T.U.C. Unions, and secondly to increasing official interference into union affairs.

v) Observance of rule of the union: We are totally opposed to give any statutory authority to the Registrar to supervise the observance or otherwise of the rules by unions. That will lead to discrimination against AITUC unions and will ultimately serve as a clue to cancel or withdraw registration of unions. The matter of observance of rules is entirely an affair of the ordinary members of unions and no official interference in this regard is acceptable.

vi) We might agree to provide for the withdrawal or cancellation of registrations failing to submit their Annual Returns.

vii) Registration of Union:

(a) It was agreed to at the Tripartite Indian Labour Conference that if out of the 7 signatories to an application for registration, one or two got discharged -

(24-11)

during the pendency of the application and if the signatories were entitled to apply for registration at the time of the application, registration should not be refused on the ground that they had since ceased to be workers. But amendment to the relevant provision of the Act has not yet been made.

(b) We are opposed to any amendment to section 4 of the Act to raise the prescribed number of seven. Empowering of the Registrar with the discretion to refuse registration of a trade union on the alleged ground that there is already an adequate number of registered unions functioning for the workers in the undertaking or industry concerned is very likely to result in curtailment of the fundamental democratic right of the workers and in that case will have to depend on official sanction for exercising the fundamental right. The remedy of the evil of multiplicity of unions lies elsewhere and that is in the recognition of representative unions.

---

30 MAY 1959

PUNJAB & HIMACHAL COMMITTEE

All India Trade Union Congress

G. T. ROAD, JULLUNDUR.

Ref. No. PTUC-AITUC/59-47 *Dated* 29th May, 1959 *19*

The Secretary,
A ll India Trade Union Congress,
New Delhi.

Dear Comrade,

Herewith I am enclosing seprately my views on the meorandum on Industrial Relations.

I hope you will go through the document. Regarding the Kerala Industrial Relation Bill,I am writing my views on it, and ~~kkak~~ shall send the same in a day or so.

with greetings,

Yours fraternally,
Satish Loomba
(Satish Loomba)

Punjab Pepsu & Himachal Committee

OF

All India Trade Union Congress.

G. T. Road JULLUNDUR.

Ref No Note On Dated 14. 4 19

Memoradum on Industrial Relations.

(Note :- Views have been expressed only on the specific points on which the conference has been invited to opine.)

A. Machinery for collective bargainging and the settlement of industrial disputes

i) The procedure proposed in the Kerala Industrial Relations Bill for the certification of negotiating agents.
The relevent chapter in this regard is chapter III of the Bill. Section 8 subsection(2) e(at p.3.) provides as a prior condition for regognistion that the union "will abide by the code of discipline as provided in schedule III".
Our experience of the working the code is not happy. The GeneralCouncil feels that the Code is being used as a weapon to put unilateral curbs on the trade unions.Secondly,the Code is part of the larger agreements on lockosure,rationalisation,wage boards etc. in whose background it was agreed to.Thirdly, the employers freely violate the Code.

If in this Bill,acceptance of thecode is made a prior condition for regognition of a union,and its violationcan by law lead to cancellation of recognistion (as provided in section II(a) of the Bill,this will put a big unilateral weapon in the hands of employers without any legislative restriction on employers.The position will be that the Union will be compelled to abide by the code in order to secure and retain recognition,while the employer need not even formally accept it.

This also counter to the understanding of the sub-committee appointed by the General Council of the AITUC appointed at Bangalore.

Similarly the recognistion may be cancelled if the union commits an unfair labour practice(ii-b). This leaves open the question of as to who decides the issue. We are not in favour of its being decided by the certifying authority as it is quasi-judicial decision. Secondly,this is too general a clause and likely to be misused in exceptional cases.

Regarding certification of negotiating agent for employers,the position also requires some changes. Withdrawl of their recognition has no meaning,because defacto the union has to deal with them.
Since the procedure adopted has to be discussed with reference to the whole of India,these should be taken to remove these lacunae.
For this the rest the AITUC will obviously support the procedure.

ii) Works Committee.
The suggestion regarding formation of a small tripartite committee to go into the question is welcome.

iii) Validity of agreements reached through direct negotiation between the parties.
In addition to the four suggestions already made it is further suggested that any agreement ,if challenged by a fixed percentage of workers should be subject to ratification by secret ballot of employees.

The question ,however,as admitted by the memorandum is linked with that of recognition of a representative union. This question must be first settled and ballot provided in case of dispute as to representative character.

iv) Reference of Disputes to voluntary arbitration and replacement of courts and tribunal by arbitration boards.
At this stage adjudication is more acceptable than arbitration. Voluntary arbitration is always open,and failing that adjudication

is better. Secondly,the suggestion that Govt. should chose arbitrators out of panels is very dangerous. Discrimination against AITUC is widely practised and if disputes have to be settled by Govt. nominees,even if they are nominated out of panels,the AITUC can never agree to INTUC nominees as arbitrators.Obviously the Govt. will maintain panels as taken labour and employers nominees,not according to organisations.

Hence this suggestion should not be accepted.All that can be accepted is that conciliation officers should be instructed to make special efforts to make parties agree to voluntary arbitration ,if conciliation fails.

vi) Model Principles for Reference of Disputes to Adjudicatars.

While it is urgently needed that some principles be laid down for reference of disputes to adjudication,the model principles suggested at Appendix III and those outlined by Prof. Richardson are both most objectionable and designed at hitting the workers' interest. These must on no account be accepted but vehemently rejected.

To take the suggetions of Prof. Richardson first.

i) The first suggestion is welcome and is in fact long overdue . This should be accepted.

ii) The Second suggestion should be rejected .The Labour Commissioner is not a fit person to excercise a judicial and impartial mind and is directly under the control of the Govt. In many states the Labour Commissi ner is openly pro-employers.With the question of public sector,an additional difficulty will arise regarding cases pertaining to the public sector.

iii) This suggestion should also be rejected ,as it will merely lead to much delay without any useful result. As it is the whole conciliation and adjudication process is much too lengthy and cumbersome and needs simplification and speeding-up.

iv) This suggestion should also be rejected for reasons given in (iii) above.Also ,when a matter is being conciliated upon ,strikes are illegal under the provisions of the Industrial Disputes Act. Back references for conciliation will mean an unbearable delay while workmen will have no right to strike during all this tortous proceedings.

As re: the Draft model Principles:
These must be rejected in toto.

A . Individual disputes.

The proposals would reduce the whole position as which it at present exist,under section 33 of the I.DA. The merits can be dicussed only if the mala fides of the employer can be first proved. As it is the trade union movement is agitating for changing the postion as it exists under section 33 and confering power on the tribunals and courts to go into the merits of the case .if this procedure is accepted even the remedy now available to the workers of raising a dispute and securing a reference, even after a court has given permission under section 33 to the employee will be denied and the denial will extend to all cases whether under sect 33 or otherwise.

Infact ,if accepted ,the result will be that an employers' action in dismissng etc. an employee will be justifeable only if the acts male fides or violates prima facie provisions of law. Merits will not be open to adjudication unless these 2 prior conditions are satisfied.

Again,even if prima facie youcan prove the malafides etc of the employer,refernce to adjudication can be denied by the Govt. if they are satisfied about violation or breach of Code of Discipline by the workers. The satisfaction of the Govt. Will obviously be only subjective,and not open tochallenge. Again the Code becomes a law for a position which we in no case can accept.

B. Collective Disputes.

Clause (1) would cut out the discrition of the Govt. in refering a dispute for adjudication suo motto ,or without conciliation. There is no valid reason for taking away these rights and if the Government does not want to excercise any of them, it may not. Similarly the emphasis on arbitration is unnecessary it is in any case open even now to the parties to agree to arbitration.

Clause (2) is very mischievous. The very fact of legality of a strike is a justiciable matter and only a judicial court can properly pronounce upon it. Again, as case law now exists, the strike may be illegal but justifiable, and this very safeguards certain rights of workmen not withstanding illegality of strike. Now the Govt. would be the sole judge of whether a strike is legal or not and there can be no appeal against Govt's sole discrition excercised without hearing the parties and without going into the facts of the case.

Secondly, the employer can declare an illegal lockout and keep the matter away from adjudiacation, simply by this act. So not only will the workers be at once dismissed by such an illegal act; all their demands and the dismissal itself can not form subject matter of a reference. In fact the ridiculous concept of equating strike and lockout leads to its most logical absordity here.

Thirdly, even if a strike is legal, if it is without notice, and if the workman have not exhausted all stages of conciliation etc., no reference can be made. This in fact seeks to render every strike without notice and without a prior recourse to conciliation illegal and the trade union movement can not accept this effort at widening the scope of illegal strikes through the back door.

Clause (3) This is a ridiculous effort at discouraging even peaceful and legal strikes. The employer has simply to withhold wages and the workman is denied even the relief of adjudication.

Clause (4) This is a matter which can be accepted but subject to our suggestions given below.

Clause (5) This again should take away the right of workman to raise claims mostly re: wages and scales and grades etc in individual concerns and bar reference on such claims for long periods. Hence it must be rejected.

II Except (4) Which can also be acceptable if compulsory recognition and ballot is agreed to, all the other 3 conditions will merely further restrict the right of workman to obtain relief through adjudication. As an example, many demands will be refused adjudication on the grounds of "reasonableness" according to the subjective satisfaction of the Govt. Again clause (2) and (3) will take away many rights now being won by workers of individual units and tend to fix norms at the least existing level.

Some Suggestions.

It will however be welcome if some [illegible]

i) These Industrial Courts may also be enpowered to adjudicate upon all cases of individual dismissals etc., violation of Standing orders, etc on a complaint made by the individual concerned directly or through a registered union.

iii) These Industrial Courts may also be enpowered to enforce and interpret all awards and agreements and settlements.

[illegible] courts and tribunals should be automatically made within a prescribed period by the Govt. if both or either party expresses a desire for such reference.

vii- Revival of Labour Appellate Tribunal :

The General Council of the AITUC discussed this matter and unanimously favoured the revival of L.A.T. However it felt that at the same time the demand for cutting out recourse to High Courts & Supreme

Punjab Pepsu & Himachal Committee
OF
All India Trade Union Congress.
G. T. Road JULLUNDUR.

Ref No

Dated 195

Court through a Constitutional amendment must be raised vigorously.

viii) Creation of separate machinery for individual disputes.
This is most essential specially in view of recent court pronouncements re: collective disputes. Our suggestion in this regard have been given at (vi) above. However it must be noted that in individual disputes, the right of an individual worker to be represented in courts by any of the authorities provided in Industrial Disputes Act (a Regd. TU, or a federation or any of its office bearers, or any other worker) must be safeguarded.

ix) Territorial Jurisdiction of Tribunal:
It is suggested that the State Government where the Head Office of a concern is situated as well as the State Government where a particular branch is situated should both be empowered to refer a dispute to adjudication. If the Government where the head office is situated refers a dispute, it shall be legally entitled to order that the Award shall apply only to the head office or to all branches, depending upon the jurisdiction of the Union. In case of a State Govt., where a branch is situated, if the Union of that branch raises a dispute, then the reference should extend only to that particualr branch.

B. Problems relating to Trade Union Organisation
i) Limit on outsiders on TU Executives:
There is no reason for further restrictions. In fact it must be strongly resisted. This is, as is obvious, an attack on the democratic functioning of the unions and hits at their bargaining power and power to fight cases in courts.
ii) Provision re: membership fees in TU Act:
While it is desirable that TUs should have stable funds and any effort in this direction must be encouraged, it is not welcomed that statutary restrictions should be placed, and should be made a prior condition for registration. This is specially unwelcome in small-scale industries, and will adversely affect membership figures.
The General Council of FTUC discussed this matter and was of the above opinion.
iii) Does not call for any comments.
iv) Empowering Registrars to inspect Records:
This suggestion is not unwelcome. Under the TU Act audited accounts have to be submitted every year to the Registrar. If this suggestion is endorsed, it will lead to unwelcome executive interference in the fuctioning of TUs, and will lead to further descrimination against AITUC and in favour of the Governmental Unions.
The TUs can never accept this curtailment of their freedom.
v)&vi) These two suggestions cannot be accepted for the same reasons as in(iv) above.
vii) This is a straight effort at State-constituted Trade Unionism. The General Council of the FTUC discussed this suggestion and unanimously rejected it. The present position should continue.

Satish Loomba

Satish Loomba.

4 JUN 1959

Notes on the Ministry of Labour's pamphlet on industrial relation.

.....

(Vide the list of subjects given in pages 20-21 of the pamphlet.)

A(i) The relevent section of the Kerala bill given in page 5 of the pamphlet speaks only of the #recognised " unions. If that be so ,the AITUC unions will have no right even to presenttheir claim for referendum beforethe appropriate authority, because very few unions in Bihar are recognised or are likely to be recognised in near future. Hence the word"recognised"in the quoted sentence should be substituted by "registered".

Secondly it should be emphasised that no industry-wise union should be recognisedunless it secures 50% of the total votes (including casual and temporary workers) in a referendum for the purpose of concluding any industry-wise settlement. Same will be the criteria for determining representativeness of unions , operating in one or more units of any industry. This should not apply in cases where there is only one registered union , provided it secures more than 25% vote in a referendum. Any registered union, showing on its register a membership strength of more than 10% of the total strength of the workers, shall have the right to be a party to the referendum; and the qualification of one years operation should be done away with(because no union in Bihar is registered before it operates for more than two years.).

A(iii) The proposal may be agreed to only if the principle of referendum is accepted as a means of determining the representativeness ,and that, without any irrelevent qualifications.

A(iv) Some of the difficultis in the matter of arbitration are as follows:

---It is extremely difficult to get an agreed arbitrator, who will agree to accept the job. We are not aware of panel in our area.

---- The question of remuneration to the arbitratoris alos a vexed problem, and the unions generally cannot afford to pay high charges for the arbitrators in addition to the expenses for conducting the workers case.

----- There is no rule governing the procedure of arbitration which in consequence, inordinately delays the disposal of the disputes.

A(vi) Richardson's recommendations:- Labour Commissioners may be given powers to dispose the implementation disputes, provided two safeguards are provided for in this matter. Firstly, all the complaint should lie through a registered union , and these shall be disposed within three monhts of its presentation. Necess-ary civil powers should be conferred on the L.C.s to make it possible. Secondly, a provision of appeal should be made to labour court or a tribunal. A suitable appeal fee may be imposed to check the indiscriminate use of the right of appeal.

Draft model principles for reference:- At present there is no machinery, exeepting the criminal courts, to determine and locate the guilt of violence, and hence this proviso shoudl be opposed. This may be taken up for condideration along with the problem of setting up of adequate machinery for enquiries in all such cases.

A(viii) A seperate machinery for dealing with the cases of individual dismissals may be created where the complaints may lie directly from aggreived workers. The workman should have the benifit of representation by the trade union of

30 MAY 1959

Mill Kamdar
Union.
Panvadi - Vadva.
Bhavnagar
Dt. 26/5/59.

To,

All Indian Trade Union Congress.
New Delhi

Copy to :-
Maha Gujrat T.U.C - Baroda -

Ref :- Circular No.
AU/1/59. That has
appeared in T.U.R. No. 14.

Subject :- "Memorandum
on Industrial Relations"
vis a vis 17th I.L.C -

Comrade,

With reference to your above
circular pl. find herewith the
opinion & suggestions of the
meeting of our representatives

i) Certifying the negotiating agents:- (vide Kerala Bill). (PARA 3:3)

We endorse fully the procedure proposed in the Kerala Bill with the suggestion that the workers who pay ~~dues~~ membership fees in two unions at the same time must be made legally punishable, because this trend is becoming frequent and to take advantage of both unions workers pay to rival unions simultaneously. Hence this suggestion.

ii) Works Committee - (PARA 4:3)

i) In factories having workers less than 100, works committees of 7 members with 5 elected workers and 2 nominated from the owners sides must be formed.

employing more than 1000 thousand workers, workers representatives should be elected by ballot on the basis of one for every 150 workers -

3) Owners representatives number should be $\frac{1}{3}$rd of the number of the workers' representatives.

4) Election of workers' representatives should be general & not defect wise -

5) The post of president should alternate between owners & workers every 3 three month.

6) When owners president be term, act. should be from workers & vice versa

iii) Validity & binding effect of agreements. (PARA 5:21

by its implementation. Unless this is ensured no agreement should be validated, irrespective of the fact that a particular Union would have entered it or not.

2) If provision of Kerala Bill for registering the negotiating agent after verification through ballot be made available by all provincial govts, then and after that only, the representative capacity so decided must be unit i.e. factory wise only and the agreements entered into by such a representative union must be held binding upon all the workers.

However in such a case also the consent of the majority of concerned workers must be considered an inevitable

iv) Arbitration. (PARAS 6:1 and 6:2)

i) We are opposed to the Madhya Pradesh Govt's suggestion of replacing the Adjudication Machinery by compulsory Arbitration, at present.

However we reserve our opinion for further discussion so will let you know earlier.

v) References (PARA. 7:3)

i) We agree with the suggestion that Labour Commissioners must be empowered to get implemented various awards, decisions, settlements etc.

ii) For reference for adjudication other than such disputes, we suggest that the procedure must be simplest and when both parties disagree to settle after first attempt at conciliation the

vi) LAT revival (PARA 8:4)

i) We are opposed to the revival of LAT

ii) We want High Courts to be empowered to receive appeals against lower labi courts and tribunals.

But H.C.s must also be empowered to take evidence again and the court fees must be reduced to minimum and procedure simplest possible

vii) Separate Machinery (PARA 9:3)

i) We heartily agree & endorse the suggestion of Madras Govt. to create separate machinery to handle case of dismissal discharges etc.

ii) [illegible] that Unions

(viii) Jurisdiction of a tribunal. (PARA 10:2)

i) We agree with Supreme Court's view in this connection & wish that no unnecessary dabbling be made.

Delhi administrations plea should be rejected straightforth.

× × × ×

Problems relating to T.U. organizations.

(I) Outsiders. (PARA 11:4)

i) We suggest that 25% of the no. of total members of executive must be allowed to be the outsiders in the committee and no distinction of "worker" and "non-worker" be made.

(II) Membership Fee. (PARA 11:5)

i) Provision for compulsory

III Decentralization (PARA 11:6)

i) Powers to register a Union must be decentralized and be vested in labour officers or newly created posts of local registrars.

IV Powers to look into accounts (PARA 11:7)

i) We are opposed to the powers being given to registrars to look and into & inspect the accounts of Unions.

V Cancellation (PARA 11:8)

i) We are also opposed to the proposal of cancellation of registration for failure to observe the rules mentioned in T.U. Act.

VI Submission of Annual returns (PARA 11:9)

VII Restriction (PARA 11:10)

i) Any 7 workers must be allowed to form a Union if they so desire, as is possible at present and no change should be made in that provision.

ii) Restriction can & will come only thro' the will of the workers' themselves & not by legislation as such.

xx xx xx xx.

We will be sending the typed copy of this as well.

However as you wanted us to send before 31st May, I am sending this handwritten. Do acknowledge the receipt &

N.B:- As to the appendices in the memoranda, our opinion is as follows:-

Appendix. I -

i) Page. 24. Para. 4:5
We agree with France model only in provision that if ~~them~~ owners' officebearers' fail to convene meeting, govt. Labr. officer on request of $\frac{1}{3}$ member workers must be empowered to call it.

ii) Page. 24. Para 4:7
We totally agree with Poland model.

iii) Page 26. Para. 6:2.
We agree with Netherland provision that workers can suspend the decision of owners to close a unit if they do close.

Appendix. II

i) Page 30. Para. 4.
Rule. 51 under I.D.A. in light of this observation must be scrapped.

Appendix III.

Page. 35

i) We disagree with the draft model principles given here in light of what we have stated herein under the head "reference" here before.

Subodh Mehta
G.S- M.C.A

United Iron & Steel Workers' Union.

30 MAY 1959

Regd. No. 3389

Head Office:—K U L T I

(PROF. BARI ZINDABAD)

Office:-
Station Road,
P. O. Burnpur.
(Burdwan)

BARI

Phone No. Asl. 2757.

Ref. No......

Dated 28 th. May 1959.

To
The General Secretary,
A.I.T.U.C.
Asnok Road,
New-Delhi.

Dear Somrade,

Ref: Your Circular No.AU/1/59 of 14.5.59 as published in the T.U RECORD No.14 of 20.5.59.

We enclose herewith our suggestion in connection with the Memorandum on industrial relations circulated by the Ministry of Labour, Govt of India.

Kindly od the needful and oblige,
With T.U.greetings,

Comly Yours
Bama Pada Mookerjee
For Genl.Secretary.

Encls: 2.

To Boost up I.N.T.U.C. union and supress A.I.T.U.C. workers inside the Factory the Tata Iron & Steel Company authorities are resorting to unfair labour practices.

The I.N.T.U.C. led Tata Workers Union being a recognised union by the management is allowed to collect money inside the factory premises. During payment hours the company allows a good number of supervisory staff including the Foremen and General foreman of the Department some time even the Superintendent of the Department to cover the place of payment and induce every workman and some times by catching hold of the persons of the workers to pay subscription for the Tata Workers Union. Those who do not pay are marked and harrassed in the Works. The workers are to work under these supervisory staff and in order to save themselves from harrasment they reluctantly pay money.

Whenever a worker goes to represent any greivances the supervosory staff directs them to come through TATA WORKERS' UNION (INTUC) before their legitimate greivances are heard.

Though the JAMSHEDPUR MAZDOOR UNION commands the support of overwhelming majority of workers of Tata Iron and Steel Company, yet the management refuse to deal with the JAMSHEDPUR MAZDOOR UNION even on greivances of individual nature of members of this union. The greivance of Sri. N.P. Ghosal WHEEL TYRE & AXLE PLANT (TISCO) was represented to Tisco authorities on 18th May, 1959. The company has not even the courtesy of acknoleding the letter of the union.

The Tata Iron & Steel Company dismissed and discharged about 400 workers in connection with 12th May'58 strike though 90% of the workers joined that strike. Dismissed and discharged workers made representation their cases to the Tisco management. Not a single worker who is member of JAMSHEDPUR MAZDOOR UNION is re-instated through grievances procedure of the company.

343 of such dismissed and discharged cases have been represented to the Government for re-instatement, Sri. Gulzarilal Nanda, The Labour Minister, Bihar and in the floor of Bihar Assembly the Government spokesman declared that they are against mass dismissal. But not a single worker has been reinstated as yet. Even the demand of Industrial Tribunal by the JAMSHEDPUR MAZDOOR UNION to adjudicate upon the issue has not got favourable response from the Government as yet, though the issue is lying with the Labour Department, Government of Bihar for months. On the plea of infringement of Industrial Dispute Act the workers who are members of A. I. T. U. C., unions are being ~~brought to~~ sued in law courts to safeguard management's interest (Cases have been instituted by the Labour Department against 19 workers of TELCO, about 100 workers of TISCO, 4 workers of TINPLATE and 13 workers in MOUBHANDAR INDIAN COPPER CORPORATION). Incidentally it may be mentioned that when some I.N.T.U.C., workers instigated and resorted to an illegal stoppage of work in TELCO on 8th August'58, the Labour Department did not think it necessary to take any action and the management also pardoned the workers. For alleged similar offence 19 workers of JAMSHEDPUR MAZDOOR UNION were dismissed by TELCO management and the Labour Department sued them in the law court.

Some 800 workers of TATANAGAR FOUNDRY COMPANY Ltd., have been illegally locked out since September 1958 by the management. These workers have been selected for their allegience to A.I.T.U.C., union. The Government of Bihar has taken no action against the management of Tatanagar Foundry Co., for this illegal act. And 800 workers are still lying idle for the anti-labour policy of the Govern-

Under I.D. Act 26 four (4) workers of Tinplate company Ltd., and 13 workers of Indian Copper Corporation of Moubhandar were punished by lower courts. Their appeals are pending before District Judges Court, Dhanbad. But the management of I.C.C., without waiting for final decision of the case, dismissed 13 concerned workers forthwith under Standing Order. The Tinplate Company has also gave notices of dismissal of 4 workers and it will take effect if not stopped by District Judge.

NON - IMPLEMENTATION OF AWARDS :

The Industrial Tribunal Award regarding demands of Tinplate Workers, published in the Bihar Gazettee dated 18th Febraury'59, directed the management of Tinplate Co., to settle the revision of grades of the employees by holding negotiation between the Company and the unions namely, JAMSHEDPUR MAZDOOR UNION and TINPLATE WORKERS' UNION (INTUC). The management has not taken any step to implement this part of the award and J.M.U, has not been called to negotiate on the basis of the above inspite of management's attention drawn to this matter more than once.

VIOLATION OF RULES REGARDING WORKS COMMITTEE:

According to Industrial Dispute Act Bihar rules Section 34 (II), where there are more than one Trade Union registered under the Indian Trade Unions Act, collectively representating 51% or more of the workmen, all the representative of the Works Committee shall be nominated by these Trade Unions in proporation to their respective strength. The JAMSHEDPUR MAZDOOR UNION has got more than 51% of the permanant workers as its member but in the present Works Committee of TISCO all the representative of the workmen have been nominated by the TATA WORKERS' UNION (INTUC) alone. This has been done for the second time recently inspite of repeated protests from JAMSHEDPUR MAZDOOR UNION. Similar treatment is meted out to J.M.U., in Tinplate, Telco and Tatanagar Foundry.

RE -GI- ST -RA- TI- ON: (Registration) :

The policy of Bihar Government regarding Registration of Trade unions is not to allow the workers to form association to their own choice.

/cont'd ...4.

For years the applications of A.I.T.U.C., unions for Registration are being kept pending on one plea or another, though these unions enjoy overwhelming support of the mass of the workers. The example of UNITED MINERAL WORKERS' UNION, GUA. The MOUBHANDAR COPPER WORKERS' UNION, Moubhandar, Ghatshila, The RAJANKA CEMENT QUARRY WORKERS UNION, Chaibassa, may be cited in this connection.

Ag: General Secretary,
JAMSHEDPUR MAZDOOR UNION,
Jamshedpur.

Dated the,
20th July, 1959.
np /m-

22 JUN 1959

From

The General Secretary,
Textile Mazdoor Ekta Union (Regd.),
Putlighar, AMRITSAR.

To,

The General Secretary,
Punjab & Himachal Committee
of
All India Trade Union Congress,
G.T.Road, JULLUNDUR.

Sir,

Please refer to your note dated 28/5/59 on the Memorandum on Industrial relations circulated by A.I.T.U.C. We have to make the following observations:-

1) On page 3, under the Heading 'Some suggestions' in para 3 you have suggested "Reference to such courts and Tribunals should be automatical, made within a prescribed period by the Government or both or either party expresses a desire for such reference".

We have to submit that this proposal as far as it suggests that a reference for adjudication be made on the desire of either party is a dangerous proposal because it means that whenever employers wish to scotch a strike and whenever it is advantageous for the workers to go on strike rather than have adjudication employees will express a desire for adjudication and the workers will have only two alternatives i.e. give up the strike or go on on illegal strike.

Hence the suggestion should be that a reference should be made when workers desire and not when either party desires.

2) On page 1, in para iii it is suggested that any agreement if challenged by a fixed percentage of workers should be subject to ratification by secret ballot of employees.

In this employees will include officers, hence it should be 'workers' or at the most 'workmen'.

employers are the accusers and also the judges, a reference should be guaranteed.

4. Apart from the above we have already sent to the A.I.T.U.C. - - -Office what changes are necessary in the Industrial Disputes Act. As the ~~whole~~ whole question of amending the I.D. Act is being considered by a Committee, all the amendments which we have been suggesting in AITUC conference ~~confirmation~~ should be sent to the A.I.T.U.C. and that Committee.

Yours fraternally,

Pandurangaiah

D/ 20.1.55

Copy to AITUC

.25

PHONE 2730-A

JAMSHEDPUR MAZDOOR UNION

(AFFILIATED TO ALL INDIA TRADE UNION CONGRESS)
REGISTERED NO. 672

President : SUNIL MUKHERJEE
GI Secretary : KEDAR DAS, M. L. A.

33, SARKAR BUILDING
JAMSHEDPUR-1.

Ref. No.

20th July'59.

Com. Dange, M.P.

Dear com. Dange,

On 18-7-59, I sent a telegram to Sri. Gulzari lal Nanda regarding Moubhandar and Musabani, where all our workers (Union workers) are being arrested under section 151 I.P.C./ There had been no agitation from our side recently except one of our worker who was dismissed from Moubhandar went to gate for propganda. All our workers including com. Basta Soren, Secretary, District Kisan Sabha are arrested. Com. Basta was treated by the Police like an ordinary criminal at Ghatshila, Jamshedpur. I met the S.D.O., who replied evasively that there cases have become sub-judice. Normal trade union activities in this District are being prevented by police going round workers' Bustee terrorising the workers. In Moubhandar 13 workers are dismissed after lower court's conviction under I.D. Act, even though apeals are pending with District Judges' Court. The case was for alleged participated in stopage of work in January 1958.

We expect you to move the authorities to ensure normal T.U. activities in this area.

Hope you are keeping good health.

With greetings,

Yours sincerely,

U. Misra

(Dr. U. Misra)

P.S. In Mosabani, Copper mines are situated and about 7000 workers work there.

PHONE 2730-A

JAMSHEDPUR MAZDOOR UNION

(AFFILIATED TO ALL INDIA TRADE UNION CONGRESS)
REGISTERED NO. 672

President : SUNIL MUKHERJEE
Gl. Secretary : KEDAR DAS, M. L. A.

39, SARKAR BUILDING
JAMSHEDPUR-1.

EXPRESS LETTER:

Ref. No. 174

20th July'59. 19

Com. S.A. Dange, M.P.

Dear com. Dange,

Enclosed herewith please find some instances of discriminatory and repressive action against A.I.T.UC, unions and their members ~~for your information~~. We hope this will help you to take steps to stop such actions in the ensuring Labour Conference at Madras.

With respectful greetings,

Yours sincerely,

Ag: General Secretary.

Enclo: One.

124

14/6, Gariahat Rd
Calcutta - 19
24.7.59.

Dear Com. Sambaram,

Just read your post card.

I have a place to stay as with my relatives. If you think it absolutely necessary I can stay at Atabi's, but if not I should prefer to stay at my relatives. Anyway we can discuss it on arrival.

I shall be reaching Madras by Calcutta Mail on 26th morning.

With greetings, Yrs Rama Kalyan

INDIAN LABOUR CONFERENCE

(17TH SESSION, MADRAS - JULY, 1959)

A G E N D A

1. Action taken on the decisions of the 16th Session of the Indian Labour Conference.

2. Industrial Relations.

3. Service conditions of domestic servants.

4. Introduction of a Pay Roll Scheme in the industrial establishments.

5. Proposal to revise the rates of compensation in Workmen's compensation Act, 1923.

6. Delinking of provident fund benefits from gratuity for the purpose of granting exemption to establishments or employees covered under the Employees' Provident Funds Act, 1952 from the operation of the provisions of Employees Provident Funds Scheme, 1952.

--0-0--

16 JUL 1959

MADHYA PRADESH BILL

No. 14 of 1959

THE INDIAN TRADE UNIONS (MADHYA PRADESH AMENDMENT) BILL, 1959

A Bill further to amend the Indian Trade Unions Act, 1926 in its application to Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the Tenth Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Trade Unions (Madhya Pradesh Amendment) Act, 1959.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 2, Central Act XVI of 1926.

2. In section 2 of the Indian Trade Unions Act, 1926 (XVI of 1926) (hereinafter referred to as the principal Act),—

(i) clause (a) shall be renumbered as clause (a-2) and before clause (a-2) as so renumbered the following clauses shall be inserted, namely :—

"(a) 'approved list' means the list of approved unions maintained by the Registrar under section 28-A;

(a-1) 'approved union' means a Registered Trade Union on the approved list;"

(ii) clause (b) shall be renumbered as clause (b-1) and before clause (b-1) as so renumbered the following clause shall be inserted, namely :—

"(b) 'Industrial Tribunal' means a Tribunal constituted under section 7-A of the Industrial Disputes Act, 1947 (XIV of 1947);"

(iii) before clause (c) the following clause shall be inserted, namely :—

"(b-2) 'local area' means any area notified by the Registrar as a local area for the purposes of this Act;".

Insertion of section 10-A in Central Act XVI of 1926.

3. After section 10 of the principal Act the following section shall be inserted, namely :—

Other powers of Registrar.

"10-A. (1) For the purposes of discharging his duties under the Act Registrar shall have —

(a) the following powers of a Court of Civil jurisdiction under the Code of Civil Procedure, 1908, namely, powers —

(i) to require or accept the proof of facts by affidavits;

(ii) to summon and enforce the attendance of any person and to examine him on oath;

(iii) to compel the production of documents; and

(iv) to issue commission for the examination of witnesses;

(b) power to enter and inspect any place used by a registered trade union as office;

(c) power to convene or cause to be convened a meeting of the general body or executive of a registered Trade Union; and

(d) such other powers as may be prescribed.

(2) Where in the opinion of the Registrar a registered Trade Union is unable to function effectively on account of a dispute as to who are the lawful office-bearers of the Union, the Registrar may, after holding such enquiry as he deems fit, determine and declare the persons who are the lawful office-bearers."

Substitution of new section for section 11, Central Act XVI of 1926.

4. For section 11 of the principal Act, the following section shall be substituted, namely :—

Appeal

'11. (1) Any person aggrieved by an order of the Registrar—

(a) refusing to register a trade union; or

(b) withdrawing or cancelling a certificate of registration;

may within 30 days from the communication of such order to the trade union concerned, appeal to the Industrial Tribunal whose decision shall be final.

(2) The Registrar shall comply with any order passed by the Industrial Tribunal under sub-section (1)."

Insertion of new Chapter III-A, Central Act XVI of 1926.

5. After Chapter III of the principal Act, the following Chapter shall be inserted, namely :—

"CHAPTER III-A

Approved Unions

Approved Unions.

28-A It shall be the duty of the Registrar to maintain in such form as may be prescribed a list of approved unions.

Certain unions deemed to be approved unions.

28-B. A union entered on the approved list maintained under the Bombay Industrial Relations Act, 1947 as adapted in Madhya Bharat by the Madhya Bharat Industrial Relations (Adaption) Act, Samvat 2006 (31 of 1949), before the commencement of this Act shall be deemed to be an approved union under this Act.

Maintenance of approved list and conditions for being entered in it.

28-C. (1) Any registered Trade Union may apply in the prescribed form for being entered in the approved list.

(2) On receipt of such application the Registrar shall hold such enquiry as he considers necessary and if he is satisfied that such union fulfils the conditions necessary for its being entered in the approved list, he shall enter the name of such union in the approved list and shall issue a certificate of its entry in such form as may be prescribed :—

Provided that—

(i) in any local area the Registrar shall not without the previous sanction of the State Government enter more than one Union in respect of any industry;

(ii) where two or more unions fulfilling the conditions necessary for registration specified in section 28-D apply for their entry in the approved list, the Union which has the largest membership of the employees employed in the industry, shall alone be entered in the approved list;

(iii) the Registrar shall not enter any union in the approved list, if he is satisfied that the application for entry is not made bona fide in the interests of employees but is made in the interests of the employer.

Conditions of entry in the approved list.

28-D. (1) No union shall be entered in the approved list under this Act, unless—

(i) the membership of the union is open to all the employees irrespective of caste, creed or colour;-

(ii) the union has for the whole of the period of six months next preceding the date of application under section 28-C a membership of not less than between fifteen and twenty per cent accordingly as the State Government may prescribe for that local area of the employees employed in the industry in that area;

(iii) The constitution of the union shall be such as may be provided by or under this Act, and in particular, shall require that—

(a) the subscription payable for membership shall be not less than four annas a month or such other sum as may be fixed by the State Government under sub-section (2) and that the accounts of the union shall be audited by an auditor appointed or approved by the State Government at least once in each financial year;

(b) the executive of the union shall meet at least once in three months and that all resolutions passed by the executive or general body shal be recorded in a minute book;

(c) the union shall not sanction a strike as long as conciliation and arbitration are available and shall not declare a strike until a ballot is taken and the majority of the members of the union vote in favour of the strike; and

(d) the union shall not sanction or resort to stoppage which is illegal under any enactment for the time being in force.

(2) The State Government may, by notification direct that in the case of any registered Trade Union of workmen or employees engaged in any employment specified in the schedule to the Minimum Wages Act, 1948, the membership subscription may be less than four annas for such period as may be specified therein

XI of 1948

(3) Any registered Trade Union complying with the conditions specified in sub-section (1) and having a larger membership in an industry in a local area than an approved union for such industry shall on an application in that behalf be entered in the approved list in place of such approved union by the Registrar after holding such enquiry as he deems fit.

Approved union to continue to be so for altered local area for sometime.

28-E. Notwithstanding anything contained in section 28-D, if there is any alteration in the local area or areas,—

(a) an approved union in an industry in the altered local area or areas; or

(b) where two or more approved unions exist in an industry in the altered local area or areas the union having the largest membership, whether by agreement of the other approved unions or as determined by the Registrar after such inquiry as he deems fit;

shall be deemed to be the approved union for the altered local area or areas, as the case may be, for a period of twelve months from the date on which such alteration is affected, or where such approved union or any other union in the altered local area or areas makes an application under section 28--C within such period until the disposal of such application by the Registrar.

Removal from approved list.

28-F. (1) The Registrar shall remove a union from the approved list if its certificate of registration is cancelled under section 10, and may also so remove a union if after holding such enquiry if any as he deems fit, he is satisfied that it —

(i) was entered in the list under mistake, misrepresentation or fraud; or

(ii) has, since being included in the approved list, ceased to fulfil the conditions specified in section 28-D.

(2) Any person aggrieved by an order of the Registrar —

(a) refusing to enter any registered trade union in the approved list; or

(b) removing a registered trade union from the approved list;

may within 30 days from the communication of such order to the trade union concerned, appeal to the Industrial Tribunal whose decision shall be final.

(3) The Registrar shall comply with any order passed by the Industrial Tribunal under sub-section (2).

Rights of officers of approved unions.

28-G. Such officers and members of an approved union as may be authorised by or under rules made in this behalf by the State Government shall in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employer concerned —

(a) to collect sums payable by members to the union on the premises where wages are paid to them;

(b) to put up or cause to be put up a notice board on the premises of the undertakings in which its members are employed and affix or cause to be affixed notices thereon;

(c) for the purpose of the prevention or settlement of a trade dispute —

(i) to hold discussions on the premises of the undertaking with the employees concerned who are the members of the union;

(ii) to meet and discuss with an employer or any person appointed by him for the purpose of removing the grievances of its members employed in his undertaking;

(iii) to inspect, if necessary, in any undertaking any place where any member of the union is employed."

Amendment of section 29., Central Act XVI of 1926.

6. In section 29 of the principal Act, after clause (d) the following clauses shall be inserted namely:—

"(d-1) the form in which the approved list shall be maintained under section 28-A;

(d-2) the form of application under section 28-C;

(d-3) the officers and members of approved unions to be authorised under section 28-G and the manner in which and the conditions subject to which the rights of such officers under that section shall be exercised."

Insertion of new section 32-A in Central Act XVI of 1926.

7. After section 32 of the Principal Act, the following section shall be inserted, namely :—

Penalty for contravention of section 28-G.

"32-A Any employer who contravenes the provisions of section 28-G shall be punishable with fine which may extend to five hundred rupees."

Amendment of Bombay Act XI of 1947 as adapted in Madhya Bharat region.

8. In the Bombay Industrial Relations Act, 1946 (XI of 1947) as adapted in Madhya Bharat region,—

(i) clause (1) of section 3 shall be omitted;

(ii) at the end of clause (2) of section 3 the words "maintained under clause (a) of section 2 of the Trade Unions Act, 1926" shall be added;

(iii) in section 12 ,—

(a) in the marginal heading the words "and approved list" shall be omitted;

(b) clause (b) shall be omitted;

(iv) in sub-section (3) of section 13 for the figures "23" the figures and words "28-D of the Trade Unions Act, 1926 as applicable to Madhya Pradesh" shall be sub tituted;

(v) in section 15, sub-clause (iii) of clause (b) for the figures "23" the figures and words "28-D of the Trade Unions Act, 1926 as applicable to Madhya Pradesh' shall be substituted;

(vi) sections 23, 23-A, 24 and 25 shall be omitted;

(vii) in section 108 the words "or such officer of an approved union as is authorised under section 25" shall be omitted;

(viii) in section 113-A for the word and figures "17 or 23" the word and figures "or 17" shall be substituted;

(ix) in section 123, clauses (l) and (m) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Bombay Industrial Relations Act, 1946, as adapted in Madhya Bharat region, provides for registration of a trade union as an approved union subject to the fulfilment of a certain conditions. Such unions enjoy certa n privileges for reorganisation and negotiation with the employers for the purpose of prevention or settlement of a trade dispute. It is considered desirable to extend these provisions with certain modifications to the whole of the State. As such provisions should more appropriately find place in the Trade Union Act, it is intended to amend the said Act, which is in force in the whole of this State.

For the functioning of healthy trade unions, the Registrar of the trade unions ought to play a more positive role than merely acting as a registering authority. It is, therefore proposed to give him requisite powers and to impose corresponding duties on him.

It is further considered appropriate that appeals against the orders of the Registrar should lie to the Industrial Tribunal constituted under the Industrial Disputes Act, 1947 instead of to an Assistant or Additional District Judge, since such a Tribunal is presided over by a person who is qualified to be a Judge of the High Court. This will ensure uniformity of decisions because the Industrial Tribunal is the highest Tribunal in the matter.

The Amending Bill is designed to achieve the aforesaid objects.

V. V. DRAVID,
Member-in-charge.

GCPB—58—SVS—8-4-59—800.

SUGGESTIONS OFFERED BY THE UNITED IRON & STEEL WORKERS' UNION FOR THE NEXT LABOUR CONFERENCE. (REF. MEMORANDUM ON INDUSTRIAL RELATIONS CIRCULATED BY THE MINSITRY OF LABOUR, GOVT. OF INDIA.

A. Machinery for Collective bargaining and the Settlement of Industrial Disputes.

...

(i) It has been seen that criteria laid down by the last Labour Conference for the assesment of membership of unions and the consequent recognition thereof do not solve the vexed question of the recognition of a representative union, and as such the prodedure proposed by the Kerala Govt. in Kerala Industrial Relations Bill for certification of Negotiating Agent is the best course for the solution of this vexed question.

(ii) The Works Committees should be vested with more power, and compulsory consitution of the Works Committees must be provided for.

(iii) This question is interlinked with the question of recognition of a representative union, and unless that is solved, agreements reached through direct negotiation between the parties should be left out of the scope of Industrial Disputes Act, and the party or parties which do not recognise the agreement must be left free to go to a Tribunal for adjudication of the issues involved in such agreement.

(iV) We do not favour Arbitration Board; We suggest that the existing Tribunals be manned with judges having knowledge of social transformation, social relations and of progressive outlook so that niceties of law do not defeat the purpose of law.

(v) Agreeing with the principles, we suggest that individual workmen be allowed to go to the constitutional machinery without interference of the Govt.

(vi) Seperate Machinery for dealing with individual dispute is preferred, and it is suggested that individuals be permitted to have recourse to law without interference of Govt.

(vii) We are in favour of creation of a special bench in the High courts for dealing with appeals from the Industrial Tribunals.

(viii) This can be well done by the National Tribunal, if the Central Conciliation machinery is alerted.

B. Problems relating to Trade Union Organsiation.

(i) The number of outsiders may be reduced, but those outsiders who had been workers must be treated as non-outsiders.

(ii) We agree to this proposal.

(iii) We agree to this suggestion

(iV) We agreee

(v) We agree, but mere techincal slip on the procedure or the rule should not be sufficient for the cancellation of the registration

(v) We agree to this

(Vii) We do not agree.

CERTAIN OTHER SUGGESTIONS:

(a) Appeals to the Supreme Court:

(i) Court fees to be dispensed with

(ii) Printing of paperbooks to be dispensed with

(iii) Deposit of Rs. 2500/- to be dispensed with.

(iv) A Special Bench to be consitutted with Judges having social understanding.

(b) Master and Servant relation

Our judges are preoccupied with the notion of Master-and- servant relation between the workmen and the employers All evils in industrial adjudication flows from this notion. The action of the management is not subjected to closest scrutiny from a social standpoint, but is viewed thru' the colored glass of master-an-d servant relation. The result is this that when a workman is discharged under the standing Orders of the company, there is no remedy whatsoever. To instance the point, The Indian Iron & Steel Company have a clause being clause No. 9 in their standing order that if a workman absents himself for 14 consecutive days, without permission, he is automatically discharged. Such a case went to the Supreme Court, but no relief was offered by the Court saying that it is notthing but a contratual termination of service, and as such it is not subject to interference by the court. This has insecured the service of am employee, in as much

ALL INDIA TRADE UNION CONGRESS.

Views of A.I.T.U.C. On Government Labour Policy at 17th I.L.C. -- Madras).

1. The papers prepared by Government for this conference completely shut their eyes to certain pressing problems affecting the workers, though these problems dominated the Nainital Conference and continue to remain acute as before. At Nainital every delegation raised the question of closures, retrenchment and unemployment. We discussed these problems and Government and employers promised to do certain things. But situation has not improved.

2. True, one Textile mill in Bombay has been taken over since then. But many more units in Bombay and elsewhere remain closed. Large scale retrenchment and rationalisation in Textiles, engineering etc., are taking place, which the employers declare, have the consent of the recognised unions of the INTUC as in Bombay and Madya Pradesh.

3. Several strikes have been taking place on these questions of retrenchment and victimisation of trade union workers. Court Judgements permitting dismissals at the sweet pleasure of the employers are evoking protest strikes to defend the rights of the working class. Strike in the Grindlays Bank, the Mahindra concern in Calcutta, Remington Rand, The National Electric and New Era Silk in Bombay, the lockout in the Harveys, the failure to take over Kaleswarar Mills in Coimbatore, show that the Government of India and the State Governments after having debated the question at Nainital, have gone back to their usual position of leaving the workers alone to fight the superior weight of the employers.

4. In this period some wage agreements have been negotiated. The Jamshedpur wage agreement has come out. But even there, the problem of work loads is still unresolved and unless wages and workloads are resolved together, it is useless to expect the workers to settle down to calm work. Workloads and retrenchment in Jamshedpur the failure to evolve proper wages scheme in Burnpur and elsewhere, disturb the Iron and Steel sphere, the most vital one for our economey. Tea Bonus is still unsettled and a wages Board for Metal and Engineering as a whole is an urgent necessity.

The promises made to appoint the wage boards for industries have been forozen. Even the Pay commission and the Textile wage Board have been unable to report though a long period, enough to exhaust the patience of the workers has passed since their appointment.

The labour Minister Mr. Nanda has personaly intervened in the Coal disputes and in the Banking dispute. But such interventions while securing temporary relief, do not make up for a policy as a whole. They become only benevolent exceptions to a bad labour policy. which does not allow urgent questions of life of the workers to be resolved in their favour as a natural result of a correct policy.

The promises made at Naintal and perspectives held before the workers have been belied for the most part. Where small fulfilments have been shown they had to be extracted by prolonged suffering and struggles of the workers.

5. This not only shows the Labour policy of the Government in actual practice, it also shows that what is called PLANNED DEVELOPMENT has no plan, unless all these retrenchments, closures victimsations, and lockouts are a part of the 'PLAN' of the Government and the employers for better Development of the profits of the Gentlemen of enterprise $. !

6. Not content with the position in which the employers aided by the Government machinery are launching offensives against the workers, it seems in this conference, the Government has put forward an agenda on Industrial relations, which is calculated to hamstring still further the freedom of the workers and their trade Unions.

The proposal to give unheard of powers to the Registrar of Trade Unions, that is Government Officials, over the Orginsations of trade unions, is the most reactionary proposal on the agenda. He is no more a mere Registrar. He is to be the Supreme Maker and Unmaker of trade Unions. He is to judge how many and where the workers should have unions or not. In one state he is even given the power to dismiss and decide the Office bearers of the Union. Very soon it will not be the workers, who will be running the unions, but the nominees of the Government or its party. So long it was done behind the back of the workers. Now it is proposed to be done with the sanction of the law. We refuse to accept this

position. All these proposals of enhancing the powers of the Registrar or keeping his Veto on the Unions must be scrapped in toto.

7. The Government of India has not been able to compel observance of the code of discipline by the employers, by the state Government or by its own Ministries. The unions of the AITUC particularly have not reaped a single benefit under the code. Not one union of the AITUC has been recognised under the Code. And there is the most flagrant case on record, where the Secretary of the Union of Employees of Audit and Accounts has been dismissed on charges, one of which is that he submitted memo to the Pay Commission of the Government of India, and suggested curtailment of the authority of his employer (immediate boss). We need not cite further facts which are too numerous to be quoted here.

8. The experience of the working of the code shows that the Majority of the employers and the State Governments as also ministries of the Government of India are not prepared to honour the Code. Hence the AITUC thinks that the code of discipline be suspended until the employers and Governments come in the proper mood to work it and that the AITUC be allowed to withdraw from its obligations, where the employers and states do not reciprocate and adopt a policy of special discrimination against AITUC. To begin with AITUC will like to opt out of the code in BIHAR Madyapradesh and Bombay.

9. The Government of India compels the workers to subscribe Croes of Rupees to ESI. In spite of the promises, it has failed to provide hospitalisation, care of the families of the insured and enhancement of the employer's contributions. Provident fund monies of the workers are known to have been swindled by lacs. In Madyapradesh alone about Rs.50/- lacs have been so swindled. So is the position in Bombay and elsewhere. Several Governments have been abetting this position and workers in need do not get relief. And yet this open daylight fraud is not nailed down by confiscating the concerns involved in it. Where is Morality, Democracy and observance of law and the code of discipline in all this?

10. The AITUC has always held that compulsory recognition of trade unions is a vital necessity in India, and that in order to decide which union has the workers support and is representative a secret ballot of the workers is the only correct method. Both these demands have been refused by the Government. Ballot is regarded as the most Democratic method in the Political field. Then why is it denied in the Trade Union field? The verification method is one sided and is heavily loaded on the side of the Government, and the employers and their supporters. The very fact that Unions of the INTUC or those recognised by the employers unions can collect subscription money in the factory handicaps the others in making rolls and registering fully paid membership. Over and above this some of the verifying officers are subjected to influences hostile to the AITUC. Compulsory recognition of Trade Unions and ballot to decide their representative character are the absolute preconditions for peace in industry and better industrial relations. These two measures will bring about a fundamental change in the situation and help the economy and the working class to go forward.

11. We have made the above remarks on some of the problems before us in general, because they embrace the most important aspects of any progressive labour policy.

For over 40 years, since the workers began to act in defence of their interests and formed mass unions, the Government and the employers have been avoiding direct collective bargaining between the unions and the employers. There has been a consistant attempt to interpose some other agencies between the workers right to collective bargaining and the employers who as a class the world over have always resisted direct negotiations with and recognition of trade unions. The Congress ministries with their avowed adherence to the Socialism have not followed a different path. Even where they agreed to give bargaining right and recognition it is enforced in exchange for surrender of some fundamental rights as shown in that new breed of unions called 'approved unions'. Hence for the last ten years there has been continuous arguments about all kinds of

Tribunals, arbitration baords, concilation machineries, appeals and so on. The present Tripartite has again all of these question on the Agenda. We hold that unless a clear cut socialist policy of labour is adopted and unless compulsory recognation of Trade Unions, Collective bargaining and ballot are introduced, no amount of tribunals, boards, and bases on this and that will lead to a satisfactory solutions. However we will give our views on the various proposals in a general way.

3.3. We endorse the provisions for the ballot in the Kerala Industrial relations bill.

4.3 Since only a Committee is to be appointed to once more discuss the works committee nothing need be said. The employers do not want the works committee, nor do the Government concerns. We want works committees to have more powers and we want them as elected committees. The works committee in principle must so evolove as to be the basis of Socialist Management in the future setup.

5.2 Agreements, negotiated and signed by any union must be submitted for ratification, in the first instance, to the executive committee of the Union and in case of sharp differences to the General Body of the Union. Where 15% of the workers affected by an agreement negotiated by a union object to or demand amendment of the agreement, which must in call cases be publicised before the workers in all suitable ways, the union shall take steps to call the General meeting of the workers affected if it is an establishment, and an elected delegates meeting or the elected works committees of all the establishments in the Industry if the agreement covers whole Industry, to ratify, amend or reject the agreement and the Union thereupon shall carry out the decision of such a meeting. In the absence of such ratifications the agreements will not be binding on the workers, for the mere fact that it has been negotiated and signed by the Union whether representative or not.

6.2 Arbitration boards may be instituted to which recourse may be had by either party to dispute of their own free will. The Government should have no discretion to judge the merits of the case and then grant or withhold reference to arbitration.

7.3 We do not want to adopt any "Model Principles" as such to predetermine the reference of disputes to adjudication. If the adjudication machinery is to exist it must be available fully and freely to the Trade unions. The present Veto exercised by the Government on such reference and their tampering with the issues framed by the workers must be done away with. The Government are known to exercise their Veto and powers to the detriment of Unions whom they dislike and to the benefit of employers whom they favour.

8.4. The labour appelate tribunal as such need not be revived because that would be no cure to the appeals sent up to the Supreme Court unless Industrial disputes are banned from the pruview of the Supreme Court. The element of delay and costs also affected the L.A.T. when it existed. We would suggest that all High Courts, institute an Industrial Bench in their Jurisdiction in which the Judges should make themselves versed in all questions effecting Industrial disputes as such, besides common law and Industrial law.

9.3. The Madras Government proposal be endorsed. All the three fears expressed in 9.2 are groundless.

10.3. If the Central Government acts quickly and takes over the disputes to a national tribunal the difficulty can be overcome. But in the absence of such a decision by the Central Government the present power of reference to local tribunal should remain.

(b) 11.4. The A.I.T.U.C., is of the opinion that we have come to a stage where unions in certain sectors of our economy can find enough cadres and leadership to manage all their affairs, provided the Union Leadership is guaranteed protection from the victimisation in any form. No union functionary should be dismissed, discharged or transferred during his occupancy of the union post. Secondly no dismissed or discharged worker shall be considered as an outsider for the Unions of his industry or trade.

Thirdly one fourth of his working time shall be available to the Office bearer for his trade union work. Only Unions in an industry like coal mining, plantations and Class IV employees are not yet in a position to contribute suitable cadres for specialised sides of Trade Union work, such as correspondence drafts of agreements, court work etc., for which outsiders are required by them. Hence the AITUC is prepared to discuss which industry or trades can even now be urged to accept a total elimination of outsiders, if the other national Trade Union Centres would agree, and the employers and the Government would provide the above Guarentees.

11.5 Yes; annas four may be made the minimum.

11.6 Registrars' powers be curtailed even as at present and some decentralisation may be done.

11.7 No powers of this type be given.

11.8 No power of this type be given.

11.9 The power exists and may be continued.

11.10 Even the suggestion is preposterous.

As the Government is aware and frankly shows it in its memorandum, all these powers, existing or proposed are against the spirit of the freedom of Organisation guarenteed under the Constitution.

The failure of the Government to ratify the ILO convention No. 87 on this subject is a serious breach of democratic behaviour and the Governments duties to the Constitution. That the Government of India did not consult the Tripartite Conference on the question of its refusal to ratify the convention should be taken note of by this conference. Curtailment of the freedom of association even with the concurrence of representative organisations is impermissible. And this is specially so when the Government's criteria to determine the representative character of an organisation, is of a partisian type and is worked by itself with partiality and extraneous considerations. The latest verifications of membership and representative character of national TU organisations carried out by the Government Officers is full of instances to prove the above statement. Even if verification were true and valid, no organisation has the right to curtail the freedom of association of others and the Government has no moral or Constitutional justification to under take curtailment of that freedom. It is undemocratic and unconstitutional.

Camp: AMBI'S CAFE
Broadway, Madras.
26th July. 59.

Dear Shri.Menon,

I have been trying to get you on phone since this morning but not only that you were busy, I could not even locate you.

Itis in connection with a request that we want to bring a Secretary of our delegation for taking notes of the 17th I.L.C. He can be given a seat anywhere suitable to take notes.

It is time that you prepare summary and send us the same. But it takes some time our working Committee is meeting early august and our delegation will have to report to it the deliberations and discussions of this conference. Hence this request.

I am sure it will be possible for you to acced to this request. Thanking you,

With regards,

Yours sincerly

(K.G.SRIWASTAVA)

Shri. P.M. Menon I.C.S.
Secretary Government Of India,
Labour Department, Camp Madras.

ALL INDIA TRADE UNION CONGRESS.

VIEWS OF A.I.T.U.C. ON GOVERNMENT LABOUR POLICY AT

17th I.L.C - MADRAS.

1. The papers prepared by Government for this conference (17th ILC) completely shut their eyes to certain pressing problems affecting the workers, though these problems dominated the Nainital Conference and continue to remain acute as before. At Nainital every delegation raised the question of closures, retrenchment and unemployment. We discussed these problems and Government and employers promised to do certain things. But situation has not improved.

2. True, one Textile mill in Bombay has been taken over since then. But many more units in Bombay and elsewhere remain closed. Large-scale retrenchment and rationalisation in Textiles, engineering etc., are taking place, which the employers declare have the consent of the recognised unions of the INTUC as in Bombay and Madhya Pradesh.

3. Several strikes have been taking place on these questions of retrenchment and victimisation of trade union workers. Court judgements permitting dismissals at the sweet pleasure of the employers are evoking protest strikes to defend the rights of the working class. Strikes in the Grindlays Bank, the Mahindra concern in Calcutta, Remington Rand, The National Electric and New Era Silk in Bombay, the lockout in the Harveys, the failure to take over Kaleswarar Mills in Coimbatore, show that the Government of India and the State Governments, after having debated the question at Nainital, have gone back to their usual position of leaving the workers alone to fight the superior weight of the employers.

4. In this period some wage agreements have been negotiated. The Jamshedpur wage agreement has come out. But even there, the problem of work loads is still unresolved and unless wages and

(Contd.....)

workloads are resolved together, it is useless to expect the workers to settle down to calm work. Workloads and retrenchment in Jamshedpur the failure to evolve proper wages scheme in Kanpur and elsewhere, disturb the Iron and Steel sphere, the most vital one for our economy. Tea Bonus is still unsettled and a Wage Board for Metal and Engineering as a whole is an urgent necessity.

The promises made to appoint the wage boards for industries have been frozen. . Even the Pay Commission and the Textile wage Board have been unable to report though a long period, enough to exhaust the patience of the workers, has passed since their appointment.

The Labour Minister Mr. Nanda has personally intervened in the coal disputes and in the Banking dispute. But such interventions while securing temporary relief, do not make up for a policy as a whole. They become only benevolent exceptions to a bad labour policy, which does not allow urgent questions of life of the workers to be resolved in their favour as a natural result of a correct policy.

The promises made at Nainital and perspectives held before the workers have been belied for the most part. Where small fulfilments have been shown they had to be extracted by prolonged suffering and struggles of the workers.

5. This not only shows the Labour policy of the Government in actual practice, it also shows that what is called PLANNED DEVELOPMENT has no plan, unless all these retrenchments, closures, victimisations, and lockouts are a part of the "PLAN" of the Government and the employers for better Development of the profits of the Gentlemen of enterprise.

(Contd.....)

OFFENSIVE ON T.U. RIGHTS

6. Not content with the position in which the employers, aided by the Government machinery, are launching offensives against the workers, it seems in this conference, the Government has put forward an agenda on Industrial relations, which is calculated to hamstring still further the freedom of the workers and their trade Unions.

The proposal to give unheard of powers to the Registrar of Trade Unions, that is Government officials, over the organisations of trade unions, is the most reactionary proposal on the agenda. He is no more a ~~more~~ mere Registrar. He is to be the Supreme Maker and Unmaker of trade Unions. He is to judge how many and where the workers should have unions or not. In one state, he is even given the power to dismiss and decide the Office-bearers of the Union. Very soon it will not be the workers, who will be running the unions, but the nominees of the Government ~~or~~ & its party. So long it was done behind the back of the workers. ~~Now~~ Now it is proposed to be done with the sanction of the law. We refuse to ~~accept~~ accept this position. All these proposals of enhancing the powers of the Registrar or keeping his Veto on the Unions must be scrapped in toto.

CODE OF DISCIPLINE

7. The Government of India has not been able to compel observance of the code of discipline by the employers, by the State Government or by its own Ministries. The Unions of the AITUC particularly have not reaped a single benefit under the code. (Not one union of the AITUC has been recognised under the Code.) And there is the most flagrant case on record, where the Secretary of the Union of Employees of Audit and Accounts has been dismissed on charges, one of which is that he submitted a memo to the Pay Commission of the Government of India, and suggested curtailment of the authority of his employer (immediate boss). We need not cite further facts which are too numerous to be quoted here.

8. The experience of the working of the code shows that the majority of the employers and the State Governments as also Ministries of the Government of India are not prepared to honour the

(Contd.....)

Code. Hence the AITUC thinks that the code of discipline be suspended until the employers and Governments come in the proper mood to work it ~~and that the AITUC thinks that the code of discipline be suspended until the employers and Governments come in the proper mood to work~~ and that the AITUC be allowed to withdraw from its obligations, where the employers and states do not reciprocate and adopt a policy of special discrimination against AITUC. To begin with AITUC will like t opt out (of the code in) ~~the code~~ Bihar, Madhya Pradesh and Bombay.

9. The Government of India compels the workers to subscribe Crores of Rupees to ESI. In spite of the promises, it has failed to provide hospitalisation, care of the families of the insured and enhancement of the employer's contributions. Provident fund monies of the workers are known to have been swindled by lacs. In Madhya Pradesh alone about Rs.50/- lacs have been so swindled. So is the position in Bombay and elsewhere. Several Governments can be said to have been abetting this position as they took no effective action and workers in need do not get relief. And not this open daylight fraud is not nailed down by confiscating the concerns involved in it. Where is Morality, Democracy and observance of law and the code of discipline in all this?

RECOGNITION OF TU:

10. The AITUC has always held that compulsory recognition of trade unions is a vital necessity in India, and that in order to decide which union has the workers' support and is representative, a secret ballot of the workers is the only correct method. Both these demands have been refused by the Government. Ballot is regarded as the most Democratic method in the political field. Then why is it denied in the Trade Union field? The verification method is one sided and is heavily loaded on the side of the Government, and the employers and their supporters. The very fact that Unions of the INTUC or those recognised by the employers alone can collect subscription money in the factory, handicaps the others in making rolls and registering fully paid membership. Over and above this some of the verifying officers are subjected to influences hostile to the AITUC.

(Contd.....)

Compulsory recognition of Trade Unions and ballot to decide their representative character are the absolute preconditions for peace in industry and better industrial Relations. These two measures will bring about a fundamental change in the situation and help the economy and the working class to go forward.

FOR A CLEAR-CUT SOCIALIST POLICY OF LABOUR

11. We have made the above remarks on some of the problems before us in general, because they embrace the most important aspects of any progressive labour policy.

For over 40 years, since the workers began to act in defence of their interests and formed mass unions, the Government and the employers have been avoiding direct collective bargaining between the unions and the employers. There has been a consistent attempt to interpose some other agencies between the workers' right to collective bargaining and the employers who, as a class, the world over, have always resisted direct negotiations with and recognition of trade unions. The Congress Ministries with their avowed adherence to Socialism have not followed a different path. Even here they agreed to give bargaining right and recognition if it is offered in exchange for surrender of some fundamental rights as shown in that new breed of unions called 'approved unions'. Hence for the last ten years there has been continuous arguments about all kinds of Tribunals, arbitration boards, conciliation machineries, appeals and so on. The present Tripartite has again placed all of these questions on the Agenda. We hold that unless a clear cut socialist policy of labour is adopted and unless compulsory recognition of Trade Unions, Collective bargaining and ballot are introduced, no amount of tribunals, boards, and bans on this and that will lead to a satisfactory solution. However, we will give our views on the various proposals in a general way.

12. We endorse the provisions for the ballot in the Kerala Industrial relations bill.

Para 3-3 of Govt. Memo.

PTO

Para 4.3: Since only a Committee is to be appointed to once more discuss the works committee, nothing need be said. The employers do not want the works committee, nor do the Government concerns. We want works committees to have more powers and we want them as elected committees. The works committee, in principle, must so evolve as to be the basis of Socialist Management in the future set up.

Para 5.2: Agreements, negotiated and signed by any union must be submitted for ratification, in the first instance, to the executive committee of the Union and, in case of sharp differences, to the General Body of the Union. Where 15% of the workers affected by an agreement negotiated by a union object to or demand amendment of the agreement, which must in all cases be publicised before the workers in all suitable ways, the union shall take steps to call the General Meeting of the workers affected, if it is an establishment, and an elected delegates meeting or the elected works committees of all the establishments in the industry if the agreement covers whole industry, to ratify, amend or reject the agreement and the union, thereupon, shall carry out the decision of such a meeting. In the absence of such ratifications the agreements will not be binding on the workers, for the mere fact that it has been negotiated and signed by the Union whether representative or not.

Para 6.2. Arbitration boards may be instituted to which recourse may be had by either party to dispute of their own free will. The Government should have no discretion to judge the merits of the case and then grant or withhold reference to arbitration.

(Contd.....)

Para 7.3: We do not want to adopt any "Model Principles" as such to predetermine the reference of disputes to adjudication. If the adjudication machinery is to exist, it must be available fully and freely to the Trade Unions. The present Veto exercised by the Government on such reference and their tampering with the issues framed by the workers must be done away with. The Government are known to exercise their Veto and powers to the detriment of Unions whom they dislike and to the benefit of employers whom they favour.

Para 8.4. The labour appellate tribunal as such need not be revived because that would be no cure to the appeals sent up to the Supreme Court unless Industrial disputes are banned from the purview of the Supreme Court. The element of delay and costs also affected the L.A.T. when it existed. We would suggest that all High Courts institute an Industrial Bench in their jurisdiction in which the Judges should make themselves versed in all questions affecting Industrial disputes as such, besides common law and Industrial law.

Para 8.5: The Madras Government proposal be endorsed. All the three fears expressed in Para 8.2 are groundless.

Para 8.2: If the Central Government acts quickly and takes over the disputes to a national tribunal, the difficulty can be overcome. But in the absence of such a decision by the Central Government, the present power of reference to local tribunal should remain.

Para 11.4: ON T.U. ORGANISATION The A.I.T.U.C. is of the opinion that we have come to a stage where unions, in certain sectors of our economy, can find enough cadres and leadership to manage all their affairs, provided the Union Leadership is guaranteed protection from the victimisation in any form. No union functionary should be dismissed, discharged or transferred during his occupancy of the union post. Secondly, no dismissed or discharged worker shall be considered as an outsider for the Unions of his industry or trade.

(Contd.....)

PTO

Thirdly one fourth of his working time shall be available to the office-bearer for his trade union work. Only Unions in an industry like coal mining, plantations and Class IV employees are not yet in a position to contribute suitable cadres for specialised sides of Trade Union work, such as correspondence, drafts of agreements, court work etc., for which outsiders are required by them. Hence the AITUC is prepared to discuss which industry or trades can even now be urged to accept a total elimination of outsiders, if the other national Trade Union Centres would agree, and the employers and the Government would provide the above Guarantees.

Para 11.5: Yes; annas four may be made the minimum.

Para 11.6: Registrars' powers be curtailed even as at present and some decentralisation may be done.

Para 11.7: No powers of this type be given.

Para 11.8: No power of this type be given.

Para 11.9: The power exists and may be continued.

Para 11.10: Even the suggestion is preposterous.

As the Government is aware and frankly shows it in its memorandum, all these powers, existing or proposed are against the spirit of the freedom of Organisation guaranteed under the Constitution.

The failure of the Government to ratify the ILO convention No.87 on this subject is a serious breach of democratic behaviour and the Government's duties to the Constitution. That the Government of India did not consult the Tripartite Conference on the question of its refusal to ratify the convention should be taken note of by this conference. Curtailment of the freedom of association even with the concurrence of representative organisations is impermissible. And this is specially so when the Government's criteria to determine the representative character of an organisation, is of a partisan type and is worked by itself with partiality

(Contd.....)

and extreneous considerations. The latest verifications of membership and representative character of national trade union organisations carried out by the Government Officers, is full of instances to prove the above statement. Even if verification were true and valid, no organisation has the right to curtail the freedom of association of others and the Government has no moral or Constitutional justification to undertake curtailment of that freedom. It is undemocratic and unconstitutional.

Madras,
26th July, 1959.

(NOTE: The Government's Memoranda on Industrial Relations were published as supplements to Trade Union Record dated May 20 and July 20, 1959. These supplements are also being circulated herewith.)