

PREFACE.

The small publication contains the statement submitted by the All-India Railwaymen's Federation on the 28th and 29th December 1931 to the Railway Court of Inquiry presided over by the Hon. Mr. Justice Murphy of the Bombay High Court. It sums up the Railway workers' case against recent heavy retrenchments, it denies the need for retrenchment, it shows the unfair manner in which retrenchment was carried out and it also points out that if several alternatives were adopted no retrenchment would have been necessary. The main points attempted to be brought out are that there is nothing seriously wrong with the Railway finances except our wages that the Railways are paying their way despite trade depression and that if the Railway revenues amounting to crores of rupees a year were not diverted to non-Railway purposes or were not otherwise frittered away, no need for retrenchment would have been felt. Over forty thousand men are retrenched, nearly four thousand demoted and a lakh or more are working short time sometimes two days a week; the wage cut is the last straw and has aggravated the existing discontent beyond controllable limits. The Railway employees with their dependents cannot be less than forty lakhs in number. Of these five lakhs are in the streets actually starving or on the bank of starvation and the rest are struggling hard than ever to keep body and soul together. This tragedy could have been avoided if the Railway Board had not tamely submitted to the Railway revenues being sacrificed for financial exigencies of the Central Government and if the Board themselves had some consciousness that they were not quite so infallible as they invariably assumed in all their acts of omission and commission.

40B. Redge Road,
Bombay.
22-1-32.

J. M. M.

Dedicated to
The Indian Railway Workers.

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1944. 11

THE RAILWAY COURT OF INQUIRY.

CASE FOR THE RAILWAY WORKERS

SUBMITTED BY

The All-India Railwaymen's Federation.

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INTRODUCTORY.

I join the Advocate General in welcoming the Court of Inquiry to Bombay again and to say how grateful the Federation is for the patient and impartial hearing given to the case of the workers. I regret however, that my learned friend has pleaded that the Court should not order the publication of the written argument submitted before it. I cannot appreciate the reasons which my learned friend gave for this submission. At any rate, it is against one of the objects of the Trade Disputes Act. The proceedings of a Court of Inquiry or a Board of Conciliation have an educative value for the public. It is by publicity alone that the issues between the parties to the dispute can be well understood. As is well known, the Reports of these inquiries are not binding on the parties. They have only a moral value. It is therefore not only desirable but necessary that the widest possible publicity should be given to these proceedings unless there are special reasons to the contrary. My learned friend gave no such reason; if he still insists on this written submission being not published and the Court is pleased to grant his request the Federation has no objection. But we do not wish to make any such submission. We ourselves desire to publish the whole of this statement, for the benefit of the Railway Unions and their members. We have nothing to conceal, nothing to keep back and we have reason to believe that the public will welcome the publication of the pros and cons of the Inquiry regarding this, the biggest trade dispute that has arisen in this country.

PARTIES BEFORE THE COURT.

At the outset, we beg once more to submit that the parties before the Court are the All-India Railwaymen's Federation as representing the Railway workers on the one hand and the Railway Board as representing

the various Railway Administrations on the other. The original application for the appointment of a Board of Conciliation under the Trade Disputes Act was made by the Federation and all the correspondence between the Government of India and the Federation had proceeded on the footing of the right of the Federation to speak on behalf of the workers. It was therefore a great surprise to us that the Government of India's Notification dated the 13th August 1931 for the first time sought to make a distinction between the Railway Administrations as distinct from the Railway Board and the Railway workers as distinct from the Federation. If this distinction was meant simply to keep within the phraseology of the Trade Disputes Act, we have no objection, although it is an unnecessary refinement. That the Railway Board always considered themselves to be the other party to this Inquiry will be clear from the fact that on the 7th of July last, they agreed to join with the Federation in applying to the Government of India for the appointment of a Court or a Board in connection with this retrenchment and the first two of the terms of reference have been also suggested by them. The conduct of the other side in this Court also has been in direct contravention of this distinction. The whole case for the Railways has been prepared by the Railway Board and an Officer of the Board has been acting throughout for the various Administrations. It is not therefore clear why this distinction has been made. We therefore submit that the attempt of the other side to distinguish between the railway workers and the Railwaymen's Federation, was, to say the least, untenable.

NO NOTICE OF RETRENCHMENT TO THE UNIONS.

The Federation would like to draw the pointed attention of the Court to the fact that the Railway Board and most of the Agents had entered into a conspiracy of silence to keep the workers in the dark as to the nature, extent and method of the proposed retrenchments. The Railway Board had issued a circular in October 1930, requiring all Agents to inform recognised Railway Unions about contemplated bloc retrenchments, i. e. retrenchments of hundred or more men at a time. No such intimation was given by the Railway Administrations except in a few cases and even these gave little, if any, details. In 1930 December, we first learnt that about 2,700 men had been retrenched on the E. I. Railway. Thereafter, the Railwaymen's Federation addressed letters and telegrams to the Railway Board requesting for an interview before retrenchment was actually effected but the request was turned down and later on, the Railway Board even went so far as to circularise the Agents directing them that if any suggestions were received from the Unions in the matter of retrenchment, they should be treated as supplementary to, and not substitutes, for the official programme of retrenchment. In fact,

from the beginning of retrenchment upto the 26th June 1931, the workers were not allowed to make any representation on the question of retrenchment, information was withheld from them, and the request for discussion was turned down.

APPLICATION FOR A CONCILIATION BOARD.

Foiled in every attempt to receive information, the Federation at last resorted to the machinery of Trade Disputes Act and on the 30th of April 1931 applied to the Government of India in the Department of Industries and Labour for the appointment of a Board of Conciliation to settle the disputes that had arisen. Unfortunately, the Government of India did not finally decide upon the application until the 18th of July, by which time more than 50,000 workers had more or less suffered by the retrenchment axe. We submit that the Government of India, in the Department of Industries and Labour, who are invested under the Trade Disputes Act with a kind of judicial authority, have, in this matter, acted as partisans. The excuse they gave for the serious delay on their part in disposing of our application is even worse than their actual conduct. They have relied on Rule 4 (d) of the Trade Disputes Act for acting in the manner they have done; but that Rule does not help them at all. On the contrary, their reliance on it is a clear proof either that the Government of India did not appreciate the provisions of that Rule or that having understood them they took a perverse attitude and were active participants in the delay that occurred in disposing of our application. That Rule does not refer to the powers of the Government of India, nor to their duty. In fact, it has nothing to do with the Government of India. It merely refers to the contents of an application under the Trade Disputes Act and it requires the party applying for a Court or a Board to state in its application as to what attempts it had made for settling the dispute before it applied to the Government of India in the Department of Industries and Labour. The application would not be in order if it did not satisfy the provisions of Sub-Rule (d) and the Government of India would not be bound to consider it. It will thus be seen how entirely unfounded the contention of the Government of India is that in delaying the disposal of the application of the Federation they were simply discharging their duties under that Act. The intention of the Legislature is that no party to a trade dispute shall rush to take action under the Act unless it can show that it had endeavoured to settle the dispute in the first instance; and the submission of an application is intended by the Legislature to be regarded as an indication that all endeavours for a settlement had been made without success and that therefore, there was no other course but to apply under the Trade Disputes

Act. That being the position, the receipt of an application by the Government of India requires them to dispose it of without undue delay; this obligation becomes all the more insistent when, as in this case, every day's delay places one of the parties in a position of undue advantage over the other. All the retrenchment that took place in May and June 1931 would have been avoided, at any rate until an investigation had taken place, if the Government of India had acted promptly. We do not contend that Government were bound to appoint either a Court or a Board, but if they felt satisfied that a trade dispute existed and that the party applying had already tried to settle it, they ought quickly to have decided to set up a machinery. The failure to do so has resulted in the retrenchment of thousands of men in the months of May and June. We submit that the Court will be pleased to express an opinion whether it is open to the Government of India in a matter of this kind after the receipt of an application in due form to sit like the sphynx and allow one of the parties to get an advantage over the other which nothing can thereafter retrieve.

TERMS OF REFERENCE.

In addition to the actual Terms of Reference, the Court has been pleased to rule that the following issues are implicit in them :—

1. Short-time, including compulsory leave by rotation with or without pay and stoppage of overtime etc.
2. Favouritism and discrimination, not only between worker and worker, but between department and department, superior and inferior, community and community and race and race ; and
3. The question of the application of the Washington and Geneva Conventions.

The fifth term is not in dispute because the Railway Board have given an assurance that the retrenched men will be given priority whenever recruitment begins again, but as it has been included in the terms of reference, we shall deal with it also, especially because in the statements by some of the Railway Administrations, we find an attempt made to give only a qualified assent to the undertaking given by the Railway Board.

The second point which we wish to urge is, that the actual terms of reference do not fully carry out the intention of the Government expressed in the various letters which they wrote to the Federation in this matter. The judgment of the Bombay High Court in 51 I. L. R., Bombay 572 clearly lays down that you can construe executive acts of Government by certain

books, reports and correspondence and in the light of this judgment, it is open to the Court to extend its jurisdiction to all matters in dispute as they existed on the 18th July. We submit therefore that the Court will be justified from the evidence recorded to draw conclusions on matters which can be held to be relevant, not only from the actual terms of reference but from the correspondence preceding 18th July last between the Government of India and the Federation.

QUESTIONS OF POLICY.

Thirdly, we have submitted already on the 10th and 11th of September 1931 that the distinction drawn by the Government of India between questions of policy and administrative measures is untenable under the Trade Disputes Act. Section 3 of the Act makes no mention of policy. The Trade Disputes Act extends to all matters in dispute whether of policy or otherwise and whether the Government appoint a Court or a Board. On the other hand, the report of these bodies has no legal force. It is merely a recommendation and an advice. No party is bound by it. In referring any dispute to a Court or a Board, whether that matter is of policy or not, the Government are not surrendering any of their rights to have the last word; but consistently with that right the Government can always seek advice and enlightenment from any Committee or Commission which they set up under the Trade Disputes Act.

In this connection, we cannot help submitting that the Railway Administrations and their witnesses have exploited the supposed distinction between policy and detail to the utmost of their power and in doing so, they have sometimes gone to a ludicrous extent. Anything, which they cannot explain, becomes a question of policy. For instance, when Railway Workshops are fully equipped for manufacture of certain articles or for repairs to railway property and still when the Administrations either purchase these articles from outside or get hot repairs made by contract work, they explain away their action by taking shelter behind the word 'policy'. When we challenged their so-called commercial management by showing that commercial management meant efficiency as the sole test, and that the maintenance of communal proportion could not go side by side with efficiency, they explain it away by calling it a question of policy. In their statement to the Court on Saturday last it almost seems that if the other side had its way, there would be hardly anything which we have put forward that would be relevant. And yet the terms of reference make no mention of policy at all. Not only that almost every term of reference is so interwoven with policy that any isolated examination or discussion thereof would be utterly impossible.

NECESSITY FOR RETRENCHMENT NOT ADMITTED.

At this stage, we wish to make our position clear as to the supposed financial stringency in the Railways and as to the necessity of retrenchment. If the whole Railway finances were open for investigation here, we would have established to the satisfaction of this Court, that even to-day during the time of trade depression and reduced traffic, the Railways are solvent and able to pay their way. No doubt, the revenues have fallen and the traffic has decreased; but as against that, there must be a corresponding decrease of operating expenses and also a reduced cost of material on account of fall in prices and this saving in expenditure would to that extent offset the reduction in earnings. But even if there was no saving in expenditure, it cannot be said that the Railways are working at a loss. The real difficulty in Railway finances is a contribution of nearly 7 crore. of rupees a year to the Central Government for non-railway purposes, and also allocation to Depreciation Fund in excess of requirements. This will be exemplified by the fact that for the seven years of the setting up of the Depreciation Fund, there has been a surplus of 21 crores and 47 lakhs of rupees in the said Fund after meeting cost of replacements to the tune of 73 crores, as will be seen from the figures of payments into and withdrawals from the Depreciation Fund given below:—

(Rs. in Crores.)				
		Contribution to Depreciation Fund.	Appropriations from Depreci- ation Fund.	Closing Balance.
1924-25	..	10.35	7.29	3.06
1925-26	..	10.67	7.98	5.75
1926-27	..	10.89	8.05	8.59
1927-28	..	11.37	10.95	9.01
1928-29	..	12.00	9.60	11.41
1929-30	..	12.59	11.76	12.24
1930-31 Estimates	..	13.05	9.00	16.29
1931-32	..	13.43	8.25	21.47

DIVERSION OF RAILWAY REVENUES.

The figures of contributions to the General Revenues out of the Railway Revenues for the years since this contribution was first agreed to are as follows:—

		Rs. in Crores
1924-25	...	7.98
1925-26	...	6.69
1926-27	...	7.59
1927-28	...	7.77
1928-29	...	6.86
1929-30	...	7.80

			Total Receipts.	Total working expenses.	Interest Charges.
1923-24	...	...	94.65	61.05	20.63
1924-25	...	...	100.65	62.00	23.90
1925-26	...	...	99.84	63.66	24.81
1926-27	...	...	99.51	63.78	25.87
1927-28	...	...	104.68	65.43	27.27
1928-29	...	...	105.29	66.12	29.33
1929-30	...	...	104.78	68.18	30.36
1930-31 (Revised)	...	...	96.56	69.20	32.74
1931-32 (Budget)	...	...	102.58	66.43	33.57

It will thus appear that although the income of the Railways has remained practically stationary, or has gone down by nearly 10 crores of rupees and although the working expenses increased by 5 crores since 1924-25 and interest by 10 crores, the Railways would still have been solvent if the Railway Revenues were not frittered away on non-railway purposes. As stated above, the payment to the General Revenues have been nearly 35 crores of rupees during the last seven years and if these were utilised for railway purposes, inspite of all trade depression, heavy emoluments for superior services, reduction of traffic and increase of expenditure, growth of interest charges and appropriation of large amounts to Depreciation Fund in excess of requirements, the Railway Balance-Sheet would show a surplus and far from retrenchment being necessary, the long overdue increments in the wages of workers and the betterment of their service conditions including the application of the Hours of Work and Weekly Rest Conventions would have been a practicable proposition.

But unfortunately, these matters are not within the terms of reference. Equally outside the terms of reference is the earnings of Railways since 18th of July 1931 ; but my learned friend has, from page 10 to 16 of his written argument, tried to show that not only retrenchment was necessary but that further retrenchment is inevitable. In order that the Court should not think that there was not another side to the picture, we have been obliged to give the aforesaid figures.

We have said earlier that we do not wish to be misunderstood. It has never been our case that there is any need for retrenchment, if a correct policy were pursued and wise economies were not neglected; but if the Railway Board are to go the way, they have done, and if they want to continue to run them on the lines which they have so far pursued, then our submission is that they have shown a lamentable lack of foresight and have omitted to take proper, timely and elementary measures for securing financial equilibrium.

EVENTS OF THE PAST SEVEN YEARS.

In order to appreciate the position which has developed and culminated in the wholesale retrenchment, it is necessary to go back to the year 1921 when the Committee presided over by Sir William Acworth, after prolonged and detailed examination, reported that the Railways in India were suffering from starvation both of finance and materials. The remedies recommended were the re-organisation of the Central Administration on the basis of commercial management with financial control from within and uniform and continuous grants on a large scale for rehabilitation and improvement; and in the March Session of 1922, the Legislative Assembly agreed to spend a sum of Rs. 150 crores during the five years period 1922-27. Early in 1923, the Incheape Committee investigated various avenues of economy and recommended an immediate drastic cut in the grant for working expenses, restriction of renewals to practical necessities and the adoption of the principle of so working the railways as to produce a fixed profit for the State. Thus, by the end of the year 1922-23, the Railways went through two independent investigations, one about development and improvement, and the other about economical working and financial solvency. The history of Indian Railways since the year 1923-24 has developed along the lines of the recommendations of these two bodies. The Legislative Assembly has given its cordial co-operation and sanctioned grants for capital works, as and when required. It has also insisted on economy in working; but the Government have paid lip-sympathy to economic working; and while utilizing the grants for capital works which the Assembly voted, they have failed to work economically or to keep in mind the injunction of the Incheape Committee that the Railways should so work that a return of 5½ per cent on the capital at charge should be secured. We give below the percentage of return on the capital at charge from 1923-24 onwards and a perusal of it will show that only once and that in the year 1924-25 had the Railways been able to earn a little more than what was recommended by the Incheape Committee.

Percentage of net receipts on the capital at charge.

					Rs. in Crores.
1923-24	..	..	..	..	5.2
1924-25	..	..	..	..	5.8
1925-26	..	..	..	..	5.3
1926-27	..	..	..	..	5.0
1927-28	..	..	..	..	5.4
1928-29	..	..	..	..	5.2
1929-30	..	..	..	..	4.6

(These figures are taken from the Report by the Railway Board on Indian Railways for the years beginning with 1923-24 and ending with 1929-30.)

In no other year has it ever been possible for the Railways to keep up the standard of $5\frac{1}{2}$ per cent. On the contrary, since the year 1924-25 there has virtually been a progressive decline until the year 1929-30, the net percentage of earnings fell to 4.6. The fact of the matter is that while in the name of development and improved methods of working, enormous sums have been sunk year after year, the earnings have not kept pace with the growth of expenditure and interest charges. It may be mentioned that between 1923-24, the Government had acquired many company-lines and thereby eliminated the surplus profits payable to these Companies. The following is a statement of the principal lines acquired by the Government during these years:—

East Indian Railway,
Great Indian Peninsula Railway,
The Burma Railways,
The Kalka Simla Railway,
The Southern Punjab Railway,

And on the admission of the Railway Board, all these transactions have been beneficial to railway revenues. Added to this, the rehabilitation and improvement of railway-property and improved methods of working as exemplified by the introduction of up-to-date plant and machinery in workshops, extension of marshalling yards, strengthening of bridges, doubling of rails, greater study of statistics were calculated to bring expenditure down, to handle more traffic at less cost—all these were calculated to make for greater economy in the working of Railways; yet as has been seen above from the percentages of net earnings, there has been a progressive decline in the remunerative character of the Indian Railways as a whole and all the promises made to the Assembly and the Tax-payer, all the hopes held out of continuous railway prosperity, all the claims made that the Railways were inspired by a new spirit of better service to the public and financial solvency to the tax-payer have been falsified by the events that have happened year after year since 1923-24. The Railway Board have claimed that they summarily rejected all proposals for additional facilities for handling traffic, unless there was clear proof that additional traffic was likely to be forthcoming or that the proposal was one which would enable the railway systems to effect economies in handling the existing traffic sufficient to justify the expenditure involved. Needless to say that these claims cannot be sustained by the history of the last seven years.

The fact of the matter is that the claims of economy did not receive that constant and vigilant attention which was required if the Railways were to pay their way. Several of these aspects for instance, the annual contri-

bution of several crores to the general revenues, the excessive and lavish scale of the remuneration of the superior Railway officers and the extension of the Lee Concessions to these officers are not within the terms of reference, although every year they make a big bite in the revenues of Indian Railways to the tune of 10 crores of rupees. Three points however, on which evidence has been led before this Court of Inquiry can be said to be substantially responsible for the present embarrassing position of Indian Railways. They are :—

1. Recruitment—continuous and excessive—of additional men year after year ;
2. Vast amount of stores kept in balance with the full knowledge that they were in excess of requirements ;
3. Keeping idle a portion of the additional plant and machinery and making purchases from outside, thus making the capital works on open line uneconomic and unremunerative ; and
4. Accelerating the pace of new Construction regardless whether $5\frac{1}{2}\%$ was earned or not.

Taking the first point, we find the number of men employed on open line on Indian Railways was as follows :—

1923-24	...	...	7,27,093
1924-25	..	..	7,45,216
1925-26	..	..	7,41,860
1926-27	..	..	7,72,563
1927-28	..	..	8,00,102
1928-29	..	..	8,08,433
1929-30	..	..	8,19,058

Thus, in the course of seven years, after making allowance for normal wastage, the number of railway employees increased from 7,27,000 to 8,19,000 or a net addition of 92,000 employees. The normal wastage during these seven years on the basis accepted by the Railway Board cannot be less than 2,00,000. Indeed as we have shown hereafter, the normal wastage must be 3,00,000 so that in seven years' time, the Railways recruited 3,92,000 people, or had 50 per cent of the original strength, while the traffic had only grown from Rs. 94,65,52,000 in 1923-24 to Rs. 102,70,29,000 or a growth of less than 10 per cent, and although the mileage had increased by 9 per cent in the meantime; the traffic had become altogether elastic and no increase was to be looked forwards. No doubt, some of the new lines must have not been very remunerative in the beginning and they must therefore have affected the percentage of net return to some extent; but this must have been more than counterbalanced

by the acquisition of paying lines acquired from the Company-managed Railways and also by the economies resulting from the better equipment in shops and also of stations and other railway property and by the improved methods of working to which reference has already been made. It is therefore fair to draw the deduction that the present financial stringency in the Railways is due to a large extent to the recruitment of numbers out of all proportion to the requirement of the traffic.

UNNECESSARY RECRUITMENT.

It will be useful to examine why the Railways were betrayed into such heavy recruitment of new men when traffic was visibly falling from year to year. Witnesses have stated that corruption is not uncommon in Railways. Foremen, Chargemen and others, have been accused of receiving bribe, either for recruitment or for promotion, even for granting leave or for prevention of dismissal. If this hypothesis is correct, we have a reasonable explanation for the recruitment of excessive hands. When open line works were being undertaken costing crores of rupees, more men were naturally required and in their optimism, the Railway authorities must have ignored the claims of economy and must have gone on recruiting and when to this, corrupt motives are added, the impelling force behind excessive retrenchment became irresistible. Thus, on account of undue optimism and partly because of corrupt motives, the Railways became saddled with thousands upon thousands of men not really required either for the open line capital works or for the handling of traffic or for maintenance and repair. The Court had no opportunity of assessing the exact extent of corruption but the evidence which has been recorded cannot but lead to the conclusion that for a part at least of the excessive recruitment, corruption is at the bottom.

It is unnecessary however, to decide whether the recklessness of recruitment was due to over-enthusiasm or to corrupt motives. The fact remains that the Railway Administrations were carrying on a large load of superfluous staff practically for the whole period under review. The glut was so great that now and again they (vide Blue Book para 11.) rose to the realisation of the part of the evil and that is why in almost all Railways there had been attempts at retrenchment several times during the seven years. But even this chopping off of unnecessary hands was not sufficient to reduce the surpluses to any appreciable extent and Deputy Agent after Deputy Agent on the various Railways had to admit before this Court that they had on hand more men than were required for the traffic they had to

handle. It therefore cannot be alleged that it was only in the spring of 1930 that all of a sudden, nearly a lakh of men became surplus. The discussions which the Federation had with Railway Board and the facts adduced in evidence before the Court make it quite clear that the Railway Board regarded the number of surplus men to be close upon a lakh.

At page 71 of the evidence Mr. Sastri asked "I take it that roughly you fix about 70,000 to 75,000 people to be discharged?"

Major Wagstaff.—"That is an implication of the figure there."

Mr. Sastri.—"That is one-tenth of the total."

In addition to discharged men, about 1,20,000 workers were placed on short-time for one out of six working days, which means in terms of men discharged, over 16,000 employees, so that adding 75,000 and 16,000 together, we have a total of 91,000 men discharged or to be discharged as originally intended by the Railway Board.

RESPONSIBILITY OF RAILWAYS.

If our analysis is correct and if about one lakh of men have become surplus as shown above the retrenchment which the Railways were called upon to make cannot be said to be due to the decline in traffic since a year or two but to the continuous and reckless recruitment over a series of years without regard to actual requirement with the full knowledge that the net return on railway capital was progressively declining and that the Railway Administrations were carrying on large number of men surplus to requirements and in spite of the fact that the installation of improved machinery and enlargement of shops together with crores spent on improved methods of carrying greater traffic at less cost by doubling of rails, strengthening of bridges, use of bigger locomotives and by so extending marshalling yards as to use the stock of carriages and wagons to the utmost advantage—must lead to further reduction of man cost. These methods were intended to lower expenses and with the consciousness that more traffic was being carried at lesser expenditure and that repairs and maintenance were being done cheaper, the most obvious course for the Railways was to cry 'halt' in the matter of recruitment and no additional staff should have been entertained without the closest scrutiny; instead, we find that as soon as a post became vacant, it was filled up and additions were made which work out at 92,000 in seven years' time. It is therefore, the Railway Board and the Railway Administrations, who are responsible for the surplus complained of and not the decline in traffic as is alleged and they are now trying to retrieve the ground, which they have lost for

seven years by concentrating in a single year the whole work of reducing the surplus. There is no reason why they should be allowed to pass on their responsibility to trade depression. Having bungled for seven long years, they cannot be allowed to ignore all considerations of fairness, justice and humanity and to run amock with wholesale slaughter of helpless workers, who, at least, are not responsible for trade depression.

One of the professed intentions of the Railway Board in this retrenchment has been, that they have done everything in their power to reduce the hardships resulting from retrenchment. Even if the retrenchment is limited, it causes hardship and misery in normal times, but if retrenchment comes when there is widespread unemployment in the country and if it is resorted to rectify the blunders of seven years, the hardships, resulting therefrom, are easy to imagine. If, therefore, there is any reality in the professed intentions of the Railway Board, the least that they should have done was to spread the surplus over a number of years, to rely largely on normal wastage, to severely restrict the power of new recruitment in the hands of subordinate officers, and in the meantime to explore all other avenues of retrenchment in the working expenses including almost day-to-day purchase of stores required, which on account of excessive surpluses, are responsible for the loss of not less than Rs. 50 lakhs a year or for the sacking of one thousand workers.

(2) The stores balances are a continuous source of loss in the shape of interest on the capital locked up therein. In these days when the prices of articles are cheap and when any stores required are either available to a large extent in India or can be delivered within a few months when indented from foreign countries, it is sheer waste to lock up vast amount of money in stores. The annual requirement of stores is not more than thirty crores and the last report of the Railway Board contains a figure of Rs. 16-49 crores as the stores balances which is more than a six months' supply. As we have stated elsewhere, the loss of interest on these balances must be held responsible for the discharge of 1,000 men.

(3) It was admitted by the Deputy Agent of the M. & S. M. Railway that imported locomotives could be easily assembled in the Railway Shops and yet new locomotives are being imported duly assembled and this involves extra freight charges as only special cargo boats can bring such locomotives. Even when they are imported in this manner, they require to be re-assembled at further expenses. On the E.B. Railway

the manufacture of points and signals was discontinued in the shops and was done by contract labour. Similar failure to utilise workshop equipment has been complained of on other Railways and all these must mean that machinery and shops on which crores have been spent remain idle involving loss of interest and sinking fund.

(4) The fourth factor causing the financial stringency is the thoughtless expenditure on the construction of new lines. As a result of the enquiries of Acworth Committee, the Legislative Assembly appointed in 1921 a Railway Finance Committee for the rehabilitation and improvement of Railways. This Committee recommended the expenditure of 150 crores in five years. New construction was to be confined to the completion of the schemes already commenced. But contrary to this recommendation, the Railway Board sanctioned one scheme after another for constructing new lines. The return of 5½ per cent was made a condition precedent to any scheme of new construction by the Inchcape Committee; but this was ignored and what is more, interest on the capital required was paid from revenues during construction. The new lines therefore became a double burden on the earnings of the existing Railways. Not less than 60 crores must have been invested in the construction of the new lines since then. The earnings from old lines thus not only bore the interest on the new construction but also the losses in working after construction. The attention of the Railway Board was drawn to this fact (vide page 12 of the proceedings of the Standing Finance Committee for the Railways, dated 13th February 1925), by a motion that the pace of the new construction should be moderated but without effect, and one of the most prominent Members of that Committee, Sir P. Sivaswamy Iyer went out of his way and got it recorded as his opinion that the pace of new construction should be accelerated. By the investment of large funds in the new construction of new lines, the Railway Revenues suffered heavy charges year after year as stated above, till in the year 1930-31, the interest charges outgrew the capacity of Railway Revenues to pay them and an amount of three crores of rupees had to be found from the Railway Reserve to meet them. The financial stringency will thus be seen to be due not so much to trade depression as to the unwise policy of new constructions and yet, we are told that it is the workers who must sacrifice to meet a situation created by the short sightedness of those in authority.

THE REAL REMEDY.

It may be urged that whatever causes might have brought about the surplus, as soon as it was discovered, measures must be adopted for

its elimination, that if men are found surplus, they must be at once reduced and that the search for causes is immaterial. We admit the force of the first part of this contention but we respectfully submit that the second part cannot be lightly treated. Our submission is that the responsibility for this surplus must be brought home to the proper quarters. The Court has been told over and over again, that the retrenchment has become necessary owing to trade depression and the consequent reduction of traffic and also because on account of improved methods of working, men have been found surplus. We submit that if elementary care had been taken by the Officers in charge, the surplus would not have occurred and the temporary difficulties due to trade depression could have been tiled over by the process of normal wastage and other alternatives without resorting to drastic discharges. What we wish to emphasize is not that retrenchment should not take place when necessary, but that when retrenchment is forced upon as a result of the continuous mishandling of the situation for a number of years, the consequences of such mishandling should not be visited on the innocent and helpless employees all at once but should be spread over. We believe that if the responsibility is laid on the proper shoulders, the remedial measures for the situation that has arisen will be taken in a spirit of greater sympathy than has been shown and a generous attention would be paid to the alternatives instead of resorting to the direct and drastic course of retrenching men by thousands.

The men who should first be made to suffer are the men who are responsible for the surplus although we are conscious that it is not in the power of the Court to do so; but a declaration from the Court as to responsibility for the present situation would be a wholesome lesson for the future to those in authority and it is with this object that we have so fully analysed the causes of the existing surplus.

THE ORDER OF DISCHARGE.

The order in which the discharges were to be effected and the terms offered to the discharged employees are embodied in the letters from the Secretary of the Railway Board to the Agents of State-managed Railways and the Company-managed Railways were invited to offer the same terms to their staff. The letter of the 3rd March 1931 applies to the staff other than the workshop staff and the letter of the 6th March 1931 relates to the workshop staff. Most of the instructions conveyed in these letters are common for the staff of all kinds, whether workshop or otherwise. As stated above these two letters contain the terms offered to the retrenched staff and are to that extent

the subject matter of the 2nd Term of Reference to this Court. The order in which the discharges were to be carried out is laid down in these two letters as follows:—

- (a) those who are inefficient;
- (b) those who are the least efficient;
- (c) those who have short service;
- (d) those who are nearing the age of superannuation.

So far as the workshops are concerned, permanent men were to be preferred to temporary men ordinarily, while those who were employed outside the shops, as soon as they completed twelve months' continuous service, were to be regarded as having equal rights with permanent employees, even if they were temporary. The Board directed that all practical steps should be taken to see that the discharges do not operate to the detriment of communities not at present adequately represented in Railway service. When an employee's post was abolished, he was to be employed in a post carrying a lower salary and the worker with the lower salary was to be discharged. So far the terms offered are common to all staff. It is only in the matter of compensation that there are substantial variations. A maximum leave of four months is to be allowed if due on full or average pay but if the leave due is less than a month, one month's pay in lieu of notice is to be given. In case of temporary men, if their services are likely to be required after a short time or at short notice, leave on half pay for a period not exceeding six months has been recommended. Employees earning less than Rs. 30/- a month are not within the benefits or, to speak correctly, within the mischief of the terms offered. So far as the workshops are concerned, only one month's pay in lieu of notice is to be given, but those who have completed three years' service are to be allowed an additional bonus equal to leave salary subject to a minimum of half a month's pay and a maximum of 20 days' pay,

CHAOTIC METHODS AND CONFLICTING INTERPRETATIONS.

All Railways have not followed these instructions, whether in the matter of the order of discharge or in the amount of gratuity given. Further, these terms were given only to those discharged after the dates of these letters. Even those whose notice period had not expired on these dates have been deprived of the little advantage of compensation offered by the Railway Board. The order of discharge as laid down above is by no means easy to interpret and has led to serious cases of injustice,

favouritism, victimisation, discrimination and hardship. In the first place, it is extremely difficult to decide, who is inefficient and who is the least efficient. The Railway Board probably think that inefficient is worse than least efficient; but we submit that as an absolute statement, a least efficient employee is worse than an inefficient one. A man who is below the average is inefficient but he may still be better than the least efficient man. We submit, therefore, that the order laid down for discharges is misconceived. Apart from that, it is next to impossible to decide who is inefficient and who is the least efficient. The Railway Board lay down the rules and pass them on to the Agents. The Agents send them on to their departmental heads, who in their turn leave the decisions to the immediate superiors of the employees. The last-mentioned are left to decide for themselves whom to discharge and whom not to discharge. Workers who have received regular promotions, who have been long in service and who have even been commended for good work have been discharged and men who are convicts, insolvents and punished for disciplinary measures have been retained. Inefficiency, boiled down in fact, amounts to the general impression which the immediate superior has formed of the employees' character or capacity. A fine or two, a warning here and there, have been held to be sufficient for discharge of employees who have grown gray in the service of the railway. As a matter of fact, in a public utility concern like the railways, where service is mostly continuous and which concerns the safety, comfort and convenience of the public, it is altogether unlikely that an employee would be wholly free from error at some time or other. The Railway Board, the Agents and the departmental heads have regarded their duties to have ended as soon as they have communicated the order of discharges to the officer who is to carry out retrenchment. Different principles have been adopted by the different railways. Thus, on the Eastern Bengal Railway, nobody has been discharged on the ground of inefficiency, while on the G. I. P. Railway, men have been selected for discharge first on the basis of inefficiency and then of short service. In their reply to the questionnaire of the Court, the G. I. P. Railway Administration have stated as follows:—

“Least efficient and those nearing superannuation were not retrenched because it was found by operating on inefficiency and short service, the required retrenchment could be made.”

INSTRUCTIONS DISOBEYED.

The temporary men have not been dealt with in the same manner by all the Administrations. The Board's instructions were that after com-

pleting twelve months' service, these men should be treated in all respects as if they were permanent; not only these instructions were not followed, but quite an opposite course was adopted, on the ground that it would be unfair to the permanent men. The North Western, East Indian and Eastern Bengal Railways have followed the instructions of the Railway Board but the G.I.P., B. B. & C. I. and other Railways have not done so. The explanation given has been that the temporary men are in a position of advantage as they get higher salary and that if they were offered, they would not prefer "the security of service and the payment of compensation when discharged." We submit that this explanation is purely an after-thought and is a mere assertion not substantiated by any evidence in this Court. There were several temporary employees who appeared as witnesses but not one was cross-examined with a view to elicit this supposed disinclination on his part to prefer stability of service. On the contrary, the witnesses made every endeavour to show that they were permanent. It may be mentioned that the provisions of the letter of 3rd March 1921, were formulated after a meeting of the Board with the Agents of Railway Administrations, where these terms must have been fully discussed. This conclusion is supported by the fact that so far as workshops are concerned, temporary men were not given the same protection; thus all these instructions were laid down after full deliberation and it is surprising that they were materially departed from by the Agents at their discretion. It has been stated on behalf of the G.I.P. Railway that the permission to depart from this instruction was confidentially obtained. It is an amazing circumstance that the Railway Board should select the Agent of one Administration for confidential permission to break their own instructions and it is more amazing that this Agent should break the confidence by exposing it. If the departure was desirable, there is no reason why the permission for departure should be confidential and why its benefits should not be extended to employees on other Railways. The fact of the matter is that all the methods of discharges have been worked in a chaotic manner. Each Administration has followed its own line. This criticism equally applies to the question of superannuation and demotion but we have dealt with these under the third term of reference.

The disregard of these instructions by the various Administrations raises the question whether it was worth the while of the Railway Board to issue them at all. The Board is the highest Railway Authority in the country. It is supposed to co-ordinate the activities of the different Railway Administrations. It calls the Agents for consultation in January 1931, where the contents of the letters are considered and decisions

reached but as soon as they are issued, each Administration follows its own method, interprets them as it likes, follows them or disregards them and all the time the Railway Board lives in a state of blissful ignorance knowing nothing, regulating nothing, apparently under the belief that the Agents can do no wrong. If it be contended that the Railway Board knew this departure but took no steps to prevent it, its conduct is all the more inexplicable.

APPEALS FROM DISCHARGES NOT ALLOWED.

It has been claimed that the Railway Administration and the Railway Board have employed every means in their power to prevent unfairness, but when Railway officers have been asked to state what these means were, they have been in most cases unable to point out any definite lines they had followed. The assurance that every care was taken to prevent unfairness was repeated in a stereotyped manner by one Deputy Agent after another but when tested, it has turned out to be a mere formula repeated in a formal manner, not substantiated by detailed description of the measures taken. Under Rule No. 10 of the rules regulating the discharge and dismissal, no appeal lay from an order of discharge made on reduction of establishment. Appeals submitted by the men discharged were withheld on the strength of this rule by the departmental heads. Few men, therefore, could have applied for examination of their cases and a number of witnesses complained that no notice was taken of their representations when made. One Railway Administration, however, viz., the Eastern Bengal Railway decided to entertain applications if received. 135 appeals were received, although the discharged men had no knowledge of the concession informally given. 22 out of these were successful. This works out at 16 per cent and we are not without hope that out of the 135 witnesses who appeared before the court from that Railway, a much larger number would be found to be genuine cases of hardship and injustice. This percentage is in no sense "insignificant" as the Railway Board profess at page 13 of the Blue Book. We submit that the Court will be justified in drawing the conclusion that if all the aggrieved workers were allowed to appeal, thousands of cases of injustice could be brought to light.

DISCRETION ABUSED.

All these facts lead to the irresistible conclusion that the discharge of 40,502 employees and the demotion of 4,392 was left to discretion of the immediate superiors of the workers and the play of the personal factor in the selection of men to be discharged was therefore bound to be inevitable. The loss of employment is a serious hardship for any man in

these times but when that discharge is accompanied by unfair treatment, when juniors are retained and seniors are sacked, when a petty breach of discipline or a loss of a rupee worth of railway property or even the failure to 'salam' the foreman or the officer leads to discharge, and when favouritism of a personal, communal or racial character is responsible for the loss of a worker's job, the rankling sense of injustice aggravates the resentment already caused by the discharge without any just and proper cause.

We have urged in another part of this argument that it would have been far more desirable to resort to short-time or to a graduated reduction of wages, so that no man would lose his job altogether; and that would at any rate, prevent the exercise of arbitrary authority in the matter of retrenchment. It is also our respectful submission to the suggestion from the Court that we should try our hand at laying down the methods of retrenchment and see whether we succeed better than the Railways had done.

FIRST TERM OF REFERENCE.

CONDITIONS OF WORK OF STAFF STILL EMPLOYED.

As regards the first term of reference, we submit that retrenchment presses hard on the men now remaining in the service in at least six ways.—

- (1) By increasing the hours of work and also its intensity;
- (2) By making it more difficult for the men concerned to obtain leave due as and when they need;
- (3) By demotions or reduction of emoluments in other ways;
- (4) By the illiberal working of existing labour legislation;
- (5) By the non-observance of assurances making for stability of service; and
- (6) By the fact that the Washington and Geneva Conventions have either not been carried out at all or have been carried out in letter and not in spirit.

The grievance of the remaining employees against the present retrenchment is the intensity of the work that has devolved upon them during the last twelve months. On account of fewer workers, the same amount of work has to be done within the same time and it therefore imposes great

mental and physical strain. This complaint finds corroboration in the speech made by Sir George Rainy in introducing the Railway Budget for the current year. There he admits that the scope of retrenchment is confined to expenditure between 25 and 40 per cent of the working expenses and although nominally the Railway Board have directed a cut of 10 per cent of these 55 crores, the whole of this amount is not susceptible of economy to the same extent. For instance, so long as one station is working with only one station master, whether the traffic is greater or less, you cannot have less than one station master. Similarly, where medical relief is given through one medical officer, no retrenchment is possible, so long as you do not curtail the facilities for relief. At a level-crossing the same number of gate-keepers must remain whether the traffic is brisk or slack. Similarly, repairs of certain railway-property would be costing the same amount, whatever the condition of the traffic. On account of these circumstances, the percentage of working expenses available for retrenchment is not the whole amount of 55 crores of rupees. The pressure on the remaining therefore, is very much greater than would appear on superficial examination of the question. If we adopt Sir George Rainy's reasoning the working expenses, from which $5\frac{1}{2}$ crores were intended to be saved, would only be a sum of 20 crores. In effect therefore those employees will suffer most who come under that part of the working expenses which is susceptible to reduction. It is therefore obvious that their hardships must necessarily be more rigorous, either because the working hours are increased or because the intensity of the strain becomes aggravated or because by reason of the amalgamation of duties one man is required to do the work of two.

(1) INCREASE IN HOURS OF WORK & ITS INTENSITY.

A good many witnesses have complained that as a result of retrenchment, hours of work have been increased and that its intensity has grown. These complaints came not from one Railway alone but have been common to most Administrations. For instance, a cabinman on the B. B. & C. I. Railway complained that he had to cross the rails several times during the night from one cabin to another and that this had to be done in darkness and rain, exposed to the risk of danger to life and limb. Another complained about the indicators at Mahim Station. He had to work them by jumping from one platform to another to attend to 300 trains per day; this work is not only strenuous but dangerous. The work on the G. I. P. Railway has increased in the parcel office and luggage office as has been deposed by the witness, Mr. Joshi, examined on behalf of the Federation. The Head Tranship Clerk, Dhond, has also deposed to the increase of duty hours by about two hours. Mr. Griffiths an official wit-

ness of the G. I. P. Railway has himself admitted that there is an increase of hours of work for certain groups of employees. On the E. B. Railway, there has been an increase in the working hours in the Tranship Shed at Parzatipur and at Cossipur there has been an increase in the hours of work as also in its intensity. Govindarajula Naidu of the M. & S. M. Railway complained that the work was more strenuous and that there was more hardship on the workers. In the Accounts Offices the hours of work have been increased even in excess of the recommendation by Sir Arthur Dickinson. Similar complaints have been made on other Railways also but a detailed description of the hardships is given separately for several Administrations. A glaring example of the intensity leading to improper conditions of work on account of retrenchment is furnished by the case of the gangmen who form 20 per cent of the total number of the employees on the Railways, their strength is admitted to be 1,50,000 on page 185 of the Railway Board's memorandum to the Royal Commission and their work has increased by 30 per cent owing to the increase of the tract they have to look after. This must necessarily lead to hardships to the other employees on the permanent way and when one remembers that the total number of railway employees on the permanent way and the related works is 2,44,310, it requires considerable boldness on the part of the Railway Administrations to say that the conditions of work have not worsened.

(2) DIFFICULTIES ABOUT LEAVE.

The question of leave is a perennial source of hardship to the workers. The Labour Commission's Report is replete with examples of the hardships suffered by the employees. The more low paid an employee is, the less leave he generally gets. Owing to the lack of reserves and other reasons, leave is not always obtainable. Says the Labour Commission "indeed, it is evident that many workers never receive any leave". At one time leave was granted only if no extra cost was imposed on the Administration and although this principle is now abandoned, the necessary leave reserves have not yet been provided.

This subject has been a source of constant discussion and there is no uniformity of practice either in regard to the period of leave or to the percentages of leave reserve in all Railways. Each Railway system has several provisions about leave peculiar to itself. Even in the same Administration, the conditions vary from department to department. For instance, some are governed by fundamental rules, some are governed by the system in force before the fundamental rules came into effect and others are governed by the new rules. That the sanctioned leave reserve, wherever it exists, is

not adequate, has been admitted. In their memorandum to the Royal Commission on Labour, the Railway Board have stated that "steps are also being taken to provide adequate leave reserves on all State-managed Railways." (page 187). The inadequacy of leave reserves has been admitted even by the official witness Mr. Griffiths on behalf of the G.I.P. Railway Administration who stated that the leave reserve has been decreased from 14 per cent to 12 per cent on account of retrenchment. He also said that he had asked for the additional staff for relief purposes and for a higher percentage and that the Administration had recognised the need. The statement that he had produced as regards the leave enjoyed by the staff at V.T. for the years 1929, 30 and 31 clearly shows that about 20 per cent of the leave applied for and sanctioned could not be enjoyed by the staff.

A number of witnesses have made complaints about not getting leave. Mr. S. B. Karandikar had deposed to the difficulty in getting leave on the G.I.P. Railway. One witness asked for leave in April and obtained it in October. Another witness was compelled to apply for fewer number of days than he really wanted then and even he was not granted leave in time. Mr. Harrison of the M. & S. M. Ry. admitted that after having employed a large number of new clerks to supplement the deficiency of leave reserve on an application from them, he subsequently retrenched most of them. This question has also been dealt with separately for individual Railways.

(3) DEMOTIONS ETC.

One more hardship resulting from retrenchment is demotion. Salaries or wages of a worker are the most important condition of his work and a drastic reduction of his emoluments is a serious hardship. Whether he gets the same salary and works more hours, or whether he works the same hours and gets less salary, in either case, the condition of the worker has become worse. He is either sweated by overwork or exploited by underpayment and demotion is a species of retrenchment which takes no account of the standard of living. It looks only at the amount to be saved. No hardship resulting to the employees concerned, is taken into account. For instance people drawing Rs. 53 have been suddenly demoted to Rs. 31, People, getting Rs. 35 have been demoted to Rs. 22. The excuse given is that the higher grade job having been abolished, the employee simply reverts to the grade just below and as he is paid the wage of that grade, he could have no grievance. This is plausible; but a little examination below the surface reveals a serious inequity; a reduction of wage from Rs. 53 to Rs. 31 is a reduction of over 40 per cent. The same is the result when an employee getting Rs. 35 is reverted to a job with Rs. 22 a month. Such a sudden and drastic

cut in wages imposed on the workers effects an amount of distress which can neither be measured nor mitigated simply by describing it as a mere change from one grade to another. He at once has to cut his family budget to a lower standard of life and the process of adjustment, not being quite easy, results in pain and dis-comfort. The whole family life is, in fact, dis-located.

That was specially brought out in the case of the T. T. E's. on the Eastern Bengal, East Indian and North Western Railways. They are for the purpose of checking passengers travelling without tickets or in a class higher than that for which they hold a ticket. Some years ago, what is called the Crew System was introduced and this consisted in Travelling Ticket Examiners dividing themselves in different batches and by turn examining tickets within their jurisdiction both by getting into the trains or at the station. In this manner, they collected various sums of money from defaulting travellers but it was found that this led to special laxity in the checking of tickets at the entrance to the station and it was also discovered in many cases that people were first allowed to get into the train although it was known that they had no tickets, and were then called upon to pay an excess and a penalty, thus justifying the existence of the Crew System. It also led to corruption and it was found that the System was a failure. It has therefore been abolished on all these Railways; but as an offshoot of its abolition, those who were in the permanent grade of Travelling Ticket Examiners, have been called upon to make a sacrifice of their emoluments quite disproportionate to the alteration in the nature of work, if at all there is any. The T. T.E's. had a grade of Rs. 80 to 200 with an allowance, which worked out at 75 per cent of their salaries. They are doing the same work now. They are also doing the work of the Crew System which was abolished but their salaries have been reduced by 75 per cent of what they used to get. So that if a man was getting Rs. 200 plus Rs. 150 as allowance, he was suddenly demoted to Rs. 200. Rs. 200 is the maximum of the grade but those who had just started with Rs. 80 and were getting Rs. 65 as allowance, have lost the whole of the latter figure, so that the cut in wages comes very nearly to 70 or 75 per cent without any difference in the quality or amount of the work which they have to do. The S.T.E's. and the T.T.E's. are both now described as Special Ticket Examiners and it has been found that while the T. T. E's. were bringing to the Railway revenues more money than was paid to them, the new S. T. E's. are bringing a loss which on the North Western Railway amounted to Rs 4,800 a month. The net result is that both the railway and the original T. T. E's. suffer and the only gainers are those members of the Crew System who are absorbed in the Special Ticket Examiners grade. On the

E. B. Railway, the number of these T. T. E's. was 29, on the N. W. Railways it was about 134 and these employees are the worst sufferers because they remain subject to the same duties while deprived of 70 per cent of their emoluments. Similar is the case of other demotions particularly those of Ticket Collectors, Guards and Drivers of different grades, Brakesmen, Firemen and others.

The total number of demoted men on all Railways is 4,392. We have not the means to ascertain what is the average percentage of loss wages in the case of all of them but even if 40 % is minimum, it is an unheard of hardship to degrade a man so suddenly and thereby subject him to a standard of life to which he is not used for years together. We know what opposition the superior officers have displayed when even deprived only of 10 per cent of their salaries. Even this ten per cent is not real because half of it consists of additional income-tax and super-tax. If the superior officers feel the strain even of 5 per cent reduction in wages, what then must be the condition of the subordinate and inferior employees whose reductions vary from 40 to 75 per cent?

In carrying out demotions the administrations ought to take note of the following two facts:—

- (1) That so long as the nature of the work has not altered, there can be no reduction of salary merely because economies will result thereby; and
- (2) That any reduction of remuneration should be so made as not to involve a violent interference with the standard of life of the employee.

The letter of the Railway Board dated 14th of May 1931 is our authority for the first proposition and the policy of the Railway Board with reference to the abolition of racial distinction on Railways is our authority for the second proposition. The Government of India while admitting the existence of racial discrimination and also the necessity for its abolition have laid down the following condition:

“ No step should be taken which would produce a sudden violent and dislocation in the economic life of Anglo-Indian community.”

The demotion has been carried out in a large number of cases in a manner which has gone wholly and decisively against the instructions of the letter of the 14th May 1931 and also against the instructions of the Government of India quoted above.

(4) ILLIBERAL WORKING OF LABOUR LEGISLATION.

We have already dealt with this question in an earlier portion when we were submitting our grievance against the Government of India for not appointing this Court of Inquiry earlier. The Trade Disputes Act has, among others, two clear objects, viz., the peaceful settlement of trade disputes and the prevention of the parties to the dispute to get an undue advantage over each other while the dispute is under investigation. In both these respects, the Government of India have put the workers in a position of serious disadvantage by the attitude of protracted delay in disposing our application of 30th April 1931. Thousands of workers would have been saved from retrenchment at least for the time being and to a corresponding extent, the hardships to which we have referred in (1) and (3) above, would have been to the extent avoided. The further retrenchment that has taken place after the appointment of this Court of Inquiry by way of discharges, increase of short-time result of the culminating in a cut in the wages, furnishes the most striking evidence of the evasion of the obligations arising under the Trade Disputes Act.

(5) NON-OBSERVANCE OF ASSURANCES FOR STABILITY OF SERVICE.

When block retrenchment is contemplated, the Railway Unions are entitled to notice under the letter of the Railway Board dated 10th October 1930 to the various Agents. This right was secured after long and protracted discussion between the Railway Board and the Federation about the security of service and the workers naturally regard it as a protection against precipitate action on the part of the employers; but as has been already shown, this safeguard against hasty action has proved illusory; not only the Agents gave no notice to the Unions but the Railway Board themselves maintained a sphynx-like silence until 25th June 1931 about the merits and demerits of the retrenchment. Another breach of assurance relates to the rules about the reduction of establishment which were also promulgated with the letter of 10th October 1930. In these rules, safeguards have been provided against indiscriminate retrenchment but the Railway Administrations have broken to the heart the promise that was made to the ear by the Railway Board after frequent discussions. This particular letter has been referred to before this Court on so many occasions that we do not wish to elaborate its provisions once more. We respectfully invite the attention of the Court however, to the provisions of that letter and recommend such relief to the discharged workers as they are entitled to thereunder. One of these rules says that when you retrench an employee

of 5 or 10 years' service from one job, you should find him some other job. Hardly any attempt in that direction has been made by any Railway Administration.

HOURS OF WORK AND WEEKLY REST CONVENTIONS

On account of the illiberal interpretation put on them the main intention of these Conventions has been frustrated and there is a deceptive appearance that they have been carried out. Even this nominal relief has been attempted only on some of the Railways. Other Agents have not even attempted anything in this direction on the plea that the Act of 1930 has not been applied to them. The question of the Washington and Geneva Conventions is now 12 years old. The Government of India have been cogitating for all this long period over the enforcement of these Conventions. The question has been examined and re-examined and its application has been promised again and again with tiresome reiteration. Having ratified these Conventions years ago, the Government got a belated consciousness that too long a delay had been allowed to occur so far as the actual application was concerned and when no further excuse for delay could be decently urged they suddenly discovered that some legislation would be necessary. A modest Bill was brought in 1929 but it was not passed till 1930. The Bill was so framed that the substantive portion was left to rule-making; so further time was taken in the appointment of a Special Officer for drafting rules. We are indebted to our friend the gallant Major Wagstaff for the complicated and ingenious provisions for putting the Conventions into effect. The Railway Board now claim that they have carried out these Conventions but the workers are not to be beguiled by professions of this kind. Before present retrenchment was decided upon, Government had promised that these Conventions will be in force in all I Class Railways latest by the end of the year 1931-32, so that the Railway employees had already got a vested interest in the relief that was to come out of these Conventions. Being thus entitled to look forward to the application of these Conventions as a measure of relief any retrenchment that the Railway Board subsequently carry out cannot ignore the obligations which they had undertaken in this behalf. No doubt, the Railway Board now plead financial stringency as the ground for not putting these Conventions into force on the remaining Railways, but as the Court has already held, any hardship resulting from the retrenchment is a grievance. We claim that the Railway Board were bound to take into account the number of additional men they would require in order that these Conventions might begin to operate before

the end of the year 1931-32. Any retrenchment which ignores this consideration is to that extent an invasion of the right which has accrued to the workers and if retrenchment has resulted in the postponement of the application of the Conventions, in the words of term of reference No. 1, it has imposed improper conditions of work on the staff still employed.

We shall deal with these Conventions under the following three heads:—

- (1) Whether the Conventions where applied have carried both the spirit and the letter of the law;
- (2) Whether the Railways are not bound to enforce these Conventions the latest by March 1932; and
- (3) Whether the number of workers required for the operation of these Conventions on all the railways in their proper spirit, would not secure the reinstatement of the men who have come under the retrenchment axe.

We submit that retrenchment should have been carried out always keeping in mind that by March 1932, these Conventions would have to be put into force on all I Class Railways. To the extent that this has not been done, the retrenchment violates the first term of reference to this Court.

In May 1920, Government issued a letter to all local authorities enjoining them to keep in mind the two resolutions adopted by the Washington Labour Conference regarding the House of Work Convention. These resolutions are as follows:—

- “1. The provisions of this Convention shall not interfere with any better conditions already in operation or agreed upon, for all or part of the workes of any country; neither shall they interfere with any negotiations now proceeding in which the workmen are asking for better conditions than the Convention provides.”
- “2. The Conference hopes that in no case the wages of workmen will be reduced simply by reason of the introduction of the 8-hour day and 48-hour week, in order that the conditions which exist in certain industries and which the present Convention allows to continue may not be aggravated by the imposition of the lower wages on the workers.”

These two resolutions supply the real test for judging whether the application of these Conventions wherever in force has been genuine or otherwise. Government themselves have enjoined that no action that is taken in the name of the Conventions shall interfere with any better conditions already in operation or agreed upon and secondly, that in no case the wages of the workmen will be reduced simply by reason of introduction of the 8-hour day. Wherever these conditions are not fulfilled, the spirit of the Conventions is violated and the rule in actual operation must be altered accordingly. The Railway Board claim that they have gone beyond the statutory obligation incurred by the ratification of the Conventions "the principles of which have on humanitarian grounds been applied to the vast majority of railway servants." Wherever therefore in actual operation the Conventions militate against humanity, the Board have broken their promise.

We beg to submit that there is neither humanity nor any real relief to the workers so far as the Conventions have been applied and that where they are not applied they should forthwith be enforced not in a spirit of reluctance and grudging compliance with the law but with generosity and with a real intention to keep the humanitarian principle always before the mind. We have attempted here after the detailed examination of these Conventions where they are said to be in force and on such examination, we have found that the Board have been guided more by a search for economy than by the pursuit of humanity. No doubt, economy should be kept in mind but if saving of money becomes the main objective and the enforcement of the Convention is a secondary object, there is no possibility of the Conventions being applied on the lines of the two resolutions quoted above and the professions of humanitarian grounds made by the Board turn out to be entirely hollow.

Mr. Damodar Ganesh, a witness examined on the 17th September 1931, while deposing about these Conventions says as follows:—

“ My complaint is that the clerks do not get sufficient time for meals. In the new roster, there is only 8 hours between two duties ; similar is the case in regard to double duty and rest. The total duty hours are 54, 56, and 58. Originally, they were only 52.”

Mr. A. Madhava Menon, another witness says, “ under the old roster the average working hours were 48 hours. Now they come to 57 hours and the duty changes even three or four times a week ”.

Mr. Shantaram, another witness says, "the number of luggage weighers is now 11. Previously it was 12. Formerly, they worked from 10 to 18 18 to 2 and 2 to 10. Under the new duty roster, each man has to attend twice a day and some people have to attend even thrice a day and some people have to do duty for two days at a time and some have to do night duty for five days at a time. The average total duty every week is 53 hours. The former duty hours, viz., from 10 to 18 are more convenient. Under the present arrangement, we do not get time to take our food."

Mr. Griffiths, an official witness of the G. I. P. Railway says, "as regards the parcel office, formerly there were 78 clerks and 4 weighers. Now there are 66 clerks and 5 weighers."

Again he says "in March 1929, the Agent sanctioned 83 additional ticket collectors and 28 additional coaching clerks. That represented nearly 33 per cent increase. This was done with a view to reduce the working hours from 12 to 8 per day."

"Mr. Sastry—if you wanted to reduce the number of hours from 12 to 8, you ought to have increased the staff by 50 per cent."

Mr. Griffiths also admits that the inferior servants had to work a little longer than formerly. Similar complaints have been made on other railways and an examination of the various rosters, submitted by the different Railway Administrations leaves little room for doubt that the so-called application of the convention has far from improving the conditions of work, worsened them to the detriment of the employees. Briefly summed up, the complaints about the new rosters are as follows :—

- (a) That that the duty hours begin and end at inconvenient hours ;
- (b) That they change frequently and often involve double duty after an interval of 8 hours, which necessitates his being away from home for 24 hours ;
- (c) the rest periods are manipulated to give 24 hours rest but the real effect is quite different ; there is more uncertainty and therefore less rest ;
- (d) That they dislocate the social and personal life of the employee so frequently that the so-called rest becomes a mere torment and the workers' existence, far from being a joy, happiness or relief becomes a burden, and a misery ;
- (e) That they involve an increase in the weekly hours of work ;

- (f) That they exclude an hour for meal; which is really an addition to the former hours of duty in as much as it is not possible for employees to go home during that time.

The theory of the weekly rest day is that an employee should get one day off in a week for rest and recuperation. The idea is to keep him healthy and fit for the life of toil to which he is subjected during the rest of the week. Any arrangement that frustrates this objective, is to that extent a deceptive application of the Conventions and must be altered. The best way to give a weekly rest is to give a full calendar day from sun-rise to sun rise. It need not be a Sunday although it would be better if, as far as possible, a Sunday is given to the employees; but in a public utility service like the Railways, where service is continuous, that arrangement is not always possible. So far as workshops are concerned and also the administrative offices, a calendar day presents no difficulty. It is only with running staff that Sunday is not a practicable proposition. For all employees; so long as a full calendar day is given, there can be no grievance. But when the weekly rest day consists only of 24 hours, beginning at any time day or night and end at a similarly inconvenient hour, the application of the Conventions becomes colourable and the humanitarian grounds which are said by the Railway Board to have operated in the regulations cannot be said to exist.

THE SECOND TERM OF REFERENCE.

TERMS ALLOWED TO THE STAFF WHO HAVE BEEN DISCHARGED.

As regards the second term of reference, viz., whether the terms allowed to the staff that have been discharged are inadequate or unreasonable, the only terms offered are those mentioned in the letters of the 3rd and 6th of March. In the matter of leave, a limitation has been put, viz., a maximum of four months which was subsequently increased by four more months on half pay. This limitation of the maximum leave that an employee is entitled to get has deprived him of the benefits which he enjoyed in the matter of leave under the ordinary rules. Cases have been brought before this Court where employees were entitled to a longer period of leave than the one allowed to them. In such cases therefore, it is a misnomer to say that any compensation was given to these men. On the contrary, these are cases of double injustice. Men are discharged without any fault on their part and after discharge, they are not given even the whole period of leave they have earned. In fact, no kind of

compensation has been given except the ordinary one of one month's notice which any employee ordinarily gets, with the result that the man is not only discharged but is left, in his unemployed condition without any resource to fall back upon until he gets another job. Even if these men had voluntarily retired, they could not have got less but in a compulsory discharge where some additional compensation is called for, they are deprived of a part of what is due to them and the worst of it is, that no distinction is made between men who have served practically a whole life-time and between men who have been only recently appointed. Men who on account of having been confirmed in Railway service have reasonably counted themselves as assured of permanent employment, who have married on the strength of that assurance and who have brought up a family, are treated as if they were only yesterday taken into Railway service. Quite clearly there has been no compensation of any kind and the question whether the terms allowed are inadequate or unreasonable does not arise at all or it can be stated that the terms allowed are wholly inadequate and entirely unreasonable.

IMPROPER DISCHARGES

The worst case is of those who have completed ten years' service in Railways. There is a circular of the Railway Board dated 10th October 1930 that an employee who has completed ten years of service should not be discharged unless frequent specific failures of work have occurred on his part for which he has been given written warnings and punished with stoppage of increments or by a reduction of pay during the last two years of his service and until a charge-sheet has been presented to him and a written explanation obtained and examined. Not one Railway Administration has followed these instructions. Indeed, everyone of them has said that the circular did not apply to the present retrenchment and yet on page 12 of the Blue Book under the heading *alleged victimisation and favouritism*, this particular circular has been mentioned as a safeguard against improper discharges and the attention of the Agents was again drawn to these provisions by the Railway Board in their letter of 14th May 1931. The discharge of men of ten years of service is thus altogether irregular and must stand vitiated. The total number of such employees is 1,789 and we submit that all these people should be immediately reinstated or if that is not found to be feasible, the Court should be pleased to declare that they were wrongfully dismissed and therefore entitled to full compensation for such injustice. It will not be possible for all these poor men to seek the protection of Law Courts for getting redress for these wrongful dismissals.

COMPENSATION TO DISCHARGED MEN.

It must be also remembered that in India, there is no unemployment benefit and that in these hard times, it is practically impossible for anybody to secure a job. The Fawcett Committee which enquired into the Textile dispute at Bombay was specially struck by the absence of any provision for benefit during unemployment and has recommended a certain line of compensating the discharged employees.

We have in paragraph 12 of our written statement made this submission already. The terms allowed ought to have been more liberal and than those allowed on previous occasions, particularly because of the alarming extent of unemployment at present, aggravated by the non-existence of any provision for the relief of the unemployed. We therefore submit that for all discharged men, the scale of compensation should be the payment two month's wages for every completed year of service upto a maximum of two years wages. It has been argued by the other side that the terms allowed two, or three years ago could not be repeated on this occasion, on the ground that it would be unduly costly and that what could be done when only a few men were discharged could not be done when the numbers concerned are running into thousands. This argument is falacious. When few men are discharged and times are normal, even a less liberal compensation may be acceptable, but while wholesale unemployment is created by the Railways at a time when the chances of securing a job are remote, the compensation, if it has to have any value, must be on a scale commensurate with the requirements of the situation. In addition to this compensation, we submit that full leave due should be allowed to the discharged men. The original provision in the instructions of the Railway Board was 4 months' maximum leave, which was subsequently altered by adding four months' further leave on half pay. We submit that that is not adequate or reasonable. The leave that should be given them should be all the leave that is due; otherwise they suffer a double wrong, viz., they lose their jobs without any fault of their own and on retiring from service, do not even get the privileges to which they are entitled in ordinary course. We also submit that it is but fair to treat all employees on the same footing irrespective of the date of their discharge and therefore these benefits should be extended to all employees discharged from the 1st April 1930.

THIRD TERM OF REFERENCE.

ALTERNATIVES TO RETRENCHMENT.

Dealing now with the third term of reference, we start with the figure of the savings required, viz., $5\frac{1}{2}$ crores of rupees as stated in the Blue Book. We are not yet in possession of the total figure of savings on all Railways by methods other than the discharges of men. How much money would be saved, for instance, by not filling up the vacancies that have so far occurred; and by what amount allowances, etc., of the existing staff have been decreased we are not told. It must have been also possible by slowing down repairs and maintenance and also renewals and replacements to make further savings and the amounts of these must have been estimated. When to these are added the savings from the cut recently enforced, we shall have the grand total of savings and then only it would be possible to appreciate the fairness or otherwise of staff retrenchment. For the purpose of this argument, we shall assume that $5\frac{1}{2}$ crores of rupees were required by the Railway Board as effective savings in the current year. It is an accident that these work out at 10 per cent of what they call the working expenses. Working expenses however have been admitted to include depreciation and if instead of confining their activities to secure a saving of $5\frac{1}{2}$ crores from the working expenses minus depreciation, the Railway Administrations had also appropriated a smaller sum to depreciation, there would have been an amount of 68 crores of rupees from which $5\frac{1}{2}$ crores would have to be saved, the percentage would not be 10 per cent but barely 7 per cent and the ordinary working expenses would have been therefore called upon to find $4\frac{1}{2}$ crores instead of $5\frac{1}{2}$ crores and staff reduced would have been similarly diminished. If only this single fact had been kept in mind, the number of men saved would have been about 8,000. We wish to confine ourselves in this Court to the figure of $5\frac{1}{2}$ crores mentioned in the Blue Book. We do not wish to take into account the variation that might have become necessary after the 30th of June 1931, The variations may be for the better or for the worse but that can make no difference, so far as this inquiry is concerned, to the figure of $5\frac{1}{2}$ crores arrived at by the Railway Board.

The question is what economy and retrenchments were necessary for a saving of $5\frac{1}{2}$ crores of rupees and the methods adopted by the Railways must stand or fall on the basis of that figure alone. The Railways must, therefore be pinned down to the figure of $5\frac{1}{2}$ crores and they should

not be allowed to take any advantage of subsequent developments either by way of traffic figures or the recommendations of the Railway Retrenchment Sub-Committee. For instance, at Calcutta, an attempt was made to show that the Washington and Geneva Conventions could not now be relied upon by the Federation as the Railway Retrenchment Sub-Committee had advised that on account of financial stringency, their introduction should be postponed. That attempt was repeated here on Saturday last. We submit that this is irrelevant. The question before the Court is whether when the Railways started retrenchment, they took into account the fact that the workers had got a vested interest in the carrying out of these Conventions and that therefore the retrenchment should have been carried out with due regard to that fact. It is the adjudication of the issues as they existed on the 30th of June 1931 that is before the Court. It may be that after the Court has recorded its findings, the Government of India in considering the Court's Report might take into account the recommendation of the Railway Retrenchment Sub-Committee and other relevant facts, but any recommendation of the Sub-Committee can have no bearing on the issue before this Court.

STOPPAGE OF RECRUITMENT.

Stoppage of recruitment has been dealt with in the earlier portion by us by showing how continuous recruitment has created surpluses and evidence has been recorded that while retrenchment was going on, on one side, recruitment was proceeded with on the other, at any rate in some places.

NORMAL WASTAGE.

Normal wastage means the automatic reduction in the number of workers by death, retirements, resignations, discharges and dismissals; and the question is whether in effecting retrenchment, the economies under these heads had been taken into account and if so, what is the number of men saved thereby. The Railways have furnished no such information. Not only that but we have reasons to believe that normal wastage was not considered when proposals for retrenchment were mooted. Since the Court was appointed, this question has been discussed and considerable amount of evidence has been led. The figures vary on different Administrations and it cannot even be claimed that they are complete figures. Not all the Railways have kept a record of the deaths among their workers and the result is that while the normal wastage has been one and half per cent on one Railway, it has been as high as ten per cent on another. Some variation is

easy to understand. It may be due to local conditions, but it cannot be that the death rate in one part of India among the same class of workers is higher than in another part by 600 per cent. At the interview with the Railway Board, we submitted our views on normal wastage in the following manner. We assumed that every railway worker would serve for the full term of 30 years and then retire. Taking about 800,000 as the total number of employees on the Railways, this would mean an annual retirement of 27,000 workers. Add to this the number who would die and would otherwise go out of railway service by resignations, discharges or dismissals. We estimated the total of these retirements, deaths, etc., would come to 30,000 a year, but we have since reconsidered the position and verified the death rate in various parts of India among persons of ages varying from 15 to 60. A full and complete statement of these is available in the Statistical Abstract for British India, a Government Publication, for ten years between 1919-1920 to 1928-29 pp. 414 to 416, where the death rate per thousand of population is given for the Provinces of Madras, Bombay, Bengal, U. P., Punjab, Burma, Bihar and Orissa. We have prepared therefrom the ratio of death per thousand of population for the year 1929 by each Province separately, except for Burma and this is as follows:—

PROVINCES.	AGES.				
	15 to 20	20 to 30	30 to 40	40 to 50	50 to 60
Madras ..	8.80	11.02	14.20	20.60	30.50
Bombay ..	8.66	9.54	12.57	19.42	33.09
Bengal ..	13.10	14.90	18.10	23.20	36.20
U. P. ..	8.77	10.37	12.58	17.00	27.76
Punjab ..	11.20	9.38	11.76	18.39	27.10
Bihar ..	10.90	14.70	16.70	21.20	35.10
Total for all Provinces	61.43	70.91	85.91	119.81	191.30
Average for all Provinces.	10.20	11.20	14.20	20.00	32.00
Total of all the Provinces for all ages.	17.52				

On this footing, we estimate the minimum number of deaths per year at about 13,000, the number of annual retirement being 27,000 and we say that reductions by discharges, dismissals and earlier retirement, must be somewhere near 8,000; thus the normal wastage in a year should be about some 50,000 and although the savings the whole of it cannot accrue within first twelve months, some 25,000 men would go out of railway service in the first year and in the next year the 75,000 should go away, so that if the Railway Board had waited for two years, they would have got the money they wanted without discharging a single worker.

The average earning of a railway employee was admitted at the interview to be Rs. 400 a year, so that even in the first year the savings effected would be one crore of rupees and in the second year, it would be three crores more and if economies of other kind were effected side by side, there could be no difficulty in arriving at the figure of the savings required.

SHORT TIME.

Under short-time, we had submitted that it should be worked "whether by a day or more off every week or month or by compulsory leave on half pay or without pay by rotation or by disallowing over-time in some cases so as to stop the discharges of others, resulting in general short-time all round. In brief, short-time is maintenance of wage rate but shorter hours." Mr. Sastry quoted a description of short time as follows:—

- (a) Reduction of overtime;
- (b) Use of staggered vacations or leave of absence;
- (c) Rotation of days off;
- (d) Use of shorter shifts where store hours are long
- (e) Rotation of shifts or individuals on the same job;
- (f) Transfer of employees between departments or branch stores to prevent lay-off;

The aim is to distribute the work as evenly as possible among the employees. Efficiency of the job and economic needs of the individuals also are to be considered.

As an alternative to discharges, short time is a very desirable expedient, within the limits laid down in the aforesaid description and we urge that the Railway Administrations should have adopted that instead of wholesale reduction of staff. They have confined it almost exclusively to workshops and there, too, only to the daily rated staff. A few Railways extended it to some categories particularly the E. I. Railway tried it on a large scale. It was also tried to some extent on the R. & K. Railway and we understand that it is now being tried in Bridge Engineers workshop, at Manmad. If it had been tried on all the Railways and in all the departments instead of being confined to workshops, the number of men retrenched would have been substantially curtailed and no necessity for retrenchment would perhaps have been felt. It cannot be said that this is a new expedient or that the difficulties in the way of working it are insuperable.

LEAVE BY ROTATION.

We submit that the most convenient form of short time is leave by rotation as the worker has the satisfaction of not being discharged and also of not being compelled to do more work for less pay. The Eastern Bengal Railway has tried this expedient for years together. Mr. Bennett, Signal Engineer of the E. B. Railway, cross-examined, said, "due to the paucity of work in our Points and Crossings Shop, instead of discharging the nucleus of our skilled workmen, we have put them on leave without pay by rotation for a week by sending 20 men every week on leave." This was carried on since 1929 until June 1930 when the men were first discharged due to the policy of giving manufacture work on contract being introduced by the Railway Board.

A better vindication of the policy of short-time, being practicable and even desirable, could not have been furnished. The E. I. Railway also has adopted the expedient of compulsory leave in large number of cases and it was admitted by two officers of the E. I. Railway that it was done successfully and no difficulty arose in carrying it out. With so many experiences at our very door, it is not clear why the Railway Board did not enforce it for general adoption on all Railways.

Mr. Yule, Divisional Superintendent, Allahabad Division, stated as follows:—

"In the Allahabad Division, 1092 were sent on compulsory leave on half pay and in the Assansol Division, 4981. The main categories were—Transportation, Station Masters and Assistant Station Masters, Power, Drivers and Firemen, Commercial and Rolling Stock staff.

Mr. Joshi—How long was this system in force in your division?

A—From the 1st of April to the end of October. We stopped it under instructions from the Railway Board.

Q—Can you give any reason why it was not extended to other categories? They were workable in other categories?

A. No. In my opinion, they were workable"

We therefore submit that short-time is not only a theoretical proposition but has its various advantages namely

- (1) it reduces the number of men to be retrenched;
- (2) it introduces equality of sacrifice for all-and;
- (3) it does not disturb the efficiency of the Administration.

Some Railways have not favoured short-time and the grounds they have given are (1) the difficulty of quarters and (2) the difficulty of provident fund contributions. The objections are not really valid as the Railways do not even now provide quarters for all the staff. The difficulty is, therefore, largely imaginary. The problem is in no way different from what it would be when a man is temporarily on leave and when another relieves him, which is an every-day occurrence in the railway service. The same may be said about the provident fund as employees who are on leave without pay or on sick leave are allowed to contribute by instalments to the provident fund.

Another method of short-time is by extending holidays for a few days during the harvesting of crops and holiday seasons and other festivals. This has been deposed to by Mr. Flat of the E. B. Railway in the following words:—

Q. You have also increased the number of unpaid holidays?

A. Yes, but I cannot tell the number of days. Before the period during which the workshops should be closed was determined, the staff was consulted and actually there was a considerable voice of opinion in favour of the closing of the shops for a longer period than we have actually done. The men preferred to have a longer continuous holidays to a weekly holiday."

The Pujah holidays have been in this manner extended on the E.I. and B.N. Railways from 10 to 21 days.

We submit on a review of the position as emerges from the statements of official witnesses, there can be no doubt of the utility and advantage of this method of short-time. It is preferable not only to discharges but also to the short time adopted in Shops.

Other methods referred to by Mr. Sastri might also have been tried and results watched before resorting to discharges and the sum-total of the result would have been that thousands of men would have been saved from being thrown into streets. Supervisory staff also could have been dealt with in this manner to ensure equality of sacrifice as stated above.

The latest case to prove that short time is a feasibly alternative is furnished by the German Railways where 15,000 men were protected by the adoption of short time. The International Transport Workers' Federation has issued a statement about short time working on the German Railways as follows:—

“As a result of the catastrophic state of the German labour market and the political and industrial power of the employers, German Railwaymen are having a bad time and their Unions are confronted with difficult tasks. Following upon reductions of wages and salaries, the German State Railway Company placed before the Railway Union the alternative of dismissal of 15,000 men or three to five shifts off without pay monthly in the workshops, goods sheds and maintenance of way work. The Unions offered, as an outside concession, two shifts off a month, the main workshops to be excluded. The refusal to consider more short time was interpreted by the Company as a consent to the dismissal of 15,000 employees. The Government whom the Company consulted on the matter, advised against the dismissals. After the Ministry of Labour had failed to bring the company and the unions together, the former were given a free hand to lay men off for as many shifts as was deemed necessary.”

The Unions did not let it come to independent action of the Company, however, but resumed negotiations with the result that:—

1. In the repair shops there will be 4 shifts off a month instead of 5;
2. In the running repair and carriage and waggon shops and goods sheds with more than 25 employees upto 3 shifts off a month; and
3. In the maintenance of way service no shifts off; while the company undertakes not to farm out any of the maintenance of way work to outside contractors.

The above settlement will remain in force during the months of April, May and June of this year.”

VOLUNTARY RETIREMENT.

As regards the retirement of staff taking gratuity and provident fund full use has not been made of this method on most of the Railways. No inducement for voluntary retirements were made available except by one Agent. There is no particular inducement for voluntary retirement to the workers if the only thing he gets is his gratuity and provident fund. Before retrenching any staff compulsarily, opportunity should have been taken of inducing existing employees to retire voluntarily with some special benefits. Only the M. & S. M. Railway did this and that only for a short time. How many men could have so retired we have no means of estimating but if the percentage of Madras and Southern Mahratta Railway is taken as the basis the number would be about 12,000.

TRANSFER OF INDIVIDUALS TO OTHER DEPARTMENTS.

As regards the last alternative viz., transfer of individuals to other departments or to other Railways, it is admitted that the Railways have given little attention to it. They go further and say that at a time of universal depression, when every Railway system was retrenching, transfer from one Railway to another was a virtual impossibility. The recorded evidence however shows that on several Railways that was considered a feasible proposition, as new recruitment to the extent of a few hundred was required after retrenchment had been stopped. In this way, 2,000 men could have been transferred without adding to expenditure, if only proper care had been taken to co-ordinate discharges and new recruitment in the Railways. But while there was some plausibility about the difficulty of transfer from one Railway to another, little attempt was made even with respect to the same Railway, departmental transfers were not considered, divisions and districts were treated as water-tight, with the result that while in one division discharges took place in another division on the same Administration new recruitment had been resorted to. This absence of co-ordination was particularly prejudicial to the interests of senior men as while senior men were discharged in one division, juniors were retained in another. Even in the matter of demotion less hardship would have been created if there had been co-ordination amongst the various departments, districts and divisions of individual Administrations.

In the observations of my learned friend on Saturday last, much play is made with the supposed difficulties of having the whole railway being made the unit of retrenchment and he has given a number of objections to its adoption, which may be summarised as below:—

- (1) That the workers do not like to go from one place to another.
- (2) That the climatic, ethnological and psychological conditions prevent people from going great distances for jobs away from home.
- (3) That a steady and efficient worker feels aggrieved if he is discharged in favour of an outsider although the latter may be senior to him.
- (4) The serious administrative difficulty will be felt in maintaining huge lists of workers in all places showing juniority and seniority.

(1) & (2) We submit that there is no substance in any of these objections. The issue before the Court is whether any attempt of this kind

was at all made by the administrations. In the third term of reference transfer from one department to another and even from one Railway system to another has been stated as alternative to retrenchment. Apart from that, we do not think that people in need of jobs are so very punctilious about the place at which they find work. The actual fact as it prevails to-day on all the Railways is decisive. Many railway workers in City of Bombay come from places outside the Bombay Presidency and many more come from places far away from Bombay, differing in customs, social life and climate. The Jhansi Workshop staff was transferred to Parel without any regard to the considerations which are now being put forward. Thousands of Indians are found in various places all over the world from Africa to New Zealand for the sake of living. But the most serious case is that of plantations in Assam and also of Burma, where under the harrowing conditions of life, thousands of poor men seek jobs on low wages from Madras Presidency and the Provinces adjoining Assam. The presence of 1,60,000 Europeans in this country in public services, trade and army is a complete refutation of the so-called climatic reasons coming in the way of men accepting services away from home.

(3) We admit the force of this contention but we want the other side to admit the greater force of our argument. The Railways are faced with an alternative of discharging a senior man or a junior man. There is hardship in either case. The question then only remains to be decided, which is the lesser evil and if interests of justice require that the senior man should not be sacked, the Railways must face the situation by discharging a junior man.

(4) This difficulty is also greatly exaggerated. The Railway organisation must be equipped for furnishing information of this kind, if required in ordinary course of administration, whether the Administration is by district or by division or by department. The headquarters of each unit of this organisation have, we understand even now these lists and it is only a question of finding out from them the most juniors in each category, due regard being paid to the transferability of men from one category to another. We agree that to take a worker getting Rs. 20 at Allahabad to Howrah is not in the best interests of the Administration or the men ordinarily but the higher the category of the employee the greater the area from which recruitment or transfer should take place. We do not say how such an arrangement can be called impracticable. It only requires the staff at headquarters to be a little more actively genuine to the hardships of the workers affected.

THE FOURTH TERM OF REFERENCE.

FAVORITISM & VICTIMISATION.

The fourth term of reference relates to victimisation and favouritism and it is here that all the individual cases have got to be examined. We have done so in a separate part of this argument and we wish here to state some common features of all the Administrations. They are :—

- (i) Preferring juniors to seniors ;
- (ii) Victimising Union workers ;
- (iii) Preferring one community or race to another and
- (iv) Victimisation for private ends.

The powers which Foremen, Chargemen, and Works Managers who have the right of appointment and dismissal, enjoy, are fairly wide. We wish to emphasize the racial and communal part of victimisation and favouritism. It has been an ancient grievance of the Indian Railway workers that the European and Anglo-Indian employees have virtual monopoly of superior jobs and where any job is open to the Indians, they are found in the lower grades and only in rare cases are promoted to the higher grade. As if this was not enough, the Railway Board, in their letters of 3rd and 6th March 1931, have issued definite instructions that the reduction of staff should not operate to the detriment of communities, who are not adequately represented in railway service. We are against all communal or sectional preferences in public services. Efficiency must be the first consideration and fairness in selection should be the next. But the instructions of the Railway Board have left the door open for favouritism. Railway Agents have found themselves compelled to maintain communal proportions and efficiency necessarily received a secondary place. It has been claimed that the Railways are under commercial management. Commercial management means management on business lines and this means again that merit should be the supreme test; but if communal percentages are to be maintained, merit must go to the wall, at least in some cases and so it has happened. Take the case of the East Indian Railway alone. That Railway has furnished figures in the Blue Book showing that it has scrupulously adhered to the communal percentages so far as the Crew system is concerned. This will be found on page 28 of the Blue Book, Appendix B. Out of a total of 1,323 employees of the Crew staff, the percentage of the communities was as follows :—

Muslims	..	..	..	33
Hindus	..	..	.	55
Europeans and Anglo-Indians				12

Out of these 1,323, they reduced 218 and the balance now in service is 1,105 and even now the percentage is the same, viz., 33 per cent Muslims, 55 per cent Hindus and 12 per cent Europeans and Anglo-Indians. The East Indian Railway claims a great deal of credit for having scrupulously maintained this but while the Court was in Calcutta, many discharged men of all communities came forward with loud protests that they were discharged in favour of their juniors and inefficient men had been retained to their exclusion. This was inevitable because in order to maintain the percentage, men of merit from each community had to go and the Railway Administration had to admit that in order to adhere to the percentage, they had to drive away competent and senior men and keep inefficient and junior men.

THE FIFTH TERM OF REFERENCE.

ASSURANCE OF RE-ENGAGEMENT.

The Court is aware that para. 5 (3) of the Board's letter of 3rd March 1931 requires the Railway Administration to keep a common waiting list of staff discharged and directs that the men on such waiting list should be appointed to any suitable vacancy occurring in the future in preference to others. In spite of the definite orders in the letter, there has been ample evidence in the replies of various Railway Administrations to the questionnaire of the Court that since the commencement of retrenchment, a number of outsiders have been engaged. The explanations given in justification of this order have no substance in them. As pointed out herein before, it is difficult to believe the excuse that in these days of keen unemployment, discharged men will not be willing to go to another division. The fact that the G. I. P. Railway strikers have accepted jobs even on Foreign Railways throughout India, shows the hollowness of the contention of the Administrations. Thus the assurance conveyed by the Railway Board has not been kept.

Even those cases where the discharged men have been taken back to duty the unit for reinstatement has curiously enough been the whole Railway and not the Divisions, although retrenchment carried on was by Divisions or by Shops. Another complaint that we have to submit to the Court is that the reinstated men are treated as temporary on the N. W. Railway. This is stated to be in accordance with the recent orders of the Government of India, and such employees are not allowed to contribute to the Provident Fund.

The waiting lists again are not kept for all the employees discharged and even where a waiting list is kept, it has been stated that on recruitment being commenced only those will be taken who are found efficient.

SPECIAL HARDSHIPS ON B. N. W. AND R. K. RAILWAYS.

While we have opposed retrenchment in any shape or form so far as Railways are concerned, and while we would have established our contentions to the hilt if the reference was not a restricted one as it is now, we wish to make an exception in the case of the Bengal and North Western Railway and Rohilkund and Kumaon Railway. The first Company pays a dividend of 18 per cent and we are not surprised that when Mr. Kalappa cross-examined the official witnesses representing this Railway as to the rate of the interest that was paid to the share-holders, that officer evaded answering it and referred Mr. Kalappa to the Annual Report of the Railway. If the Company is to run on the lines of exorbitant dividends, no amount of income would satisfy its share-holders and the workers in that Railway will be sweated and exploited as they have all along been done. This is evident from the figures of retrenchment given in the Blue Book so far as that Railway is concerned. These figures are eloquent testimony of the treatment that the workers receive from the Administration. Most of the retrenchment was confined to the low paid employees whether in the shops or the Engineering and Traffic Departments. Out of 507 retrenched employees, all earning Rs. 30 and less, the annual saving expected is stated to be roughly 70,000 which works out at Rs. 140 per year for every employee discharged or an average of less than Rs. 12 per month and when it is remembered that many people might be earning Rs. 16, 20, 25 or 30, the average of Rs. 12 could only be secured if a much larger number was being paid even Rs. 10, 8 or 6 or less per mensem. This is the normal picture of wage-scales on this Railway and compares most unfavourably even with low wages on other lines. That being the condition of the workers on this line, we are not sure that the discharges of men there is an evil or that it is not ever some blessing and we are half inclined to congratulate this Railway on its retrenchment. We would be quite content if the whole of the line is closed down instead of being allowed to run as a slave colony. Retrenchment on such a Railway is almost a mercy and a liberation and not a hardship. We leave this topic with a prayer to the Court that it will make some recommendations to retrieve the abject condition of the workers.

PLEA FOR HIGHER STANDARD OF LIVING.

On Saturday last, my learned friend read out a laboured argument against short-time and leave by rotation in the interests of high wages and maintenance of working class standard of life. We are grateful that the

standard of living of these humble workers has such a warm place in his heart. The condition of the employees of the Bengal North Western Railway, 26,000 in number, provides a wide field for the application of his humane sentiments. We hope to hear as a result of this inquiry that the wages of the B. & N. W. Railway workers have been considerably improved; otherwise, we regard his protestations of humanity as mere crocodile tears.

THE SO-CALLED RE-ORGANISATION.

We had already adverted to the letter of 14th of May 1931 written by the Railway Board to the Railway Administrations. That letter lays down that savings due to retrenchment were only to be made on bona fide grounds and not in the spirit of the grab, that unless the nature of the work had changed, considerations of economy alone should not prevail in reducing the emolument of staff. No where do we find that the Agents have kept this very wise admonition in mind and the gravest breach of this instruction is to be found in the so-called demotions and re-organisations. The Railway Administrations were not themselves quite happy about the fairness of these re-organisation schemes and they have repeatedly tried to take them out of the reference to this Court, although the whole of the Blue Book and supplementary statements are full of attempted justification of the drastic economies effected through these re-organisation schemes. Whenever they could not justify a thing on merit, they just mutter the word 're-organisation' like a 'Mantram' and believe that this would drive away the ghost. We submit that they must be pinned down to the contents of the letter of the Railway Board of 14th May 1931 and to 're-re-organise' their so-called schemes of re-organisation, so as not to disturb too violently the standard of living of the workers concerned.

REQUEST FOR ASSURANCE AGAINST VICTIMISATION.

My learned friend referred to the statement of the Federation where we have made complaints about the grievances of Assistant Station Masters. He rightly complained that after having made that statement we have called no evidence to prove it. We shall tell him the reason why we could not produce that evidence. The railway staff like other staff is always anxious not to be victimised and when the Court of Inquiry began, a number of Assistant Station Masters approached us with distressing tales of injustice and unfairness from which they were suffering and volunteered to come forward before the Court to give evidence if they were given protection from this Court before they appeared. We believe that some request for protection was received by the Court itself, both from individual workers and Union, and rather than being victimised after giving evidence, they

have preferred to stay away. A little suffering is preferable to starvation is the argument which they have put to themselves and refrained from giving evidence. That their fears were not groundless is also proved from the fact that some witnesses on the B.B.&C.I. Railway were actually given notice of discharge after they gave evidence and some transferred from Bombay to outside stations because they gave evidence. The workers knew from bitter experience how hard it is to stand up to an officer and my learned friend should not be surprised if the workers who could have given the most material evidence have been unable to appear before the Court for the reasons mentioned above.

JUSTICE, EQUITY AND GOOD CONSCIENCE.

We beg to invite the attention of the Court to the provisions of the Rules made under the Trade Disputes Act. The inquiries of a Court or Board are to be conducted with due regard to equity, justice and good conscience, so that the Rules of evidence and procedure are not always to be strictly applied as would be done in a regular Court of Law. In the terms of Trade Disputes Act, whatever is relevant to or connected with the enquiries is under reference. We only emphasize this point as an answer to the other side which has made a fetish of relevancy and admissibility, oblivious of the merits of the reference.

THE COURT IGNORED.

In paragraph 5 of the Blue Book, the Railway Board said that they and the Railway Administrations have an open mind on the question of future retrenchment and that they would review the situation in October. This statement incidently furnishes the admission that the Railway Board is a party to this dispute. So far as the question of open mind is concerned, at the June meeting there was no question of any wage-cut or further short-time in the Shops. Thereafter this Court of Inquiry was appointed; but instead of waiting for its Report, these measures of retrenchment have been carried out by the Railway Board. The claim of an open mind has thus been shown to mean a pose. We wish to record our strong and earnest protest against the action of the Board in ignoring this Court which is specifically charged with the investigation into the methods of past retrenchment. The machinery of the Trade Disputes Act was devised with a view to settling trade disputes by negotiation and enquiry. It is therefore an implied obligation on both the parties to the dispute that they should desist from embarking on any independent or aggressive action, while the inquiry or investigation is going on. This wholesome restriction is in the interests of both parties, but if while such enquiry is going on, one of the parties to the dispute takes into its head

to pursue its own line, the objects of the Trade Disputes Act will be frustrated and the way will be opened for industrial strife and dislocation. We therefore suggest that the Court will be pleased to mark its serious displeasure at the action of the Railway Board in launching upon fresh retrenchment before the report of the Court is made.

SUBMISSION SUMMED UP.

Summatising therefore, we submit that the remaining staff have to work under conditions of hardship, uncertainty and [without any assurance of the several promises made in the past being fulfilled and that so far as the terms given to the discharged men are concerned, they will have to be extended on the lines suggested in this argument before they could become adequate or reasonable.

If the fullest advantage had been taken of normal wastage, voluntary retirement, stoppage of recruitment we estimate that at least 75,000 more men would have been required by the Railways and no necessity for retrenchment would have been felt. Secondly, if the Washington and Geneva Conventions had been properly and honestly applied, 40,000 more men would have been necessary and thirdly if co-operation between department and department division and division had been kept in mind, the complaints about discrimination and favouritism would have been fewer, many seniors would have escaped retrenchment and the demoted would have been saved.

Further steps, that would have reduced the number of staff discharged or even made it almost unnecessary, are leave by rotation with or without pay, compulsory holidays and by the adoption of other forms of short-time e.g., the reduction of over-time on the lines suggested in the Labour Commission's Report.

The Court has examined during the last three months over 600 witnesses. In the very nature of things, these witnesses were not selected on any particular principle. They came as individuals to voice individual grievances. Only some were put forward on behalf of the Federation; others came as representatives of groups of railway employees in various departments. The proceedings of the Court began months after retrenchment was effected and most of the workers affected must have left for their respective villages by the time the Court began its proceedings. It was therefore impossible that any notice, however widely broadcasted, would reach all the 42,000 people who had been discharged from railway service. It is only fair to state that the Court had not shut out any available evidence but

it is equally true that witnesses, who submitted their applications, did not always know what the contents of those applications were required to be. When notices were fixed at public places, like railway stations, containing the terms of reference, and when a large number of workers are not acquainted even with the vernaculars of their Provinces, it is not to be expected that they would send in their applications in the proper form. Many of them therefore, simply applied for being examined; others, when they gave some details, could not have put their case under one or the other of the terms of reference. Even therefore those whose applications were not granted, cannot be described as having no case and as for those who could make no attempt to come before the Court either because they did not know of the setting up of this Court or of its proceedings, it could not be assumed that they have no case or grievance. All that the evidence before the Court can be reasonably said to establish is that in these particular cases, there was or there was not a legitimate complaint against the Railway Administrations. Of course, some general conclusions could well be deduced with respect to the methods of retrenchment and to that extent, the Railway Administrations should be held responsible for injustice done and it would further establish the necessity for investigation of the remaining cases. But even apart from this, those who could not appear before the Court for the reasons above mentioned, have a right to be heard. It would be impossible for this Court to attempt any such thing, but the interest of justice requires that some other machinery should be devised. We therefore suggest that the Court will be pleased to recommend:—

- (1) That for each Railway Administration, a Joint Committee consisting of an Officer of the particular Railway not connected with retrenchment and a representative of the Federation should be set up to go into the remaining individual cases, by visiting important centres on each line;
- (2) That it will be open to the Committee to examine the whole record of the individual workers concerned and also take evidence relevant to the case;
- (3) That if the Report of the Committee is not accepted by either side, an appeal shall be made to the Railway Board; and
- (4) That if the Federation's representative happens to be a worker, his presence at the inquiry shall be taken as being on duty.

We submit that this will meet the requirements of the situation and will leave no grievance among the railway workers.

ACKNOWLEDGEMENTS.

We acknowledge with thanks the help which we have got from the Railway Board and the Railway Administrations in the matter of passes but we must also record the hindrance they placed in our way by initiating fresh retrenchment when we were occupied with the work before this Court. In preparing our case against, it, we had to spend at least three weeks going up and down the country including two visits to Delhi for interviewing the Board ; and if at times our presence before the Court has not been as regular as we would have liked to make it, we trust the Court will excuse us as the circumstances were beyond our control.

We thank my learned friend the Advocate General, Mr. Bhagat and Major Wagstaff for their uniform courtesy and the Court for the indulgence with which we have been always treated and we now leave the case of the railway workers, if we might take the liberty of saying, in their able hands.