

**GOVERNMENT OF INDIA  
MINISTRY OF LABOUR**



**SUMMARY OF PROCEEDINGS OF THE  
STANDING LABOUR COMMITTEE  
(TENTH SESSION)**

***HELD IN NEW DELHI  
ON THE 15TH, 16TH AND 17TH APRIL 1948***

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**GOVERNMENT OF INDIA**  
**MINISTRY OF LABOUR**

**STANDING LABOUR COMMITTEE (TENTH MEETING)**

Held in New Delhi on the 15th, 16th and 17th April 1948.

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(2) Mr. C. P. Gopala Panikar, Secretary to the Govt. of Travancore, Law and Labour Ministry.

**Indore, Gwalior, & Baroda :**

(1) Mr. V. V. Dravid, Hon'ble Minister for Labour, Indore.

(2) Mr. N. D. Gupta, (Adviser), Deputy Director of Labour, Gwalior.

(3) Mr. N. B. Cama, (Adviser), Deputy Director of Labour, Baroda.

**All-India Organization of Industrial Employers :**

*Delegates :*

(1) Mr. S. P. Jain.

(2) Sir Shri Ram.

*Advisers :*

(1) Mr. D. G. Mulharkar.

(2) Mr. G. L. Bansal.

**Employers' Federation of India :**

*Delegates :*

(1) Sir Ardeshir Dalal.

(2) Mr. A. J. Elkins.

*Advisers :*

(1) Mr. T. S. Swaminathan.

(2) Mr. Y. S. Pandit.

**All-India Trade Union Congress :**

*Delegates :*

(1) Mr. K. N. Joglekar.

(2) Mr. Manek Gandhi.

*Advisers :*

(1) Mrs. Shanta Mukherji.

(2) Mr. K. S. Pitkar.

**Indian National Trade Union Congress :**

*Delegates :*

(1) Mr. S. R. Vasavada.

(2) Shri Shantilal H. Shah.

*Advisers :*

(1) Shri Suraj Prasad Awasthi.

(2) Shri Ramananda Das.

**Indian Federation of Labour :**

*Delegate :*

(1) Mr. V. B. Karnik.

*Adviser :*

(1) Mr. K. K. Sinha.

**Independent Employer :**

Mr. N. S. Kajrolkar, Vice-President, Butter Manufacturers' Association, 112, Meadows Street, Fort, BOMBAY.

**STANDING LABOUR COMMITTEE (TENTH MEETING)  
SUMMARY OF DISCUSSION.**

**INTRODUCTION**

In the absence of the Hon'ble the Labour Minister, Government of India, the Hon'ble Shri Gulzarilal Nanda, Labour Minister, Government of Bombay presided.

The Chairman requested Mr. Lall to make some introductory remarks.

Mr. Lall explained the reasons why the Labour Minister could not attend the meeting and thanked the Hon'ble Shri Gulzarilal Nanda for taking the chair in his absence. He also explained that it was not possible to call meetings of the Standing Labour Committee oftener due to various reasons, particularly due to shortage of officers. He pointed out that apart from the meetings of the Standing Labour Committee, the Ministry of Labour had been trying to inaugurate Industrial Committees on various industries and that meetings of Tripartite Industrial Committees on Coal, Cotton Textiles and Plantations had been held already, the last being the most successful because it came to definite conclusions and prepared the ground for a very substantial advance in the conditions of plantations labour. He announced that the Ministry of Labour was contemplating setting up Tripartite Industrial Committees on Jute, Cement, Tanneries and Leather goods and stated that it was his feeling that the Tripartite Industrial Committees provided a very good machinery for finding a common ground between the different parties. Citing the case of the Coal industry, he pointed out that there was considerable lack of co-ordination between the Centre and the Provinces which had just happened because there was no machinery to provide a meeting ground and that when he went to the coalfields with the Hon'ble the Labour Minister it was suggested that there should be a permanent or Standing Tripartite Committee which would examine all disputes as they arose and try to settle quickly instead of referring them to adjudication. Referring to the Agenda, he said that one of the main items on the agenda was the replies to be sent to the International Labour Office on their Questionnaires and Reports relating to the subjects on the agenda of the San Francisco Session of the Conference.

He regretted that it was not possible to consult the Standing Labour Committee before sending the replies to the I.L.O. as they have to be forwarded by a prescribed date and the Standing Labour Committee cannot be called at such a short notice. The views of the Standing Labour Committee can be incorporated in the brief to the Government delegates to the Conference. Referring to item II on the agenda dealing with compulsory Provident Fund for industrial workers which was an attempt to extend social security, he said that a very big compulsory Provident Fund Scheme had already been started for coal miners and that if that scheme was successful it would be possible to extend it to other categories of industrial workers as well.

Dealing with the decasualisation of labour in the main industries he felt that the Chairman would be able to supplement what had already been put down in the memorandum on the subject.

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He pointed out the importance of the Resolution on Industrial Truce and said that ways and means of giving effect to the principles laid down in the Resolution would have to be devised.

Mr. Gandhi on behalf of the All-India Trade Union Congress voiced his emphatic protest for not calling a meeting for a period longer than a year and wanted to have an assurance from Government that the meetings of the Standing Labour Committee would not be delayed in future merely on grounds of shortage of officers.

Mr. Lall noted that.

ITEM I, (A) (a) (i) : I.L.O. QUESTIONNAIRES AND REPORTS ON FAIR WAGES CLAUSE IN PUBLIC CONTRACTS.

[For replies and comments of the Govt. of India see Appendix I.]

Mr. V. V. Dravid—(Indore) felt that the wordings of the clause did not say much regarding fair wages and as such it would be better to be more specific about the point and also to make provision for reference to something like a Wage Board in case there was doubt whether the wages stipulated in the contracts were not fair wages.

The Chairman drew his attention to the provision for setting up the machinery for determination of fair wages.

Mr. Joglekar agreeing with the Labour Minister, Indore, stressed that what should constitute a fair wage should be specifically laid down as otherwise the thing would be imperfect. Referring to question 3(ii) and Government's reply thereto, he stressed that the answer should have been in the affirmative and that public contracts should be given only to such firms which possessed a certificate to the effect that they did pay fair wages to the workers and that the Government should certify that. Referring to the reply to question 7, he said that he did not see any reason why the regulations relating to public contracts should be suspended even during national emergency since even during such times workers' wages should not be allowed to be attacked. He, however, agreed that such suspension could be effected only after consultation with worker's representatives. Even where famine relief works were undertaken, he urged that the fair wages clause should operate. Referring to Government's reply to question No. 12, he felt that if the general conditions of the workers and wage standards were to be decided, it should not prove difficult to fix wages even if the scope of the Convention was widened to cover all contracts. He felt that Government's reply to question 12 was very objectionable, since it was made to appear that the grant of higher rates of wages to workers employed on Government works was something like a special privilege given at the expense of the community. He urged that Government should take the lead in setting an example for other employers regarding the proper rate of wages.

Mr. Manek Gandhi pointed out that if the economic development of a particular area was higher than that of another, the Government should see that proper protection was given to the workers by giving them a fair wage. The argument of the Government that the economic development of the rest of the country being poor, a higher standard could not be laid down could not be accepted.

Mr. Lal pointed out that the I.L.O. question visualized that.

Mr. Gandhi pleaded that Government should take a progressive attitude in answering I.L.O. questions, and suggested that the reply should be in the affirmative.

Sir Ardeshir Dalal thought that there was a good deal of misconception about the object of the question and its answer. He suggested that when giving fair wages, conditions should be laid down to bring the working conditions also up to a level and felt that all that was implied in the question was that the work done should be commensurate with the wages paid and that the answer should, therefore, be in the affirmative.

Mr. Elkins pointed out that there had been instances where although Government had approved of the wages as fair, labour had refused to work on those wages with the result that the contractors had been put to a loss and Government did nothing to assist the contractors.

Mr. Joshi replied that the wages which might have been fair at one time, could not be said to be so always.

Mr. Joglekar referring to Government's reply to question No. 15 said that he failed to see any reason why it should not be possible in all cases to specify in the contracts the normal rates of wages and overtime rates. He was of the opinion that any latitude in this respect would be detrimental to the workers' interests and as such both normal rates of wages and overtime rates must be specified in all contracts. Referring to Government's reply to question No. 20 he also expressed the view that in all cases, funds must be withheld from contractors to meet the claims of the workers.

Mr. Gandhi agreed with Mr. Joglekar that the money should always be withheld from the contractors since it very often happened that the contractors took the money and went away and subsequently the workers were the sufferers. He further stressed that if the contractors ran away, the authority giving the contract must be held responsible for paying to the workers and suggested that the question should be covered by a Convention and not a Recommendation.

Shri Shantilal Shah drew attention to Government's answer to question 12 and suggested that in such cases the fair wage should be fixed by the Wage Boards to be constituted by either the Central or the Provincial legislation.

The Chairman asked whether the question related to conditions of work.

Shri Shantilal Shah replied that the answer confined itself mainly to wages although the question related to work. Referring to Mr. David's point that fair wages were laid down in the contract, he pointed out that if wages were fixed by a Wage Board, then the wage rates laid down in the contract may vary. He was of the opinion that in case of national emergency, Government should have the power to suspend the fair wage clause and invite the Standing Labour Committee at the earliest opportunity to express its opinion on the action taken by Government and thereafter to implement the decision of the Committee. As regards withholding

contractor's money, he suggested that if the contract in cases of default in the payment of wages was spread over a long period, then in cases of default in the payment of wages the payment of money equivalent to one or two months' wages might be withheld. If all payments were withheld it would be impossible for the contractor to work, and that itself might be a ground for non-payment to labour.

Mr. Ramanathan signifying the general agreement of his Government with the Government of India's reply to the questionnaire, felt that since famine relief measures were undertaken by the Provincial Governments it would be better to have some latitude so that the Provincial Governments could give the best relief to the people.

Mr. Sundaram was in general agreement with the replies but suggested that in defining contracts some monetary limits should be fixed so that all types of small contracts might not be included. He suggested further that along with the fair wages clause, the task should also be specified.

Mr. P. K. Sen was in favour of relaxations for famine relief works. He also felt that in cases of building works like the P.W.D. construction, it would not be possible to lay some definite allotment of work and to include the fair-wages clause in all contracts. He therefore suggested that if there was less output, corresponding reduction in fair wages should be allowed in fair wage clause.

Thakur Kuldip Narayan Singh while agreeing with the Central Government's replies stressed that Government should have power in a national emergency to relax the fair wages rates.

Mr. Chatterji generally agreed.

Mr. N. K. Dravid (Bombay) expressed the opinion that in principle Government should enforce the fair-wages clause in all contracts and refuse to patronise those who did not pay a fair-wage. He stressed that the difficulty of inspection should not be an obstacle and agreed with the representatives of Orissa and U.P. regarding famine relief rates and with the Government of India with regard to other questions.

Mr. Gandhi stressed that famine relief work should not be given to contractors.

Mr. Lall pointed out it was never given.

Mr. Gandhi pleaded that since no other class of workers who had fixed wages suffered during national emergency it would be unfair to penalise only a particular class of workers. He did not agree with the suggestion of a previous speaker to the effect that Government should take action first and then call a meeting of the Standing Labour Committee.

Mr. Karnik referred to question 3 and expressed the opinion that the fair wages clause should apply to all the three categories mentioned in the question. He felt Government should not place their orders with any firm or with any concern which was not prepared to accept the fair wage clause.

The Chairman pointed out that if there were not many firms producing a particular type of goods they could not stick to the principle suggested by Mr. Karnik.

Mr. Karnik replied that Government's insistence on placing orders only with those firms which gave a fair treatment to their workers would compel the employers to fall in line with fair conditions of work in every case. He was of the opinion that national emergency should be defined as a war and that the exemptions should be brought into force only in case of war but that, if not prior, at least immediate consultation with the workers' organisation should be insisted upon.

Sir Ardeshir Dalal enquired whether it was not the practice of Government to notify a state of emergency. He stressed that there could not be any question of applying the laws to payment for famine labour.

Mr. Lall said that before dealing with the points of criticisms, he should like to point out that in framing the replies to the questionnaires it should be borne in mind that if a country was heading for a Convention she was undertaking a very definite obligation to fulfil absolutely and as such without a machinery to enforce what was being accepted a country should not rush into a Convention. He cited the cases of countries which had come to grief over ratification of Conventions because although they had ratified them, there were many violations. He pointed out that there were many things for which he would like to have a Convention rather than a Recommendation, but as it was not quite certain that all the Provinces in the Union were going to provide the required machinery for enforcement it was better to go slow. While agreeing with the suggestion that public contracts should only go to firms which were certified as giving fair wages, he drew attention to the question of enforcement of that condition and again stressed that going in for a Convention would mean asking for trouble. He pointed out that the Factories Act provides for suspension and national emergency. He agreed with Sir Ardeshir Dalal that if there was a notification by Government regarding national emergency, that should be accepted.

Mr. Gandhi stressed that it would be better to rely on the patriotism of the worker otherwise he may be alienated.

Mr. Lall remarked that since there would be a democratic form of Government, the patriotism of the Government should also be relied upon. He re-emphasised that famine works were not given on contract and everything was supervised by Governmental agency and as such there was no necessity of raising that point. He agreed that the point raised regarding monetary limit for contracts was a sound one but that was again a matter which would require careful examination. He, however, felt that the proposed figure of Rs. 30,000 was high. Referring to Government's answer to question 3, he explained that the reason of going slow was largely influenced by the fact that Government were not sure how far they could undertake a definite obligation. Although Government could definitely accept the responsibility in respect of public works, they were



not so sure in respect of other categories and this explained the reason why Government had been a bit halting in their reply. In reply to Chairman's query, he stated that it could go as a Recommendation but a Convention was a danger.

The Chairman invited the remarks of the workers' representatives on the question of giving a contract for a particular amount.

Mr. Gandhi replied that the employers would divide the contracts between four or five firms.

Mr. Lall pointed out that both the principal and small contractors were equally bound and that the main contractor being responsible would apply that to sub-contractors also and Government would also stop splitting up of contracts as far as possible.

Mr. Gandhi felt that Government was leaving out most of the things as Recommendations for want of administrative machinery.

Mr. Lall replied that Government were not leaving most of the things but were undertaking definite responsibilities as well.

Mr. Dravid (Indore) felt that unless the sphere of control was limited, Government might not be able to regulate and control matters. He stressed that fair wages should be specifically laid down instead of leaving the matter to the terms of contracts.

Mr. Lall pointed out that to lay down in a Convention or Recommendation absolutely how a fair wage was to be decided in all the countries of the world was going to be a really tremendous, if not an almost impossible, task as the criteria for determining fair wages for India could not be made applicable to all countries of the world. He felt that it would be impossible for an International Body to step in and say that they were going to decide what should be the fair wage for all countries.

Mr. Dravid (Indore) still felt that it could be said that the local authority or the local Government should settle that question.

Mr. Lall did not think it was necessary to specify that in a Convention or Recommendation.

The Chairman felt that there was adequate discussion on the question and pointed out that the over-riding consideration was the fact that whatever was undertaken would have to be carried out. He thought that the machinery that would be provided could be trusted to see to it that the fair wage clause was honoured in all contracts. He pointed out that national emergency had nothing to do with wages only and felt that the obligation to see that certain wages were being paid might not be enforced in a state of emergency.

Some members felt that the normal principal of liability should be accepted.

Mr. Joglekar stressed that the legal liability and the legal claim of the workers should remain.

The Chairman drawing attention to part 5 of question 17 and the answer thereto, pointed out that there was a "competent authority" for the fixation of fair wages.

**ITEM I(A) (a) (ii) I.L.O. QUESTIONNAIRES AND REPORTS ON  
" PROTECTION OF WAGES "**

[For replies and comments of the Government of India see Appendix II.]

Mr. Dravid referred to question V(a) (i) and suggested that allowances in kind should be restricted only to the personal requirements of the worker and his family. He drew attention to the danger of the employer's interference with the wage level and pointed out that in one centre cheap cloth was supplied but only 25 per cent. of the workers availed of that and at the same time that went into the cost of living index and brought down the dearness allowance. Referring to question 6(b), he felt that the consent of the worker might not be an adequate safeguard and stressed that unless all workers were literate it would be better to insist on cash payment of wages. With regard to question 14, he expressed the opinion that no deduction should be allowed. Referring to question 16, he thought that there need be no prescribed time limit and that all arrears of wages should be given protection. He drew attention to the fact that under certain Acts like the Provincial Insolvency Act and the Indian Companies Act, the protection of wages was for a higher amount than a month's salary and sometimes even up to Rs. 1000. He expressed the opinion that the same could be enforced in respect of secured and unsecured debts, whatever the wages might be.

Thakur Kuldip Narayan Singh agreed with the view of the Bombay Government but referring to question 14(1) felt that there were dangers where labour was unorganised or where industrialisation was in its infancy. Referring to Government of India's views on question 16 that wages payable during the last wage period should be treated as privileged debt, he re-iterated the views of the U.P. Government that all payable wages and fines and deductions from wages for providing amenities to employees should be treated as privileged debts. He agreed generally with the Government of India in respect of replies to other questions.

Mr. Sundaram agreed with the views of the Government of India.

Mr. Ramanathan stressed that workers should be paid in cash only and not in bank drafts and cheques.

Mr. Lall pointed out that the workers sometimes preferred cheques and hence payment could be made in cheques etc. with their consent.

Shri Shantilal Shah argued that since an award might not be interpreted as a contract and since doubts had arisen whether an award could be enforced under the Payment of Wages Act, it would be better to substitute "written or unwritten contract" by "award or binding order which binds the employer and the employee".

Mr. Sundaram said that his Government had already suggested to the Government of India that power should be taken to compel the employer to pay what had been awarded.

Shri Shantilal Shah referring to the suggestion regarding exclusion of "gratuity payable on discharge" stressed that the Payment of Wages Act should be suitably amended otherwise it might not be possible to enforce gratuity award. He also suggested that there should be a recurring penalty for every day of default in payment, since the present penalty of a fine of Rs. 100 was not adequate.

The Chairman asked him whether he meant that the Industrial Disputes Act should provide for that.

Shri Shantilal Shah replied in the affirmative. Referring to question 16, he suggested that instead of 'one month before the date of application', the time should be unlimited. With regard to mortgage debentures, he suggested that wages should be attached to the goods so that even in case of post of mortgage, wages must rank in priority to the claim of the mortgage. Referring to question 20, he suggested that payment of wages should be made weekly and not monthly.

The Chairman in reply to a query of Mr. Vasavada, made it clear that except for personal use, there should be no payment in kind. He wanted to know whether the question of weekly payment should be in the Convention or in a Recommendation.

Mr. Gandhi replied that so far as India was concerned it should be weekly.

Mr. Joglekar agreed with Mr. Shah regarding gratuity and felt that it should be paid within a specified time limit.

Mr. Lall pointed out that that was provided under question 3(a).

Mr. Joglekar referring to question 5, asserted that he was against payment of wages in kind and that generally the cheque system should not be in vogue. With regard to question 9(b), viz., sale of goods at fair prices, he stressed that steps should be taken to ensure that prices were fair and reasonable and that if there was any arrangement for the supply of goods at cheap rates, the workers' representatives must be associated with those arrangements. He suggested that 9(b) (iii) should be deleted. Referring to Question 12, he suggested that in case of any negligence or damage, an enquiry should always be held (with which the workers' representatives should be associated) to assess the blame before taking any decision in the matter.

Mr. Joshi pointed out that that was provided for in 13(a) (ii).

Mr. Gandhi argued that that was not enough and stressed that the enquiry should ascertain whether the damage was intentional or the mistake was deliberately committed.

Mr. Joglekar referring to Question 13(3), suggested that the proceeds of the disciplinary fine must necessarily go to the benefit of the staff of the undertaking concerned. He agreed with the Bombay Government in regard to Question 14.

The Chairman wanted to know whether Mr. Joglekar would agree to an arrangement whereby about 50 per cent. of the fines realized from each establishment could be put into a common pool for a general welfare fund.

Mr. Joglekar re-iterated his remarks.

Mr. Joshi wanted to know what would happen if a factory had closed down but the fund was there.

Mr. Joglekar replied that the fund would be spent for the benefit of the workers of that factory.

The Chairman wanted to know whether there could be a joint arrangement between several factories.

Mr. Gandhi did not agree to this proposal.

Mr. Vasavada expressed dissatisfaction with the way in which fines funds were being administered.

Mr. Joglekar pointed out that he was laying down a condition which was likely to be adopted in the future. Referring to Question 15, he stressed that under no conditions should the workers' wages be attached whereby his maintenance would become impossible. He did not consider that the proposed Recommendation was adequate and felt that it should generally be an agreed Convention.

Mr. Lall pointed out that that would be in the Convention.

Mr. Gandhi did not think that that was Government's view.

Mr. Joglekar stressed it should be specifically declared that wages were a privileged debt and that other dues of the workers like holidays with pay should be the first charge before anything was done.

Mr. Joshi pointed out that that was included in the definition of wages.

Mr. Joglekar referring to Question 25(b), stressed that the rates of wages payable, the method of calculation, etc., must be specifically made known to the worker and suggested that there should, therefore, be a provision to that effect.

Sir Ardeshir Dalal felt that that would be a very unsuitable subject for a Convention.

Mr. Joglekar, however, reiterated his point.

Mr. Joshi pointed out that that was covered by Question 25(a) and that the question of details would be for the Recommendation.

Mr. Joglekar felt there was some vagueness in Question 25(b) and suggested that matters in item 26 should also be covered by a Recommendation.

Mr. Gandhi agreed with the previous speaker but suggested that items in Question 26 should be in the Convention.

Mr. Lall thought that Government should consider that.

Mr. Gandhi referred to Question 28(b) and suggested that specific obligations should be laid down on the Government and hoped that the Government of India would agree that they should go into a Convention. As regards Question 12(a), he suggested the inclusion of the word "grave" before the word "negligence".

Mr. Karnik did not see any necessity for making any distinction between some of the details given and certain general regulations with regard to questions 25, 26, 27, 28 and 29. He, however, felt that it would be desirable to have a Convention with regard to 27 and did not think that Government would have to go much out of their way to give effect to that. He supported the suggestion that wages should be considered as privileged debt and was sure that the Government of India would be prepared to amend their answer and to regard all arrears of wages as defined in the Payment of Wages Act as privileged debt. He pleaded that payment of wages by cheques and bank drafts with the consent of the workers should be encouraged as that would probably induce them to save and to utilise the wages properly.

Sir Ardeshir Dalal congratulated the Ministry of Labour for the admirable manner in which the replies to the Questionnaires were prepared but felt some occasional difficulties did arise. Quoting the proposed reply to Question 3, he felt that some alterations were necessary. He agreed with Mr. Joglekar that fines recovered from any particular concern should be employed for the benefit of the employecs of that concern only. In support of this view, he cited the case of Tatas. He agreed with the Government of India that Questions 26, 27 and 28 were matters of detail and as such it would be difficult to adopt a Convention for them.

The Hon'ble Mr. Bhashyam agreed with Mr. Joglekar that in cases of discharge, the cases of gratuity payment should be made within a fixed time.

The Chairman pointed out that if it was treated as a part of the wages, the maximum period within which wages should be paid would cover that also.

The Hon'ble Mr. Bhashyam stressed that it was very necessary that the worker should get all his dues within a fixed time. He thought it was necessary to have a Convention in respect of 9(b) (iii). He agreed with Mr. Joglekar that workers should always be associated and not whenever possible. As regards loss due to negligence, he expressed the view that the employer should be bound to make good the loss but there must be some provision to rectify a wrong decision.

Mr. Lall pointed out that in cases of wrong decision, the workers would go to the Works Committees.

The Chairman pointed out that the authority was then under the Payment of Wages Act.

The Hon'ble Mr. Bhashyam suggested that the fines should go to some Labour Associations, because he thought that if employers were to keep fines they might spend the amount on something which might or might not be for the benefit of the workers.

**Mr. Gandhi** pointed out that they did not want the money.

**Mr. Joglekar** wanted that there should be a Workers' Committee to administer the Fines Fund in the Factory itself. He stressed that instead of attaching the entire wage, some limit should be prescribed.

**Mr. Joshi** pointed out that such details would have to be left to the Recommendations.

The Hon'ble **Mr. Bhashyam** suggested that details regarding conditions should be displayed on the notice board and the employer should be called upon to give the details everytime he paid the wages.

The Chairman pointed out that that would be a very elaborate process, especially in regard to wages of piece workers.

The Hon'ble **Mr. Bhashyam** replied that in difficult cases exemptions could be granted. He also suggested the issuing of a card containing all details of calculation.

**Mr. Dravid** (Indore) thought that it would be very difficult to put the suggestion into practice.

**Mr. Lall** thought that reply to Question 3 needed re-examination particularly in the light of Sir Ardeshir Dalal's remarks and agreed that there should be a specified time limit in the case of gratuities. He said that he had noted that the general desire was that payment in kind should be restricted to personal use. He thought it was agreed that bank drafts and cheques could be allowed if the workers agreed. As regards 9(6), the view was that Government should accept in a Convention that appropriate measure should be taken to ensure the sale of goods at fair and reasonable prices. He, however, pointed out the difficulties as also the vagueness of the term "appropriate measures". He agreed with **Mr. Gandhi** that the reply to Question 9(b) (iv) should be "yes". He said that he would note **Mr. Joglekar's** point that only cases of "grave" negligence should be covered, but did not consider it was necessary to provide for an appeal since that was covered by the Payment of Wages Act. He agreed that the proceeds of the fines should go to the benefit of the staff of the undertaking concerned but since there may be cases where there may be no staff it would be better to add that these might be used for any other general fund of the workers if the National authority gave permission to that effect. Referring to Question 14 he suggested that instead of putting too many things in the Convention and thereby making it difficult for many countries to ratify, it would be better to wait and see the trend of the discussions at San Francisco before coming to a definite conclusion.

**Mr. Gandhi** felt that the Government of India could vote for "no" at the San Francisco Conference.

**Mr. Lall** pointed out that it was a general practice that the workers were made to pay for the tools and that there was always a fight between the management and the workers that tools had been damaged.

**Mr. Joglekar** stressed that the worker must not be made to pay for the tools.

**Mr. Karnik** suggested deletion of at least (i) and (ii).

Mr. Lall thought that sometimes by collective agreements the workers might say that they should themselves provide for the tools.

Mr. Gandhi did not think that would ever happen in India.

Mr. Ehashyam wanted to know what was the decision regarding 14(i).

Mr. Lall replied that the point was noted and suggested that it was best not to be dogmatic. Referring to Question 16, he stated that he would make a note that the view of the Standing Labour Committee was that there should be a limit. He thought that questions regarding holidays with pay, provident fund and compensation pay, and compensation for injury were covered but he would check those up.

Mr. Gandhi pointed out that since the Payment of Wages Act was not applicable to all industries it would be better to make the points clear.

Mr. Lall quoting Question 27, pointed out that that was a very big obligation and as such it was necessary to be cautious.

The Chairman pointed out that page 24 of the I.L.O. Report made it clear that a number of countries regulated by law the deductions made for cost of tools, materials and equipment supplied by the employer to the worker and that in the case of India it was specifically mentioned that deductions of that nature were expressly prohibited.

Mr. Gandhi thought that by saying "yes" Government wanted to go back on their previous attitude.

Mr. Lall replied that the position was not so but that he did not want to accept the obligation in that form.

#### ITEM I (A) (b) I.L.O. QUESTIONNAIRES AND REPORTS ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE.

[For replies and comments of the Government of India see Appendix III.]

Mr. Elkins felt that the answer to the second Question should be "yes". He was, however, not quite clear about the answer to Question 3(b).

Shri Shantilal Shah pointed out that in view of the answer to 3(a), (b) did not arise.

Mr. Karnik did not consider any necessity of the proviso suggested in the reply to Question 4, since it could be taken for granted that any organisation which did not follow peaceful and democratic methods would render itself liable to penalty imposed by law. In reply to Chairman's query, he remarked that he did not want the proviso in the Convention. Referring to the proviso put in the reply to Question 6 he felt that it militated against the freedom of organisation for which the Convention was being framed. Drawing attention to the proviso (a) to the reply to Question 14, he wanted to know the reasons for presuming that the Trade Unions would be organised on the basis of sex, colour or community.

Mr. Lall pointed out that the Trade Unions were organised on that basis.

The Chairman said that since there was nothing to prevent anybody from doing that again it was better to make provisions for possibilities.

Mr. Karnik suggested the deletion of clause (b) of the reply to Question 14. He also did not consider it was necessary to mention clause (c) since the Trade Unions Act already provided that the Trade Unions should have a certain type of constitution providing for elections, membership, inspection of registers, etc.

Sir Ardeshir Dalal pointed out that the proviso applied not only to Trade Unions but also to employers.

Mr. D. G. Mulherkar referring to clause (a) of the reply to Question 14, suggested the deletion of the word "nationality".

Mr. Gandhi felt that the questions of freedom of association and protection of the rights of the workers to organise were co-related and as such there should be one Convention instead of two. Referring to the answer to Question 3 (a), he suggested that there should not be any proviso at all, since the right to organise was a fundamental right. Referring to reply to Question 3(c), he felt that to deprive a worker, just because he was a public official, of the right to strike would be very harmful to the interest of the worker in improving his condition. Drawing attention to the proviso to reply to Question IV (a) and (b), he pointed out that Trade Unions were being attacked in various provinces in the country and since the law of the land would punish those who indulge in acts which were against the law, he saw no reason for putting the proviso. Referring to reply to Question 6, he pleaded for the deletion of the qualifications and stressed that the employers and workers should have the right to form national and international confederations. He wanted to have clarification of Question 11. He agreed with Government's reply to Question 14 (a) but felt (b) was not necessary. Referring to (c), he said that it was not necessary to put all those provisos as those were there for crushing the independence movement of the working classes.

Mr. Vasavada generally agreed with all the replies of the Government of India. Referring to Mr. Gandhi's contention that the Government of India was not permitting him to have international relations, he made it clear that so far as the working classes were concerned he was fed up with international guidance and his organisation was quite content with what was put for their workers and for their country. Referring to the objection raised by some members to the reply to Question 3 (a), he pointed out that no special treatment need be meted out to the workers and that he felt quite happy with the reply. Referring to the question of the right to strike, he did not feel it was necessary to debate the proviso. He also strongly supported the retention of the proviso in Government's reply regarding foreign affiliations.

Shri Shantilal Shah referring to the Trade Unions Act pointed out that it really did not give sufficient protection or security or safeguard. He felt that to say that Government should not go beyond the Criminal Procedure Code would give some organisations liberty to defy the law. He,



therefore, agreed that all the provisos proposed by Government should be there since they were intended either for the safeguard and security of the State or for maintaining the democracy of those who believed in non-violent and peaceful methods.

**Mr. Ramanathan** agreed with the views of the Government of India.

**Mr. Sundaram** while agreeing with the Government of India suggested that instead of "democratic procedure" the words "in a peaceful and non-violent manner" might be put in.

**Mr. Sen** agreeing generally with the Government of India pointed out that it appeared to him that a supposition was made that all the Trade Unions or Employers' Organisations were registered bodies. He mentioned that in Central Provinces there were as many registered Trade Unions as the unregistered ones and that similar was the case with employers' organisations. He suggested that the recognition of these bodies should be made dependent on registration under the law of the land and felt that a provision to that effect should be made in replies to Questions 3(a), 4, 5, 10 and 14.

**Thakur Kuldip Narayan Singh, Mr. Chatterjee, Mr. Bhide and Mr. Sharma** agreed with the Government of India replies.

**Mr. Joglekar** said that since the Committee was considering Conventions to be adopted for all countries, Mr. Gandhi had stated that while the answers of the Government of India were generally correct they were modified by introducing national peculiarities. He made it clear that they were agreeable if only the tone of the answers given was not objectionable at all to the fundamental and basic rights of workers in every country. He pointed out that the right of workers to organise was being denied in different countries and as such the International Labour Conference wanted to lay down conditions and procedure whereby those concepts were agreed to by all. He stressed that those countries which would accept the principles would have to fight against national drawbacks while in those countries where fundamental rights were denied, an international Convention would be able to assist in the expansion of the rights and privileges of humanity. Referring to Mr. Karnik's objection to the deletion of those national peculiarities in the replies, he stressed that the replies should be put in such a way that no exception to them could be found. He reiterated his objections to the qualifications in the replies. Referring to the inherent right of association and organisation and the words "injuring the security of State" in the replies, he felt that even if a State developed into a Fascist State at some future date and denied all rights of association and freedom of organisation, any organisation of workers would become a danger to the State at that particular stage but that should not deprive a national of the State of his inherent right of association and of organisation. He felt that the purpose of the Convention was to build up an international charter of rights and obligations and India should not, therefore, qualify the Convention and modify it by importing into it her national peculiarities and difficulties.

Mr. Lall explained that if no provisos were put that would have meant acceptance of the Convention unconditionally. He pointed out that the point was raised with the I.L.O. at the first meeting with the request to let the Indian Delegation know clearly what they wanted it to accept. Quoting from I.L.O. regarding ratification of Conventions, he re-iterated that if the provisos had not been put, India would have to accept the categorical obligation that the worker had a right to do those things without the law restraining the leaders or the men. He stressed that that was a thing which could not be accepted. Quoting clause 13(1), he pointed out that the right of freedom of association was restricted in the country's Constitution and as such by accepting a categorical assertion and ratifying the Convention without the clauses, would be making the Convention null and void. He argued that not only the Government of India but no Government could give a right to freedom of association unconditionally. The I.L.O., it appeared, recognised that and redrafted the Convention suitably. He made it clear that without those provisos India could not ratify the Convention without revising the Constitution of the country. He stated that the suggestions for modification would be considered. Referring to Madras Government's suggestions he agreed that those could be met.

Mr. Gandhi felt that Government had not recognised the freedom of association as a fundamental right.

Mr. Lall agreed that freedom of association was a fundamental right but pointed out that there was another fundamental right which says "*Salus populi suprema rex*" and provision had to be made by harmonizing these two fundamental rights. He felt that if nationality were cut out, then there would be a workers' organisation or an employers' organisation and it could be said that all are Anglo-Indians or Parsis.

The Chairman wanted to know whether it would make that invalid if the nation said that it was not going to allow the nationals of some place to work.

Mr. Lall said that that was a difficult point and would require deep consideration.

Mr. Bhashyam requested Mr. Lall to explain certain words in the reply to Question 14 (c).

Mr. Lall replied that those words were intended to provide against the practice obtaining in some areas where in the name of an organisation, the will of just a few people only prevailed. He referred to Madras Government's suggestion to substitute the words "peaceful and non-violent" for "democratic".

Mr. Bhashyam felt that Madras Government's suggestion was not appropriate.

Mr. Dravid (Indore) stressed that the word democratic should be there.

Mr. Bhashyam suggested that the words "conduct their activities in a democratic and peaceful manner" might be there.

Mr. Karnik did not want a Trade Union to be above law.

The Chairman took up the objections raised against the provisos made in the replies. Referring to Mr. Karnik's standpoint that the trade unions would be democratic and peaceful, he felt that in the light of the experience gained of the actual position the provisos were necessary. Drawing attention to the words "a democratic organisation" he felt that it was wholly incorrect to interpret these words as restriction on the organisations and that these were really meant as a safeguard in order to enable the workers for whom the associations were intended to function. With regard to Mr. Joglekar's objection, he pointed out that if it were open to India to make provision for its special needs later on in its own way, the position would have been different. The special difficulties of India should be provided against. Reading from the I.L.O. report, he pointed out that it was very clear that if the Convention did not leave room for the promulgation or the enactment of any provisions, that it would not be open to India or any other country to bring into effect such provision at a later stage. The other objection challenged the very desirability of those provisions and it was contended that they amounted to a kind of Fascism. He pointed out that the very words were themselves a negation of fascism and that democracy could only function on a basis of peaceful working. Referring to the suggestion that at the International Labour Conference it was apparent that he had in mind the fostering of a certain kind of organisation and suppressing another, he said that Mr. N. M. Joshi objected to the word "lawful" and the whole controversy ranged round that. He concluded by saying that no country could be absolutely unmindful or neglectful of its interest in its own territory and hence it was stipulated that there should be open, peaceful, lawful and democratic working of institutions.

ITEM I (A) (C) I.L.O. QUESTIONNAIRES AND REPORTS ON APPLICATION OF THE PRINCIPLES OF THE RIGHT TO ORGANISE AND BARGAIN COLLECTIVELY, COLLECTIVE AGREEMENTS, CONCILIATION AND ARBITRATION AND CO-OPERATION BETWEEN PUBLIC AUTHORITIES AND EMPLOYERS AND WORKERS' ORGANISATIONS

[For Replies and Comments of the Govt. of India see Appendix IV.]

Mr. Karnik drew attention to Question 8 and felt that if the answer was allowed to stand, the country's position would be that the system of closed shop would not be tolerated. He was of the opinion that it would be going too far to insist upon any provision like the one suggested in the reply and felt that the answer should be in the affirmative.

Thakur Kuldip Narayan Singh suggested that there should be a proviso to Question 3 as "except where Government is the employer", that the words "State should provide for conditions ensuring the running of trade unionism on healthy lines with a view to securing public welfare and law and order" be added to the reply to Question 4, that in regard to Question 1 in Questionnaire IV a Recommendation would be more appropriate, that the words "subject to the condition that Government is satisfied that the concern is financially in a position to bear

the cost of the arrangements mentioned in 12(a) and 12(b) " be added to the reply to Question 12 and that Works Committees should take up arbitration and conciliation in the initial stage in respect of Question 12.

Mr. Vasavada referring to Question 8 suggested that wherever there was a representative union or a trade union with a membership of more than 50 per cent. of the workers in an industry, the principle of closed shop could be adopted. Drawing attention to the remarks of the previous speaker on Question 4 he suggested that Government should recognise those trade unions which had rules to promote a healthy trade union movement and that law and order should not be enforced through trade unions.

Sir Ardeshir Dalal pointed out that since the close-shop was a highly controversial question, it would be better to give a non-committal answer instead of saying that it would infringe on the workers' individual freedom and so on.

Mr. Bhashyam agreed with Sir Ardeshir Dalal and pointed out that to say that any employer had necessarily to be a member of some union would be tantamount to infringing on his liberty.

The Chairman thought that Sir Ardeshir Dalal did not want to go as far as that.

Sir Ardeshir Dalal explained that the I.L.O. did not raise the question whether a close-shop was desirable or undesirable.

Mr. Bhashyam referred to the question and said that a definite answer had to be given either in the negative or in the affirmative. He suggested that the answers to Questions 4(a) & (b) should be in the affirmative and negative respectively, since he felt that election by secret ballot would be rather difficult and that it would be better to leave it to the workers' organisations to nominate their personnel.

Mr. Vasavada agreed with Mr. Bhashyam.

Mr. Pitkar drew attention to Question 8 dealing with union security clauses and pointed out that the A.I.T.U.C. view point was that the worker should be a member of the union and then only could he be a worker. He did not think that the provision would infringe on the workers' individual freedom. With regard to the clause dealing with unions run by outsiders, he took exception to the use of the word " outsiders ". Referring to the reply to Question 13, he took strong exception to the fact that the regulations should not apply to employments in the armed and police forces of the Government and pointed out that there was a division of the police force into two compartments and one could have a union even at present.

The Chairman asked for those rules.

Mr. Gandhi replied that the police must be allowed to form their own union and that the rules asked for could be given later on. Referring to Question 4 of Questionnaire III, Mr. Pitkar felt that since the whole idea of having a conciliation was to avoid delay in removing the grievances there should be a fixed time limit for every stage. Referring to Question 3 on page 9 he suggested that the scope should be extended to undertakings

employing 50 or more persons instead of 100. With regard to Question 8, page 10, he suggested that the co-operation of experts should not be from outside but from the trade union to which a particular concern belonged.

The Chairman pointed out that the Government of India reply went further and enquired whether there was any objection to that.

Mr. Gandhi made it clear that the person need not necessarily be connected with a Trade Union but could be nominated by it. Mr. Joglekar's suggestion that to the answer the words "It is also desirable" be added was accepted by Mr. Lall.

Mr. Joglekar stressed that both in regard to Production Committees and Works Committees the workers' representatives should have some sort of right to share in the administrative supervision matters and that there should be the right of recall of people in case they did not behave properly.

Mr. Sundaram suggested that in answer to Question 10(ii) it should be added that Government should have power to extend the period of operation of the settlements or awards as otherwise after the prescribed periods disputes were likely to recur.

Sir Ardeshir Dalal drew attention to the administrative difficulties that would arise if in every appointment the Works Committees were to give an opinion and suggested that it would be better to give a very qualified answer to Question 10(b) since that was a matter which ought to be reserved for further consideration in connection with the functions of the Works Committees. As regards Question 12(c) he pointed out the danger of binding the Government of India to a Convention with a very broad and vague statement like "general conduct of the undertaking". He suggested that Question 12(c) should be reserved for consideration when the functions of Works Committees would be discussed.

Mr. Dravid (Bombay) informed what the Bombay Government was doing in respect of Question 9. With regard to Questions 4(a) & (b), he suggested that the answers should be in the negative and affirmative, respectively. Referring to the question of secret ballot, he drew attention to the provisions made in the Bombay Industrial Relations Act and the Government of India Industrial Disputes Act and felt that where unions were sufficiently representative there was no reason why the nomination should not be by the unions.

Sir Ardeshir Dalal agreed with the Bombay Government.

Mr. Karnik felt that the Government of India's reply was more in consonance with the democratic principles than what was suggested by the Bombay Government and accepted by Messrs. Dalal and Bhashyam. He also felt that answer to Question 8 was more progressive and suggested that Rule 48 of the Industrial Disputes Act should be suitably amended.

Mr. Joglekar felt that Government of India's answer to Question 4 was more correct, more representative and more conducive to the interest of the workers.

The Chairman pointed out that that might have to be changed because under the Bombay Industrial Relations Act when the provision was before the Committee, labour agreed that nomination of members should rest in the hands of the union.

Mr. Joglekar replied that labour should not be split up.

The Chairman thought that if they were able to function apart from the union that would mean disruption.

Mr. Joglekar replied in the negative.

Mr. Bhashyam felt that administratively it would be much easier to have direct nomination.

Mr. Vasavada stressed that if a trade union should have collective bargaining it was in the fitness of things that wherever there was a representative trade union it should have its representatives on the Works Committees. Since members of the Trade Unions were only elected he did not agree with Mr. Joglekar that there should be election to the Works Committees since that procedure would create split in the labour movement and complications in the industry.

Mr. Dravid expressed the opinion that the trade union and the Works Committees had to be linked together and that there would be practical difficulties in a secret ballot.

Mr. Joglekar still maintained that a Works Committee elected by the process of a secret ballot would be far more congenial and realistic than a nominated Works Committee.

Mr. Karnik felt that the secret ballot method was the best thing for training workers in democracy.

The Chairman pointed out that under the Bombay Industrial Relations Act great care was taken to avoid difficulties and it was decided with the approval of the working class representatives that Works Committees should act as instruments of the Trade Union and not as rival agents. He did not think anything had happened to change that position.

Mr. Lall referred to Questions 6 and 7 and pointed out the difficulty of giving a categorical answer to them. Referring to the suggestion that the reply to Questions 4(a) & 4(b) should be reversed, he pointed out the difficulty of the colliery employers in recognizing the rival trade unions.

Mr. Vasavada felt that the answers would perpetuate the rivalry among trade unions.

Mr. Lall enquired how would that apply to coal fields.

Sir Ardeshir Dalal thought it would be better to hold elections and the employers should recognise only those unions which would get the majority.

Mr. Lall pointed out that the union getting the majority to-day might go out of power soon and as such Government tried to suggest a compromise and would insist on a secret ballot unless there was an agreed nomination by one or more representative organisations of workers.

The Chairman pointed out that the Bombay Act excluded all other organisations.

Mr. Vasavada enquired of the need for agreement with other employers if a representative trade union already existed.

Shri Shantilal Shah pointed out that a representative union must have at least 15 per cent. of the workers as members and must be paying a minimum subscription and as such the question of a land slide overnight could not arise.

The Hon'ble Shri Bhashyam enquired as to why for the sake of the collieries the whole country should be asked to go through the elections and suggested that one union considered as representative could be selected.

Mr. Lall pointed out that the difficulty was that in dealing with Conventions there could not be any exceptions and it would have to cover both Bombay and the coalfields.

The Chairman pointed out that Mr. Lall's suggestion did not cover Bombay.

Mr. Lall agreed to add that 'if there was a recognised union' but enquired what would happen if there was no such union.

The Chairman replied that recognition could be given to the largest union.

Mr. Joglekar reiterated that the secret ballot election would be the most appropriate but if there were two or three unions which had agreed on the principle of actual functioning and an agreed Works Committee was suggested by them, then the secret ballot may be done away with.

Mr. Vasavada argued that if the Works Committees were functioning separately in each unit it would be difficult to standardise conditions of work.

Mr. Lall felt that the drafting of Question 10(b) was poor but thought it related to policy about engagement and dismissal.

Mr. Gandhi stressed that the question of dismissal of every worker should come before the Works Committees.

Mr. Lall agreed with Mr. Dalal that so far as engagement was concerned it should be left over till the functions of Works Committees were considered. Referring to Questions 12(c) and 12(e), he felt that these might come before the Production Committees and not the Works Committees.

Sir Ardeshir Dalal remarked that it would be going too far to bring in the question of the general conduct of the undertaking to the Works Committees.

**ITEM I (A) (D) : I.L.O. QUESTIONNAIRES AND REPORTS ON VOCATIONAL GUIDANCE.**

[For replies and Comments of the Govt. of India see Appendix V.]

**Dr. Das** pointed out that the Government of India realised that it would be desirable to have vocational guidance in the form of a Recommendation rather than a Convention because of the practical difficulties in its implementation and as such the background of the draft answers to the I.L.O. questionnaire had been that though vocational guidance was desirable, the main problem in India was that of unemployment and under-employment.

**Mrs. Mukherjee** felt that vocational guidance had been given rather a lukewarm reception by the Government of India. Referring to Question 10(b) she suggested that instead of mere advice, measures for health should be undertaken. With regard to Question 15, she did not favour the reservation made on behalf of mentally deficient and disabled young persons and stressed that the answer to Question 20(a) should be in the negative. She suggested that there should be an additional clause to Question 21 relating to vocational training for women and pointed out that that was already accepted at the Asian Regional Conference. She deprecated the hesitating policy of the Government of India in their reply to Question 24 and urged that the question of vocational training should be taken up seriously not only with reference to the I.L.O. Questionnaire but as part of Government labour policy.

**Sir Ardeshir Dalal** agreed with the Government of India answers to the questionnaire and suggested that they should be in the shape of Recommendations. He urged that the point for consideration was whether under the present conditions and the resources of the country vocational guidance was practicable.

**The Hon'ble Mr. Bhashyam** doubted whether the time had come when vocational guidance could be taken up as a comprehensive measure throughout the country. He enquired what kind of vocational guidance would be given to agriculturists and suggested that, considering the difficulties, it would be better to limit the field of operation to certain stated centres or towns. He agreed with Mrs. Mukherjee that the recommendations regarding medical examination should be followed up by suitable facilities for treatment.

**Shri Shantilal Shah** drew attention to the question of giving unemployment benefit, subject to the condition that before a person got the benefit continually he must be compelled to avail himself of the facilities of employment. He failed to understand why Mrs. Mukherjee wanted to do away with the proviso and stressed that the answer was correct.

**Mr. Sundaram** agreed with Sir Ardeshir Dalal regarding implementation of the scheme specially because the workers were all illiterate. He felt that people would take advantage of the scheme only after they were educated.

**Mr. Lall** pointed out that most of the remarks of Mrs. Mukherjee were due to misapprehension and that probably she was thinking of vocational training whereas the question dealt with vocational



guidance. He drew attention to Question 2 in which the I.L.O. themselves had stated that the utmost they could hope for in the conditions prevailing was a Recommendation. He explained the implications of a Recommendation. He agreed with Mrs. Mukherjee in regard to Question 10(b). Referring to Question 20(a) he explained that so long as the system of employment exchange was not fully developed it was quite impossible on administrative grounds to have unemployment benefits and as such the question for India was poverty and hypothetical. He pointed out that since the I.L.O. made a discrimination between male and female workmen, women were not included as a separate category in Question 21.

Mrs. Mukherjee argued that it was not a question of equality but of providing specialised vocational guidance and that in the Questionnaire vocational guidance and vocational training had been mixed up and as such vocational training and vocational guidance to women should be put separately.

Mr. Lall regretted the typing error in the memorandum where in the fifth line vocational "training" was put instead of vocational "guidance". He explained that since women came under (i), (ii) and (iii) of Question 21, there appeared to be no need for a special clause for women.

#### **ITEM I(B)—REVISION OF THE I.L.O. CONVENTION CONCERNING THE NIGHT WORK OF WOMEN AND YOUNG PERSONS.**

[For Conventions see Appendix VI.]

Mr. Elkins agreed that it was most undesirable that children and young persons and women should be called upon to work during night and supported the revised text.

Mr. Karnik suggested that the proviso relating to continuous process factories be dropped.

Thakur Kuldip Narayan Singh referred to article 7 and suggested that there need be no exception regarding age-limit but in case it was considered inevitable to have it, it should be limited to 2 to 5 years. The modifications suggested with regard to article 9 were thought by him to be excessive.

The Hon'ble Mr. Bhashyam felt that it was cruel to allow children above 13 but below 15 to work in those factories at night and in the reply to I.L.O., it might be stressed that no country should be exempted.

Mrs. Mukherjee suggested that the age of child labour should be raised to 15 and recommended to have it in the Constitution, that no child below 15 should work. She also suggested that in paragraph 5 of Article 9, instead of seventeen years, 18 years should be put down. She stressed that under Article 1, clause 3, the word "Wards" should be defined. In article 3, she suggested the addition of the words "and conditions" after the words "define the work", and stressed that the proposed special provisions should be withdrawn after about a year.

Shree Shantilal Shah agreed with Mrs. Mukherjee that the age of children should be raised to 15.

Mr. Joglekar suggested that the provisions about child labour made applicable in regard to "electric power, clocks, buildings and other public works etc." should be made more clear.

Mr. Sen suggested that there should be certifying Surgeons certifying the persons as fit for employment at night.

Mr. Lall thanked Mrs. Mukherjee for her valuable suggestions and agreed with them. He felt that under Article 9, the age could be raised to 15 but pointed out that in view of non-receipt of the replies of the Provincial Governments, the Government of India could not move boldly in the matter.

The Chairman opened discussion on Convention No. 4 concerning the night work of women.

Mrs. Mukherjee stressed that before Article 5 could be put into operation there should be certain conditions before a situation could be justified as an emergency and drew attention to the suggestion made by the American Government. She suggested that permits might be given to certain concerns undergoing a serious emergency, that a condition of serious emergency might be justified if it was admitted to be so by the Legislature, and that when a suspension had been brought about a report should be sent to the I.L.O. As regards Article 11, she suggested the addition of the words "and other industrial establishments that may be put under this clause by the Government of India later on".

Sir Ardeshir Dalal wanted clarification of Article 5.

Mr. Lall explained that the Government of India representative pointed out that under the Constitution of the I.L.O. a special clause could be provided for countries where labour legislation was backward. The Convention therefore provided that in India the provisions of the Convention should be applicable to factories but the Government of India could apply it progressively to other industries.

Mr. Joglekar objected in principle to the employment of women in factories and mines.

Mr. Lall replied in the affirmative.

Mr. Joglekar objected in principle to the employment of women for work at night.

Shri Shantilal Shah characterised night work as such as entirely unnatural and inhuman. In some continuous process factories where night work was necessary women and children should never be employed and that in the case of women there should be no suspension of the regulations of work even in cases of emergency. He argued that if women could not be employed in the factories during night they should not be so employed on undertakings engaged in buildings, civil engineering work, etc.

Mr. Lall was glad that there was opposition to all night work including night work of men but pointed out that that was not practicable. Referring to Article 1, he pointed out that the definition of

mines was wider than that of factories. Referring to Article 5 he felt that it would be difficult to say that there would be no special emergency which would justify employment of women at night. He agreed with Mrs. Mukherjee that when women were employed at night, the matter should be reported to the I.L.O. immediately. He explained that the provisions of Article 11 could be applied to factories and mines only.

## ITEM II—COMPULSORY PROVIDENT FUND FOR INDUSTRIAL WORKERS.

[For memorandum see Appendix VII.]

Mr. Lall pointed out that a compulsory Provident Fund for colliery workers had already been started in the coalfields and with the permission of the chair asked Rai Saheb Aggarwal, Deputy Secretary, Ministry of Labour, to explain the scheme.

Mr. Aggarwal remarked that although the schemes for the organisation of social security had been considered for a long time, attention had been limited. Referring to the provisions of the Employees' State Insurance Act, he said that it was a landmark in the history of such legislation in India. He said that although old age benefits etc. were being given in other countries, India did not appear to be ripe for that so far. He explained that that was due to the fact that Government's attention had been directed to various other matters and that they did not have adequate funds for subsidising such schemes. He pointed out that during the discussion at the Preparatory Asian Regional Conference on the Resolution concerning Social Security, the Government of India had made it clear that they must concentrate on compulsory Provident Fund for industrial workers. Referring to the Board of Conciliation (Colliery Disputes) appointed by the Government of India early in 1947, he said that one of the recommendations of the Board was that a Compulsory Provident Fund should be instituted and that was being implemented by the Government of India. He then dwelt upon the main features of the scheme, namely that it should be compulsory and should cover all colliery workers, subject to the qualification that colliery workers, who attended in a quarter on 30 per cent. of the working days underground and 40 per cent. on surface would become eligible for membership of the Fund. He explained that if a worker attended for 23 working days in a quarter once for life out of 78 working days in that quarter, he would become a member and that even if he later on attended for only for a few days it would not matter. He pointed out that the qualification was, therefore, not very rigorous. The workers' contribution would be at the rate of -|1|- anna in the rupee of the wage, employers' contribution will also be the same. The Government of India had decided that a separate Fund should be instituted with its headquarters at Dhanbad and that there would be approximately 3 lakhs of workers on the books to begin with. He explained that there would be specially prepared ledgers for the various collieries and different types of adhesive stamps of different denominations would be used. An Ordinance was being issued by Government under which it would be compulsory for each colliery owner to make a deduction from the workers' weekly earnings and to add an equal amount and attach a stamp of that value on the ledger. The stamps

would be sold through Provincial Treasuries like band rolls on match boxes and there would thus be no cash dealings. He further pointed out that to guard against any colliery proprietor not making a deduction or not affixing the stamps, there would be 5 or 6 Inspectors in different coalfields for checking up and that the organisation proposed to be set up by the Government would be a sort of Accounting Organisation. He pointed out that no withdrawals would be permitted, repayment would be made only when the workers finally got superannuated or left the profession for good and the scheme would have retrospective effect, that is from 12th May, 1947.

Mr. Lall pointed out that there had been some delay in calculating bonus and that there was a misapprehension in the coalfields that the employers were evading the payment of bonus. He explained that that was not the case but there might be some trouble during the payment of the bonus as every one might not be entitled to it. There could again be some trouble during deduction of bonus for provident fund.

Mr. Aggarwal pointed out that the Government hoped to collect Rs. 75 lakhs per annum from the 3 lakhs of workers and that employers were requested to give 5 lakhs more. That would cover all the expenses of office, stamps, forms, badges and everything else. In reply to Mr. Karnik's query, he said that the superannuation age had not been fixed and that the calculations were being based on basic wages at present.

Mr. Dravid (Indore) enquired how a worker was going to be prevented from resigning from the collieries and taking his provident fund and coming back again.

Mr. Aggarwal replied that when he would come back he would not be a member.

Mr. Lall added that the worker would not get the money immediately after resignation but would have to wait for 2 or 3 years.

Mr. Aggarwal pointed out that the employers' contribution would be paid only after a certain number of years and that the rules and regulations which were being prepared would be sent to the collieries and to labour.

Mr. Lall added that the rules and regulations would have to be framed in consultation with the Tripartite Industrial Committee on Coal Mining.

Mr. Gandhi said that he did not follow the position regarding the wage.

Mr. Aggarwal replied that in collieries deductions would be made at the rate of -[1]- per rupee on the basic wage and that the employers' contribution would be equal to workers contribution. He hoped that if the scheme was successful, it would be extended to other industrial workers but it would be necessary to have a Central Fund. He pointed out that there would be an identity card for each man and when he would leave one colliery and go to another he would take that with

him. Even if he did not take the card with him, a colliery would ask every new man whether he had a provident fund and whether deductions were made from his wages, so that his benefit would continue.

**Mr. Dravid** drew attention to the unstable character of collieries and felt that if the scheme could be introduced in the collieries, there should be no difficulty in having it in other industries as well.

**Mr. Lall** pointed out that the colliery labour was not selected as the best suited for the introduction of the scheme but that Government had to take action as a result of the Conciliation Board's award.

**Mr. Aggarwal** remarked that the question whether the minimum qualification for the eligibility of membership might have to be different for different industries would have to be decided by the Conference. The suggestion to utilize a part of the contribution for compulsory insurance appeared to be good, provided the sum at the credit of the worker was substantial.

**Mr. Dravid** enquired whether the employer would contribute for insurance.

**Mr. Aggarwal** replied that just as Government servants could pay for insurance from their G. P. Fund, so in the case of the colliery workers also the payment would be from the total amount at the credit of the worker. In reply to Mr. Karnik's enquiry regarding the administrative machinery he informed that there would be a Commission and a Board of Trustees comprising of three Trustees each from the employers and the workers and 2 from the Government to administer the Fund.

**Mr. Lall** said that there would also be a Central Accounts having a thousand ledgers after a thousand collieries with all the workers, each worker's contribution and interest will be added every week.

In reply to Mr. Karnik's query, **Mr. Aggarwal** replied that the employer was required to pay for the stamp and keep on putting stamp on each man's card.

**Mr. Dravid** pointed out that there might be some difficulty when a miner left one colliery to join another and that the question of identification would also arise.

**Mr. Aggarwal** replied that that could be met by writing "transferred to ledger No....." and that the identity card would solve the difficulty since both the worker and the employer would each have a card.

**The Chairman** enquired whether small concerns could be exempted and if so, what should be the criteria.

**Mr. Lall** replied that so far as the collieries were concerned there would be no exemption.

**Mr. Aggarwal** added that only the state railway collieries where provident fund schemes already existed would be exempted, their schemes being linked up with the Centre.

Mr. Lall said that in some collieries some of the workers were entitled to a gratuity under the employers' scheme and that steps were being taken to see to it that that did not lapse due to the institution of the Provident Fund Scheme.

Mr. Dravid enquired how long would the Government of India take to watch the progress of the scheme in the collieries before extending it to other industries.

Mr. Lall replied that the idea was to extend the scheme as quickly as possible but there was no time-limit.

Mr. Bhashyam pointed out that the scheme had been working successfully in Mysore for a long time. He pointed out that the main difficulty was that the worker went out of the work early, drew his provident fund and came back again for employment. The object of providing for old age in such cases was defeated. He suggested that that would have to be prevented.

A member said that for 2 years, worker would not get anything.

Mr. Bhashyam replied that he might wait till he got the employers' contribution and therefore it should be considered whether a worker should not be prevented from taking his Provident Fund till he reached a particular age. Referring to the difficulty of tackling the case of persons who might be skipping from one industry to another due to retrenchment or unemployment, he suggested that there should be a general insurance scheme for all workers of all classes and the premia should be shared equally between the worker and the employer. He argued that the insurance scheme would have the added advantage over provident fund in that if a worker died within a few months of his entering into the insurance scheme, the money would go to his dependants whereas in the case of provident fund he would only get the amount he had deposited plus the employers' contribution, if any. He then dwelt upon some of the other advantages of insurance scheme, viz., that it was always possible for the worker to raise a loan on the insured amount to the extent of his payments, the employers would not have to pay again and again and the worker would get a substantial amount on super-annuation. In the event of his death, the amount would be available for his dependants.

A member said that Mr. Bhashyam's objection to Provident Fund Scheme could be met by a Scheme of gratuity combined with insurance.

Mr. Bhashyam felt that it would be difficult for the employer to pay a portion of the premium and then again to pay the gratuity.

Sir Shri Ram presumed that Government's object was two fold namely, that when the worker was no longer fit to work he might not become helpless and that when he died his dependants should be able to get something. He did not think that the proposed scheme was going to serve these objects. He referred to the difficulties experienced in working the Provident Fund Scheme started in the Delhi Cloth Mills since 1920. He also felt that there might be persons who would induce the workers to do some sort of business with the sum received by him so as to become rich overnight with the result that within a few months he would lose whatever he had earned. He felt that all

things considered, there should be no Provident Fund. Referring to the insurance scheme, he said that the Delhi Cloth Mills had an insurance scheme of their own in which 25 to 30 per cent. of the office expenses was not charged at all but even then workers did not join it. He stressed that the real thing was an old age pension and in all countries that was provided by Government. He signified his strong objection to the proposed Joint Scheme or Central Scheme especially because that would mean an unnecessary addition to Government Departments. Referring to the Central Office in Dhanbad, he felt that a man wanting money might have to travel some 200 miles before getting his Provident Fund. He told that his experience of Government institutions with which the poorer sections of the people were concerned was very disappointing.

**Mr. Joshi** pointed out that there would be local offices for making payments.

**Sir Shri Ram** stressed that although the Asian Regional Conference did pass the Resolution, time had not so far come and most of the organisations were not in favour of starting the Provident Fund at present. Referring to the suggestion on page 3 of the memorandum he said that he did not agree that insurance was necessary to cover only cases of death while in employment. He informed that if inspite of the fact that the industry was not in favour of it, the Provident Fund Scheme was instituted, he would have no objection to the linking up of insurance with Provident Fund Scheme. He suggested that the Provident Fund should start after the worker had been in service for a certain period and that it should not apply to workers who were in the habit of going from industry to industry as otherwise migration would be encouraged indirectly. Pointing out that the popularity of the Delhi Cloth Mill Provident Fund Scheme was due to the borrowing facilities given to the workers, he expressed surprise at Mr. Aggarwal's remarks to the effect that workers should not be allowed to take loans from the Fund.

**Mr. Aggarwal** said that in the coalfields, a bonus was being paid after three months.

**Sir Shri Ram** retorted that the bonus might be due in September whilst the worker might need money in May and as such he did not see any reason for creating difficulties. He did not favour the idea of starting the Scheme with retrospective effect, viz., from 12 May, 1947. Reiterating his objection to the Central Organisation, he said that he was against any charge on the employer for that and stressed that instead of paying the amount due in a lump sum it would be better to give the worker something monthly.

**Mr. Karnik** agreed with Sir Shri Ram that the Provident Fund Scheme could not be a substitute for old age pensions. He wanted the Government of India to consider the proposal of initiating a scheme for old age pensions as early as possible but felt that there was necessity for provident fund and that the two should not be confused. Dealing with the merits of the Provident Fund Scheme, he said that the initial difficulties would be got over gradually. He agreed that there should be some qualifying period but as soon as a worker was

employed for that period, he should be entitled to contribute to the Fund with retrospective effect. He suggested that there should be rules regarding employers' contribution and for that there should be a sliding scale of contribution rising with the number of years of service. He was opposed to the suggestion that the workers should not be permitted to make withdrawals especially in view of the various difficulties that the workers might have to face. He agreed to the Scheme being run on a Central basis and stressed that although it may not be on an all-India basis it should at least be on a Provincial basis and, if possible, on an industrial basis. He felt that the difficulty of worker in travelling long distances to get payment could be obviated by making it possible for him to make withdrawals at local offices.

Sir Shri Ram suggested that establishments employing up to 200 persons and industries which were of a pioneer nature and were suffering losses should be excluded.

Mr. Pitkar congratulated the Central Government for introducing the Provident Fund Scheme in certain categories of industry. He agreed that the reason for migration from one industry to another lay in instability of service and not in Provident Fund and hoped that with the standardisation of wages there would be no fear of migration. He agreed with Mr. Aggarwal that when a man got into the industry he should begin to subscribe to the Fund. He expressed the opinion that the contribution should be at the rate of 1/12th of the total earnings. He suggested that the Fund should be administered by a Central Organisation and that certain officials from different concerns should be drafted and the unions requested to lend certain persons to see that the Scheme was successful. He stressed that no industry should be exempted. He felt that a part of the Provident Fund could easily be invested in the insurance policy.

Mr. Joglekar agreed with Mr. Pitkar. He, however, made it clear that the All-India Trade Union Congress did not consider that with the introduction of the Provident Fund Scheme, the responsibility of the Government for social insurance ceased and suggested that Government should consider as early as possible the introduction of schemes of old age pensions etc.

Mr. Vasavada congratulated the Government of India for putting the question on the agenda. He refuted the argument that the workers were not taking advantage of Provident Fund Schemes where they had been introduced, and said that that might have been the case 20 or 25 years ago but was not so at present. He enquired whether the intention was to obtain an insurance cover only for the period of workers' employment and that it ceased with his retirement.

The Chairman did not think that the security vanished and explained that there were two cases—one was when the worker had completed his life time of work he would have fully paid up the premia and then the policy would mature, the other case was where it was premature it would be paid up on surrender value.

Mr. Pitkar pointed out that so long as the present rules of insurance were in force there would be no trouble.



Mr. Shantilal Shah did not feel that group insurance could work in the manner suggested.

Mr. Vasavada felt that a time would soon come when there would have to be an old age pension scheme also. He stressed that the scheme should cover all industrial workers and that as soon as a worker was made permanent he should enter the Provident Fund Scheme ; a minimum period being laid down for becoming permanent. He thought that the contribution at the rate of Re. 0-1-6 per rupee was quite adequate and that it would be possible to administer the fund Centrally.

Mr. Shantilal Shah suggested that the Provident Fund Act should be extended to all Provident Funds, that there should be a clause to the effect that the Provident Fund amount could not be mortgaged and that no loans should be allowed out of the Provident Fund. He thought that if some one was in need of money, his purpose should be served by co-operative credit society.

Sir Shri Ram enquired what was the difference when a worker went to a co-operative society.

Mr. Lall pointed out that the co-operative society was bound to see that the money was spent for a proper object.

Mr. Shantilal Shah suggested that the workers should be represented in equal numbers in the Board of Trustees along with the employers and that the 'lapsed amounts' should be paid into the Workers Welfare Trust. Referring to the question of linking up insurance with provident fund, he did not feel that group insurance would serve the purpose. By giving some facts and figures he showed that Rs. 45 per annum might bring a policy of Rs. 2,000 if the Provident Fund was linked with the Postal Insurance Scheme.

The Chairman enquired whether the Government of India had any views as to what part should be set apart for the purpose of insurance.

Mr. Joshi replied that it should be 50 or 60 per cent.

Mr. Shantilal Shah suggested that insurance should not be with the life insurance companies, but it should be linked up with schemes like the Postal Insurance Scheme.

Mr. Ramanathan agreed that the Fund should be administered by the Central Organisation so as to ensure uniformity.

Mr. Bose pointed out that the Bihar Labour Committee had suggested that a provident fund scheme should be introduced and that quite a number of industrial concerns had instituted provident funds. He agreed that a compulsory Provident Fund Scheme for industrial workers employed in registered factories, employing 100 or 50 workers, should be enforced by Central Legislation. He was of the view that every employee who had put in an attendance of not less than 200 working days in a year or for 300 working days during two consecutive years should join the fund. The rate of contribution should be 1 anna in the rupee but the workers should be given the option of contributing up to a maximum of 1/12th of their salary, the employers

contributing an equal amount. Referring to the peculiar circumstances of the Province of Bihar where, except for the coal industry, industry was not concentrated in some particular areas, he did not consider that a Central Organisation would be useful. If, however, the employers or the workers favoured a Central Organisation, he would have no objection. He felt that provident fund by itself was much easier to administer than if the scheme was combined with insurance.

**Mr. Sundaram** preferred to have a Provident Fund Scheme since old-age benefit scheme smacked of doles and suggested that the Provident Fund Scheme should be enforced by legislation. He agreed with Mr. Bose that the scheme should cover workers in registered factories in the first instance and suggested that a minimum qualification of one year's service might be prescribed for eligibility to become members of the Fund and that the quantum of contribution might vary from 1/8th to 1/16th of earnings. He suggested that it would be much better if the funds were administered by individual units rather than by a Central Organisation. If any workable insurance scheme could be devised he would welcome that.

The Chairman enquired whether there would be no difficulty in administering the Fund on an individual basis.

**Mr. Sundaram** replied in the affirmative and suggested that migration should be discouraged.

**Mr. P. K. Sen** pointed out that the conclusions reached by the Provincial Labour Advisory Committee were that the scheme of compulsory Provident Fund should be introduced in the case of organised industry, and that a schedule should be laid down so that if a worker left his job earlier than the full period of his service, he should get the benefit proportionately. He was of the opinion that every worker who was not a casual worker should be member, no worker should be entitled to employers' contribution unless he had put in 3 to 5 years service, the rate of contribution should be 1/16th of earnings and the administration of the Fund should be done by a Central Organisation. He did not favour that insurance should be done out of the Provident Fund contribution. He stressed that loans or mortgages should be prohibited, except where the loan could be given by a co-operative society on the security of the Provident Fund.

The Chairman enquired what was the difference there.

**Mr. Pitkar** pointed out that the rate of interest charged on withdrawals from provident fund was lower than that charged by a co-operative society, and further that in the case of co-operative society the interest paid went to the shareholder, while in the case of Provident Fund, the interest was credited to the workers' own account.

**Thakur Kuldip Narayan Singh** supported the proposals of the Government of India and said that the United Provinces Government was awaiting the recommendations of their Labour Enquiry Committee. He was of the opinion that the best course to follow would be to try the Provident Fund Scheme first and then to take up the Scheme for insurance. He stressed that side by side with the Scheme, steps would

have to be taken to encourage the thrift habit among the workers and agreed that the worker should be discouraged from withdrawing his money. Instead of giving the money in a lump sum, it should be paid in monthly or quarterly instalments and the minimum qualifying period of service for entering the Fund should be six months. The quantum of subscription should be 1/16th of the total earnings and not of the basic salary. The management of the Fund should be left to the individual concern in the initial stages, with a skeleton Regional or Central Organisation to watch and supervise on the whole scheme. He was of the opinion that all firms having a minimum of 200 workers on their rolls should come under the scheme.

Mr. D. Chatterjee informed that industries other than Jute had instituted voluntary Provident Funds, and that the whole question was being considered by a Tribunal set up by the Provincial Government.

Mr. Bhide would have preferred the old age pension scheme but because of the difficulties of instituting such a scheme at present, he supported the Provident Fund Scheme which might be started first to be linked up with insurance if possible at a later stage. He did not consider feasible Mr. Karnik's suggestion that employers' contribution should increase with the length of service of the worker.

Dr. Seth felt that an Insurance Scheme combined with Provident Fund Scheme would meet most of the objections but stressed that the schemes should be compulsory, Centrally managed and should cover all workers, the minimum service qualifications being 3 months. The rate of contribution should be at least one anna in the rupee but may be raised to two annas and advances up to 25 per cent. of the contributions of the employees and of the employer at the time of the withdrawal may be allowed.

Sir Ardeshir Dalal was of the view that by itself as a measure of social security provident fund was eminently desirable. He pointed out that his company, had had a Provident Fund for over a quarter of a century, the total amount being over a crore of rupees. The Fund had been registered for the last 10 years and its terms were more liberal than those proposed. The rate of contribution was 1/12th each by the employee and the employer. He did not, however, think that a compulsory Provident Fund was practicable at this stage.

The Chairman enquired whether a factory, which ceased to make profits, should suspend the Provident Fund.

Sir Ardeshir Dalal replied that once the company was on its feet it would be alright. He argued that however desirable the proposed schemes might be, the burden on industry would have to be considered. He cited the terms of the Industrial Insurance Act and the cess levied according to the Conciliation Board's award in the case of coal mines and felt that all these factors would have to be borne in mind. He felt that if the qualifying period of attendance was going to be prescribed, there would be trouble in making actual payment. The condition that a colliery labourer going on unlawful strike would not get a bonus was going to be another source of trouble.

Mr. Lall enquired whether he would not like to have these restrictions.

Sir Ardeshir Dalal replied that he would certainly like to have them but was pointing out the way in which labour conditions were getting difficult in the country. He argued that any measure of social security or social amelioration was a matter of concern not only for the industry but also for the Government. He was of the opinion that if it was decided to introduce the scheme it would be utterly impracticable to administer it centrally and that it would be better to administer it by industries. To mix up the insurance scheme with provident fund, would be very undesirable. Only those concerns which were established on a profit making basis should be covered. He felt that with a contribution at the rate of one anna per rupee, it would not be possible to have both Provident Fund and Insurance Schemes. The Funds should be registered and rules should provide for withdrawals only for specific objects, namely, sickness of the person or his family, marriage, essential funeral expenses and building of a house. He did not know of any country where both Provident Fund and old age pensions were operating simultaneously.

Mr. Lall repeated the reasons why the scheme was proposed and pointed out that the scheme was prepared by the employers' representatives on the Board of Conciliation (Colliery Disputes). Regretting the vagueness of language in the memorandum, he pointed out that it was not the intention that there should be a Central or an All-India Organisation to run the Fund but that it should be managed on a group basis. Even if there be individual Schemes, there would have to be other organisations to check those.

Sir Shri Ram appealed that in case Government decided to introduce the Scheme compulsorily it must be on an individual basis.

Mr. Gandhi, however, stressed that it should at least be on a provincial basis and not factorywise.

Mr. Lall drew attention to paragraph 6 of the memorandum and said that the writer wanted to know whether insurance in any form could be brought in with compulsory Provident Fund and suggested that Group Insurance would be cheaper and that it would be still cheaper if the cover was limited to cause of death while in employment. He conceded that the scheme was a complicated affair and required careful consideration.

Mr. Gandhi wanted a definite promise from Government as to when they were going to introduce the Scheme.

Mr. Lall thought that another six months would give Government some idea as to what could be done.

Mr. Gandhi pointed out that the general principles were accepted at the meeting of the Industrial Committee on Textiles held in January, 1948, the Standing Labour Committee also accepted them but that there was disagreement between employers and workers since the former did not want the Scheme to be introduced compulsorily. He felt it was highly desirable that the Committee should give a directive

to Government to prepare a Scheme, call a special meeting of the Committee or the Conference and then have the necessary legislation as otherwise there was the danger of strikes.

The Chairman said that there was general agreement that there should be a Provident Fund instituted but whether it should be Central or otherwise would have to be decided but as far as possible there should be a Provident Fund instituted but whether it should be Cengarding insurance scheme but the details would have to be worked out.

**ITEM III.—DECASUALISATION OF LABOUR IN MAIN INDUSTRIES. [FOR MEMORANDUM SEE APPENDIX VIII.]**

The Chairman explained that the scheme originated in the Province of Bombay and had a fairly long history and that the question had been considered by several Committees in the past, particularly in the textile industry but it did not go far enough. The principal objects of the scheme were to secure the rationalisation of the recruitment in the textile industry, increase efficiency and production by reducing labour turnover, eliminate bribery and corruption and favouritism, encourage the system of training of workers with a view to ensuring a steady supply of efficient workers. He pointed out that the scheme was considered at a meeting of the Provincial Labour Advisory Board held in Bombay and that a resolution was passed in favour of adoption of the scheme and giving it a shape through a Committee. He believed that the scheme would be welcomed by other parts of the country and by other industries and dwelt upon the advantages which were likely to accrue from the scheme both for the workers and the employers as also for the community.

Messrs. Karnik and Gandhi wanted to have some information regarding Government of India's scheme of decasualisation of dock labour so that the Provincial Governments could be in a position to decide whether the proposed scheme or the Government of India's scheme was better.

The Chairman pointed out that the draft bill regarding decasualisation of dock labour was there.

Mr. Karnik pointed out that the Bill only allowed the Government of India, to provide a scheme and wanted to know whether a scheme had been prepared and if so what its features were.

Mr. Lall replied that the Bill had been passed only recently and the Provincial Governments were being consulted and that the scheme had not been prepared. He asked Mr. Joshi to give an idea of the work of the Committee appointed for the purpose.

Mr. S. C. Joshi said that the Government of India appointed the Committee to prepare the scheme, the object of which was to regularise the employment of workers employed by the stevedores in Bombay and as such the Committee's terms of reference were very restricted, but the idea had been to see if a general scheme could be provided which would be useful or which could be introduced in all ports of India and for all classes and descriptions of dock workers. The personnel of the Committee consisted of representatives of the Dock Workers'

Union, the members being only workers employed by the Bombay Stevedores and the Bombay Stevedores Association, the Chairman of the Bombay Port Trust and a representative of Government of India. He mentioned the various questions gone into by the Committee and pointed out the extremely casual nature of the work in docks, particularly during the slack season when work was not available for more than 10 to 15 days in the month. The idea, therefore, was how to secure full employment or as much employment as possible to all the workers and distribute the work accordingly and to see that for the days on which they did not get work they should be paid something provided they attended. He pointed out that all the relevant questions regarding the nature and the method of employment of the dockworkers had been considered by the Committee, a decision had been reached and that the drafting of the scheme and the Report was under consideration. The question whether the scheme should be restricted only to the workers of the Bombay Stevedores or be extended to other dock workers as well would have to be examined. He then explained the system of keeping them on separate registers—the first for those who were employed on a monthly basis, the second would contain those to whom a minimum guarantee of work could be given and the third for such workers who would get work as and when available. He also elaborated the method of payment etc. All those on the three registers would be considered to be employees of a particular body who would distribute the workers by rotation to the different employers who would pay the wages and other allowances, plus the expenses of the scheme to that Central Employment Body. He concluded by saying that the scheme had nothing in common with the Bombay Government's scheme.

The Chairman stated that in Bombay all parties had agreed regarding the scheme and that there was also agreement to fix up a tripartite arrangement for the administration of the scheme. He gave a brief description of the progress of the scheme in Bombay and explained that the *Badli* control system was a very nice intermediate device for facilitating the work of the industry as well as preventing any excessive burden on the exchange. In reply to Sir Shri Ram's query, he explained that the scheme was agreed to by the employers in Bombay on a voluntary basis and that it applied to textiles only.

Sir Shri Ram argued that conditions in Bombay were 50 years old but if the Bombay millowners were in the hands of their jobbers, the same situation did not hold good in any other place. He suggested that the jobbers should be done away with and expressed surprise to read of illegal gratification in 1948. Referring to Chairman's suggestion that the scheme would reduce the surplus in times of pressure, he explained that there were three periods in the course of a year when there were deficits or shortages of workers, one being the malaria season, another the marriage season and the other harvesting season and felt that if the number of workers was reduced, during these periods, the machines would remain idle. He criticised the policy of maintaining a list and of sending the workers to the various employers, the workers or the employers having no choice in the matter. He felt that the steps proposed to be taken would lead to loss of contact between the employee and the employer. He suggested that the Bombay scheme should not be forced upon North India. He did not

favour the idea that a Manager of the Exchange would decide which concerns should train the workers, though the concerns would not have any voice in keeping the trained people. He concluded by appealing that the Scheme should not be proceeded with simply because Bombay had done something. He very strongly opposed the idea of the employers having to pay for peons who were not actually in their employ.

Mr. Gandhi while generally welcoming the scheme argued that it would be a misnomer to call it a scheme of decasualisation since such a scheme had three requisites. He pointed out that one of the major weaknesses of the scheme was that it did not provide for a waiting allowance. He stressed that the *badli* control system in Bombay should be abolished but may be given a trial elsewhere at the initial stages and argued that there should be a common pool of workers. He expressed the opinion that the scheme should be compulsory so that everywhere the workers could get the same advantage. He objected to the power given to Government to pick and choose the workers' representatives on the Committee. Referring to Appendix I of the scheme, he suggested that information regarding a man's religion and caste need not be there, there need be no insistence on photographs at the initial stage and that some provision should be made to see to it that the number of workers attached to one particular mill got their working turn.

The Chairman explained that the system of ration was there.

Mr. Gandhi stressed that certain minimum guarantee of work should also be provided for.

Mr. Sen welcoming the scheme pointed out the special difficulties of the textile industry in the C.P. and agreed that the Employment Exchange was the only possible organisation through which decasualisation could be secured. He however stressed that the Employment Exchange will have to be worked very efficiently. He agreed with Sir Shri Ram that in up country mills the question of jobbers had to be done away with. He deprecated the suggestion that there should be a system of waiting allowance. He did not favour compulsory introduction of the scheme.

Mr. Bose pointed out that the problem of absenteeism during the harvest season and marriage season was even more important in Bihar than that of casual labour and that the evils of the jobber system were almost absent. He suggested that the scheme might be made applicable to the coal mining labour in the Jharlia coalfields. Although the problem of casual labour was not entirely absent at Jamshedpur, he did not think that the Bombay Scheme could be applied there in its entirety as it would be difficult to work the employment exchange there.

Mr. Sundaram explained that in Madras there was no large volume of surplus labour but the system of jobbers was obtaining in certain factories. He pointed out that labour did not want to have the *badli* system.

Mr. Vasavada agreed to the introduction of the scheme as early as possible. He explained that the scheme did not promise any employer that absenteeism on account of malaria, marriages, etc., would be remedied by it. He felt that the scheme would eliminate bribery. He regretted that he did not see anywhere in the country any employer taking keen interest in training the workers and stressed that Government must stop it. He hoped that although there was no provision for waiting allowance, a time would be reached when it would be possible to do so. He did not favour total abolition of the *badli* system and argued that the selection of permanent workers from among those on the *badli* pool was a better method. He did not favour the employment exchange and pleaded that it should be up to the workers' organisation to arrive at some agreement with the employer and see that *badlis* were given work by rotation. He refuted Mr. Gandhi's remark that workers did not want to be photographed. He said that the recruitment in Bihar was left entirely to *Sirdars* and as such the present scheme would considerably improve matters. He suggested that the scheme should be adopted all over the country.

Mr. Bhashyam agreed with Mr. Gandhi that those people who registered themselves with the Employment Exchange should be paid some allowance and considered the Scheme as a starting point for the adoption of an unemployment scheme. He refuted Sir Shri Ram's remark that the adoption of the scheme would take away the contact between the employer and the worker and stressed that the case would be the other way about. He agreed that the clause about religion and caste must go and stressed that photographs should remain there. He felt that the problem of absenteeism and shortage of labour could be solved if the people on the waiting list were asked to come to the office at a particular hour. He strongly supported the scheme.

Sir Ardeshir Dalal pointed out that the Bombay Millowners' Association did not favour scheme and as such he was surprised when the Chairman said that it was approved by all.

The Chairman said that the decision was reached after the Provincial Labour Advisory Board meeting.

Sir Ardeshir Dalal pointed out that it was accepted only on a voluntary basis. He felt that although training may be a good thing, the waiting allowance was a burden imposed upon the industry. He argued that the Bombay scheme would not be suitable for all other provinces. He concluded by saying that if the scheme had been accepted by the Bombay Millowners' Association, it should be tried there first and if it was found to be successful then it could be extended to other provinces.

The Chairman felt that the reaction of the employers to any scheme was not so much about the interest value of it but the burdens and liabilities it would involve on them. He pointed out that the field left for Government by private enterprise would not have been large if private enterprise had run things in a better manner. He then related his experience of dealing with the employers. He said that although



Sir Shri Ram felt that no illegal gratification was paid, his own experience was otherwise. He was of the opinion that the proposed scheme would bring down labour turnover. He was not convinced by the argument that contract with the jobber was not very desirable and contact with the officers might be healthier and stressed that instead of increasing the shortage, the scheme with a little better arrangement would be able to attract people. The scheme was an experiment and it should be on a voluntary basis but the co-operation of the employers was needed.

**ITEM IV.—IMPLEMENTATION OF THE RESOLUTION ON INDUSTRIAL TRUCE. (FOR MEMORANDUM SEE APPENDIX IX).**

Mr. Lall pointed out that his visit to the coalfields after return from Geneva convinced him that unless there was something like an industrial truce the country was surely heading for a disaster, especially because he felt that most of the 71 strike notices were not genuine. The Resolution could be split up into two parts—the, first part laid down certain objectives and the second dealt with the methods and means by which those objectives could be achieved. The machinery by which the objectives could be secured was also laid down. Referring to the criticisms of the Resolution to the effect that it was vague, he said that it was clear that it would not be possible to implement it without the co-operation of both sides and that by co-operation vague terms could be given a more definite and clear meaning.

He agreed with the argument that a system of profit-sharing could not be forced on an unwilling industry but pointed out that the Resolution was adopted by the representatives of both sides and as such Government had no option but to assume that there was a substantial measure of agreement between the two sides which would justify the hope that there would be co-operation in giving effect to the Resolution. Referring to the contention that the introduction of profit-sharing would really subsidise incompetence and prevent development of the industry in technical recruitment due to decreasing the funds, he made it clear that Government would not propose anything which would prevent industrial development and stressed that the scheme did provide for certain reserves and as such would not prevent industrial development. He pointed out that immediately after the Resolution was passed, the Provincial Governments were requested to give their views on the tentative proposals after the receipt of which the scheme was prepared and placed before the Committee. He assured the House that given co-operation, Government would move very quickly. He was glad that some of the Provincial Governments had considered the Resolution and come to some conclusions and particularly commended the Bombay document.

Sir Shri Ram expressed his disappointment because after the Resolution was passed special efforts had to be made by local authorities to avert strikes in Bombay and Calcutta. Referring to several strikes, he urged that it was Government's duty not to deal softly with those, whether employers or employees, who stood in the way of production. He was of the opinion that a beginning should be made with the Production Committees and after a little experience the Fair Wages Committee should be set up. He felt that the question of return on capital and profit sharing could not be discussed in either the Standing Labour

Committee or a Conference but that it should be considered either by the Cabinet as a whole or in any case by the Ministers for Industry, Finance and Labour. He stressed that the case of small shareholders would have to be borne in mind.

The Hon'ble Mr. Bhashyam felt that industrial truce could come only if the labour is assured of his employment, security of tenure, treatment, fair wages, reasonable work load, housing accommodation and profit sharing and also got properly educated. He suggested that wages and work load should be tackled together and that the Works Committee and the Wages Board should either be one Committee or they must work in co-ordination with each other. He explained how the housing question was being tackled in Mysore and pointed out that a Bill was ready for the State Legislature. He also explained the Mysore plan of housing. Referring to the disputes he pointed out that the Mysore Government had made a straight stringent provision in their Labour Act for bringing about some kind of conciliation or negotiation at a very early date and stressed that there should be a time limit on the conciliation and arbitration proceedings and thought that the Works Committees would have to be depended upon a great deal for that. He also felt that Government should have power to take over a concern, if necessary. As regards profit-sharing, he suggested the following formula :—Deduct working expenses, depreciation charges, interest on capital, then keep the reserve and what was left over should be equally divided between labour and capital. He also suggested the setting up of Research Bureaux for training students in labour leadership.

Mr. Karnik pointed out that his organisation had accepted the principle of industrial truce and refuted the contention that labour was the only party responsible for the fall in production. He argued that it was only when the employers and the Government implemented the Resolution that conditions would be created in which labour organisations or leaders could go to the workers and persuade them for not resorting to strike or to put in better efforts for increasing production. He regretted that neither the Government nor the employers had created those conditions and felt that if the feeling of urgency shown in December last had been maintained, Government would have immediately taken steps to set up Wage Boards, Production Committees and Works Committees. Referring to the strikes in Bombay Port Trusts and B.B. & C.I. Rly., he agreed that more energetic steps by the authorities could have averted the strikes. He also drew attention to the discontent among labour due to the anomalies arising out of the implementation of the Pay Commission's Report or the delay about giving effect to certain recommendations. He disagreed with Sir Shri Ram and stressed that the Standing Labour Committee was quite competent to consider the question of fair return on capital and wanted that immediate steps should be taken to set up Wage Boards.

Sir Ardeshir Dalal enquired whether the Committee was to arrive at conclusions on these matters.

The Chairman remarked it was open to the Committee to submit its views regarding Wages etc. He said that though the questions like profit-sharing and the fair return on capital were outside the scope of the Committee and were subjects for Cabinet discussions, the members of the Committee could express their views on these points. The scheme was there and the things remaining to be done were housing and devising of a formula regarding distribution of profits.

Sir Ardeshir Dalal pointed out that the principles on which remuneration of capital, fair wages or the sharing of profits were to be based, should be determined by the machinery proposed to be set up by the Government for this purpose, but Sir Shri Ram went further and felt that even that machinery would not be competent to decide that and that the matter should be decided by the Ministry of Industry & Supply, Labour and Finance.

Mr. Karnik suggested that the Government should take immediate steps to set up the required machinery which was accepted. He made it clear that they would try to prevent strikes and bring about a settlement of disputes by amicable means. He suggested that Works Committees should be set up to study the causes of the fall in production and to submit a report in 2 months and that Wage Boards should be set up immediately. There should be a Wage Board for each industry and general principles for the guidance of the Wage Boards should be laid down by the Government. He assured full co-operation on behalf of his association.

The Chairman asked Sir Ardeshir Dalal to clarify whether general principles should be laid down by the proposed machinery or by the Government.

Sir Ardeshir Dalal thought that the machinery at the top should be advisory and not an executive body and as such they would lay down all the general principles and the final decision would be that of the Government.

Mr. Lall said that Sir Ardeshir's views were correct.

Mr. S. C. Joshi in reply to Mr. K. N. Singh's query stated that the Central Committee would deal with the major industries.

Dr. Seth suggested that the functions of the Works Committees and Production Committees should be clarified.

Mr. Bose explained the action taken by the Bihar Government in that respect and pointed out that a Provincial Labour Advisory Board had been set up. He further stated that the Truce Resolution was discussed by the Advisory Board and read out the following decisions reached by the Board :—

(1) Each factory will set up a strong Works Committee consisting of representatives of employers and labour in equal numbers and will settle all differences and disputes by mutual discussion :

(2) Each factory will set up a unit Production Committee consisting of equal numbers of employers and employees possessing technical knowledge as far as possible to concentrate on the increase of production and on the removal of difficulties in the way of increased production.

(3) For each major industry or industrial area for each group of minor industries in Bihar there should be a Standing Conciliation Board including equal number of representatives of employers and employees.

(4) Conciliators and Adjudicators should be appointed from among those with experience of industries and industrial labour.

(5) The final award obtained through negotiation or as approved and signed by both the parties or the adjudicators appointed under the Industrial Disputes Act, shall be implemented by the parties without undue delay.

(6) The Labour Department should be separate from the Revenue Department and the staff of the Labour Department should be strengthened adequately.

(7) A Sub-Committee of seven with 3 representatives of employers and 3 representatives of employees should work out proposals in the form of *payment of bonus* to labour as may serve as incentive to production.

The Chairman referring to Sir Ardeshir Dalal's opinion about the function of the proposed machinery stated that he had had an opportunity of a reference to the Minister for Labour on that point and felt that the two views could be reconciled. He explained that it was not necessarily meant that that machinery would deal with all those points finally and fully and that certain gaps would have to be filled in.

Mr. Joglekar referred to the A.I.T.U.C. Resolution on the question and reiterated that unless the profit-motive of production was changed and re-orientation brought in, it would not be possible to reach the goal. He stressed that the main idea of production would have to be production for the use of the society and supplying the needs of the community and further that like production, distribution would have to be made on a planned basis. Though the Government had been inactive in assuring fair wages and fair conditions of life to workers, he pointed out that considerable progress had been made during the last few months in respect of fair return for capital. He drew attention to the Government's Industrial Policy and said that the press comments had characterised it as a charter of exploitation by capitalists. He felt that while everything was guaranteed to the employers, the workers and the consumers had not been given sufficient ground for confidence and satisfaction. If production had to be maintained, the processes of production and the manner and method of arrangement would have to come under consideration and criticism of the workers as otherwise the workers would not have the required confidence that their efforts towards production would be used in the right direction. He pointed out that inspite of all efforts,

strikes were taking place and adjudication and arbitration awards were not being implemented by the industries and even by the Central Government e.g., the C.P.W.D. Wherever the industrial awards were not implemented by the owners, they were not chastised at all.

Mr. Shantilal Shah pointed out that in Bombay, an employer was imprisoned.

Mr. Lall said similar was the case in the U.P.

Mr. Joglekar stressed that the feeling that the workers would get a reciprocal deal would have to be created in the minds of the workers. He criticised the decontrol policy of the Government and felt that that policy was responsible for agitation and dissatisfaction among the workers everywhere. He regretted that in guaranteeing price increases, no consultation was held with labour and that on the Committee on decontrol, labour was not represented. He strongly criticised the argument that the rise in prices would not matter so long as the Government would have its taxes and the workers would also get a share of the profit and felt that that was an illusion since, as pointed out by Sir Ardeship Dalal, the workers would not have a right to look into the accounts. He stressed that workers would prefer better guaranteed living conditions to the system of the illusory profit-sharing within the framework of the capitalistic economy. He felt that the labelling of Trade Unions as communists and arresting their members shook the confidence of the workers and if that policy was pursued, the entire Industrial Truce would flounder against that rock. He argued that the workers should be given a guarantee that until final decisions were reached, the standards laid down by the Pay Commission would be recognised as the living standard. He suggested that Government should make a declaration freezing all profits, and call the workers in active association for working in Wages Boards and Advisory Committees. He made it clear that the machinery could work only if workers were convinced that their representatives had the fullest right to investigate into all social affairs and they should also be properly associated with the Works Committees. Referring to the suggestion that the personnel of the Works Committees and Production Committees might be the same but that they should meet and function separately, he pointed out that in that case the workers would have a grievance that in the Production Committees they were being pressed to co-operate for greater production while in the Works Committees their problems were being shelved and as such the work of the two Committees should not be divided. He stressed that all retrenchment should be stopped forthwith and that nothing should be done prematurely about the grain compensation allowance to Railway workers. He deplored the attitude of Government in allowing themselves to be dragged into creating rival working class organisations and stressed that the workers should speak with one voice.

The Chairman announced that if any section of the labour movement did not accept the Resolution they had no part in any further deliberations.

Mr. Joglekar said that he had made the constructive suggestions for the proper implementation of the scheme and that about housing his friend would speak.

Sir Ardeshir Dalal said that in actual practice, except perhaps the Indian National Trade Union Congress and the Indian Federation of Labour, he very much doubted if the other organisations had attempted to achieve the truce. Referring to the contention that there could not be a truce because the conditions for bringing about a truce had not been created, he said that the employers had accepted the Resolution in the spirit that truce was a cessation of hostilities pending the completion of a treaty. He was afraid that labour did not take it up in that spirit. He expressed the opinion that the reason was that the trade unions instead of confining themselves to the economic policy of the Government were out more or less for what could be regarded as power politics and as such the position of the employers had become extremely difficult. He also pointed out that in the collieries, strikes were occurring on the flimsiest grounds and also conflicting awards were being given. While welcoming the proposal for appointing Central Tribunals, he enquired how those Tribunals would deal with disputes coming under the Provincial sphere. He suggested that an arrangement might be made to associate assessors with the working of the Tribunals. He refuted Mr. Joglekar's contention about non-implementation of awards and pointed out that awards were being flouted by the labourers. He also felt that Mr. Joglekar's view that unless there was a social and economic system under which production was carried out not for profit but for the use of the community all those troubles would continue, was not the correct attitude. Referring to the fall in production, he pointed out that inspite of the fact that a regular contract had been signed between his company and the representatives of the union, matters did not improve. He felt that the main reason for the fall in production was the attitude taken up by labour inspite of all that was being done for them. He expressed the opinion that the machinery suggested by the Government of India was very complicated. He agreed with Sir Shri Ram and insisted that if the Government of India insisted upon following the line suggested in their memorandum, they should take care to see that representatives of the Ministries of Industry and Supply and Finance were associated with the body proposed to be set up. He hoped that proper representation to the industry would be given on that body. He did not think that a simple formula for the determination of fair return on capital would meet the purpose because if capital were to get only a fixed percentage in a particular year when there were profits what would happen when there were no profits. He stressed that while determining fair wages, the capacity of the industry to bear the wages would have to be carefully borne in mind. Questions relating to depreciation and reserves would also have to be taken into consideration. He did not think that labour was particularly interested in profit-sharing and drew attention to the profit-sharing scheme started by the Tatas in their Steel Works in 1936-37. He pointed out that his experience was not uniformly happy since labour had taken for granted that every year they would get something regardless of what the profits for a particular

year were. He suggested that the proposed Committee should consider how the profit-sharing scheme would be worked out and with what it should be associated. He felt that Government's intention of having the profit-sharing scheme on a graduated scale based on production was laudable. He felt that if Works Committees were given some limited functions and if their growth was gradual they would work properly otherwise there would be friction. He had no objection to the Production Committees and the Works Committees being the same but his personal view was that the Production Committees should be distinct from the Works Committees. He explained the working of the housing scheme of the Tatás and stressed that considering the heavy burden on the industry it might not be possible for the majority of the establishments to bear it unless the burden was shared by the Government and labour along with the industry. Referring to Mr. Joglekar's suggestion that a proper atmosphere would have to be created, he argued that it was a matter of regret that inspite of the sacrifices made by the employers the response from labour had been very poor. He concluded by appealing for mutual goodwill and harmony for the prosperity and happiness of the country.

Mr. Sundaram referred to the labour situation in Coimbatore and regretted that the Truce Resolution had not really worked in the Province of Madras. Referring to the award of the Industrial Tribunal for cotton textiles, he said that labour in Coimbatore refused to accept it which he felt, was only due to the existence of rival labour groups. He stressed that the Industrial Disputes Act should be so amended as to provide for adequate punishment for non-implementation of the awards and also some machinery by which wages or money or all dues which were awarded could be recovered. Government should also have the power to extend the period of the award. Greater stress should be laid on Conciliation Officers. He drew attention to the housing scheme of the Harvey Mills, Madura and suggested that other employers should follow them.

Mr. Vasavada referred to the Resolution passed by the Indian National Trade Union Congress in March 1948 but regretted to find that the position of the consumers in the country had remained the same. He agreed with Mr. Karnik that some of the items included in the Resolution could not be implemented by the workers alone. Referring to a meeting held in Bombay he pointed out that the President of the All India Trade Union Congress was opposed to any truce. He regretted that the Government of India did not take any steps to implement the Resolution. He urged that whatever Committee Government might appoint, that Committee would have to take into consideration the views of the parties concerned. He stressed that Government should declare within a very short time what they consider to be a fair wage, a fair return on capital etc. He expressed the opinion that the first charge on the revenues of the industry should be the living wage and that unless the workers had earned the living wage, there should not be any profit. He stressed that the Government of India should issue directives to the Provincial Governments and should give them guidance in the matter by legislation which could be decided at the next Conference of the Labour Ministers. He felt that instead of merely leaving the question of housing to the employers, the Government should step in and wanted to know what arrangement

Government had made to build the houses. Considering that a Truce presupposed that there were parties to the truce, that there was difference of opinion and that settlement would take time, he failed to understand the attitude taken up by Mr. Joglekar. He criticised Mr. Joglekar's allegation that the Government of India was setting up rival trade union organisations as unfair.

Mr. Gandhi pointed out that the word "truce" was not to be found anywhere in the Resolution. While agreeing that the members of the All-India Trade Union Congress attending the Industries Conference in their individual capacity had accepted the Resolution, he pointed out that the fact remained that Government were the first culprits who had broken the Truce Resolution since they had embarked on a policy of decontrol of cloth and food grains. He pointed out that although plans after plans on housing were evolved and Committees appointed to check them, the people did not get the houses. He stressed that difficulty in getting land should be removed by an Ordinance empowering Government to acquire land and if in War-time Government could build so many houses they could certainly build at least a few temporary houses for the working class. He reiterated Mr. Joglekar's remarks that unless and until certain necessary conditions were fulfilled, complete peace was not possible. He suggested that in determining the wage the principle should be that a worker, his wife and two children got enough to live in a civilized way and that an interest varying between 3 and 5 per cent depending on the conditions of the industries and the localities should be a fair return on capital. As regards profits, he suggested that Government should see to it that the consumer got his goods at a cheap price and that the price level in the country was not allowed to go up.

Mr. Shantilal Shah agreed with Mr. Vasavada regarding the failure of the Government in taking certain action which they ought to have taken. He did not favour the idea that there should be some conditions precedent before the Resolution could be implemented. Dwelling upon the special merit of the Bombay Industrial Relations Act he suggested that for the resolution of Industrial disputes in a just and peaceful manner the machinery evolved under that Act should be set up. He pointed out that under the rules framed by the Central Government in connection with the Industrial Disputes Act, the conduct of the elections for the Works Committees was left to the workers and felt that that was a defect which should be removed by giving the election of the workers to the Labour Officers. He urged that Government should disclose their policy on fair wage, fair return on capital immediately. He agreed with Mr. Bhashyam regarding profit-sharing but stressed that the Managing Agency Commission for any one unit should not exceed Rs. 50,000 a year. He was of the opinion that depreciation must not exceed the amount fixed on the basis of the income-tax authorities. After making allowance for these the net profits could be calculated and a return varying from 3 to 5 per cent. could be permitted on the paid-up capital plus one-half of the present and future reserve. The maximum return on capital should not exceed  $7\frac{1}{2}$  per cent. and thereafter the surplus must be equally divided between capital and labour. The payment in cash could be 3 to 4 months' wages but the rest should be in the form of schemes for



social welfare in the case of labour and in the form of industrial improvement in the case of industries. He suggested that profit sharing should be linked up with productions. Referring to the Railway authorities, he stressed that when the workers had a grievance against the Government the matter should be referred to an Industrial Tribunal.

Thakur Kuldip Narayan Singh pointed out that under the U. P. Act, the Provincial Government had taken very wide powers both for dealing with labour and the industries. He mentioned that his Government had acquired 4 concerns and was actually running one of them. He was afraid that so far as the proposed machinery was concerned, it might not be possible to proceed on uniform lines but he agreed to co-operate with the Central Government in respect of the Central Tribunal. The U. P. Government had set up a Tripartite machinery for the Sugar Industry and had achieved excellent results. He pointed out that in regard to Works Committees, the U.P. Government found it necessary to deviate from the lines adopted in other Provinces. He also explained what his Government had done about housing.

Dr. Seth explained the position regarding demand of the industrial workers in Delhi, and action taken by the local authorities on the same. He denied having been told by a Union officer that the record would have to be found from the police. He said that the local authorities were doing everything possible to implement the Truce Resolution.

Mr. Chatterjee explained the position in West Bengal and pointed out that the Provincial Government had suggested that there should be Provincial Committees and Sub-Committees and then Works Committees.

Mr. Lall explained that the reason of the delay in implementing the Resolution was due to the fact that the workers' representatives made it clear that they were representatives in their individual capacity at the Industries Conference and the Provincial Governments could not commit themselves definitely until they had taken a Cabinet decision in their respective provinces. The employers did not also commit themselves. He pointed out that although letters were addressed to all concerned on the 12th January, 1948, asking them to state whether they accepted the Resolution most of the replies were still awaited. The All-India Trade Union Congress reply was not clear and an important Employers' organisation had not considered the Resolution.

Mr. Mulherkar stressed that the fault lay with the Government.

Mr. Boothalingam pointed out that many of the labour representatives and employers' representatives said that they had personally accepted the resolutions and would use their influence to explain the resolutions to their organisations and then communicate the results later on to Government.

Mr. Lall referred to the reply of the All-India Trade Union Congress and said that their view was that unless there was a change in the whole economic order of the country, there was no use thinking of any Indus-

trial Truce Resolution. He refuted the contention that Government had adopted a policy of decontrol without caring for anybody and pointed out that that policy was adopted with the will of the Legislature. Referring to Mr. Joglekar's allegation that the Resolution was a charter of exploitation by the employers because it gave 10 years to some industries, he said that a perusal of a few sentences of that Resolution would convince anyone to which the exploitation did really go and it was thus unfair to accuse Government. He refuted the charge that Government was creating a split in the labour movement and pointed out that in spite of their best efforts they could not bring together the All-India Trade Union Congress and Indian National Trade Union Congress and that the position of the Government of India at the International Labour Conference had been very delicate because they had to nominate the representatives in consultation with the most representative organisation. He asserted that he did not encourage any split and would be most happy were he not asked to decide which was the most representative organisation. Referring to the industrial disputes machinery, he pointed out that whatever inconsistencies were there in the decisions, those were due to the fact that the constitution was such that it made inconsistencies and lack of co-ordination almost inevitable, especially because there was no clear cut demarcation between disputes falling within the Provincial sphere and those within the Central sphere. He illustrated the point by giving examples but made it clear that attempts were always made to avoid those inconsistencies as far as practicable by trying to consult the Provinces and telling them what the Central Government's intentions were. He said it had, therefore, been suggested in the memorandum that if there was a very important major dispute involving important questions of principles which were likely to affect organisations and workers in other Provinces, it should be referred to the Central Tribunal proposed to be set up; otherwise there would be minor Tribunals. He agreed that Tribunals should be well advised to associate assessors with them, particularly those who were more or less experts or had very profound knowledge of the matters in dispute. Replying to a query of Sir Ardeshir Dalal, he pointed out that the Central Tribunals should be in industrial areas, except the one in Dhanbad which would deal with all coal fields.

Referring to Sir Ardeshir Dalal's query as to whether a Standing Tripartite Committee for dealing with industrial disputes would not cut across the industrial disputes machinery already provided, he pointed out that it would not be possible to go on multiplying the Industrial Tribunals and unless men of very high standard could be obtained as adjudicators, there would be the risk of having bad awards. He, therefore, suggested that there should be a small Standing Tripartite Machinery to which the parties could go and it would try and settle the disputes thereby taking away a large number of disputes from the Tribunal.

Thakur Kuldip Narayan Singh pointed out that they had a Committee like that in the U.P.

Mr. Lall referred to the statement that awards were not being implemented and said that better conditions were being given to labour and even more pay than the Pay Commission's recommendations, but there were more strikes and more trouble. He said that the

answer was provided by the U.P. which was following a new policy of taking over in the case recalcitrant employers. He was afraid that that policy would have to be implemented by arresting persons who would cause strikes. Referring to the apprehension that so far as profit sharing and the determination of a fair remuneration to capital were concerned, labour was to be kept out and the whole thing decided *ex parte* by Government and employers, he thought that probably that was caused by the demands made by Sir Shri Ram. He made it clear to the representatives on all sides that the Government was one and all and although in certain cases representatives of some Ministries might be absent, the Government was working as a team and that in important matters the Ministries of Finance and Industry and Supply would certainly be associated and that labour would definitely be associated in matters relating to the determination of fair remuneration to capital, reserves etc. Referring to the proposal that profits should be frozen by an Ordinance, he pointed out that the Resolution did not leave profits alone, as a control of profits was contemplated. It was impossible for Government to give an undertaking that all retrenchment would be stopped but pleaded that if it was really wanted that retrenchment should be stopped, the observance of the Industrial Truce Resolution was an essential *sine qua non*. He refuted the charge that nothing was done to increase wages and pointed out that in Plantation industry a very generous increase was effected by agreement and in the Sugar industry also. Bihar and the U.P. had done a good job. Referring to the machinery proposed, he took it that that was generally acceptable but pointed out that in the Central Advisory Council not only the Ministry of Labour but also the Ministries who were interested would be represented. With regard to the suggestions regarding determination of fair return to capital, fair wages etc., he said that such matters might be left for the consideration of the machinery proposed to be set up. Quoting from the Resolution, he said that it was clear that there was mention of industrial truce although Mr. Gandhi had failed to find it there. He finally appealed to all sides that there must be a spirit of fairness on both sides and really there could not be any truce if one party was going to see always something bad in what was done by the other side.

Sir Ardeshir Dalal proposed a vote of thanks to the Chair which was seconded by Mr. Karnik.

## APPENDIX I.

## ITEM I (A) (a) (i) : REPLIES AND COMMENTS OF THE GOVERNMENT OF INDIA TO THE I.L.O. QUESTIONNAIRES AND REPORTS ON FAIR WAGES CLAUSE IN PUBLIC CONTRACTS.

## I. FORM OF THE INTERNATIONAL REGULATIONS.

*Question.*—1. Do you consider that the International Labour Conference should adopt international regulations concerning labour clauses in public contracts and that these regulations should take the form of a Convention ?

*Answer.*—Yes.

*Question.*—2(A). Do you consider it desirable to supplement the proposed Convention with one or more Recommendations on the subject ?

*Answer.*—Yes.

*Question.*—2(B). If so, which of the following points should, in your opinion, be excluded from the Convention and included in a Recommendation ?

*Answer.*—The points which should be excluded from the Convention and included in a recommendation are set out in the answers to the relevant questions.

## II. SCOPE OF REGULATIONS.

*Question.*—3. Do you consider that the international regulations should apply to public contracts for—

- (i) the construction, alteration, repair or demolition of public works ;
- (ii) the manufacture, assembling, handling or shipment of materials, supplies and equipment ; and
- (iii) the performance or supply of services ?

*Answers.*—3. (i) Yes.

(ii) No.

There are considerable difficulties in including the "Fair Wage Clause" in Government contracts for—

(a) the manufacture, assembling, handling or shipment of materials, supplies and equipment, and

(b) the performance or supply of services, even if, as it should be, the international regulations are applied only to contracts of a prescribed value and above. In many cases Government offtake may constitute only a small part of the output of the industrial undertaking. It is difficult to isolate the workers employed on Government contracts. Where the Unit also produces for stocks, it may not be possible to say when the goods delivered to Government are manufactured. Even if the workers employed on Government contracts can be isolated, it is clearly impossible to apply to them the higher wage rates referred to in the "Fair Wage Clause," while leaving other workers employed on identical jobs to work at lower wage rates. Indeed this difficulty has been recognised in the questionnaire itself, vide question 9(ii). The "Fair Wage Clause" rates should be applied, if at all, to all workers and throughout the year, and not merely when Government contracts are executed. If the object of the proposed regulations is to secure the payment of fair wage rates over a wide field, the question arises whether it would not be more satisfactory to tackle the problem in a direct manner. The movement now is towards the standardization of wage rates throughout the country or a well

defined region. This may be secured either by collective agreements where employers and workers are well organised or by arbitral awards or by promoting legislation for the creation of Wage Boards with power to fix fair wages. The "Fair Wage Clause" was principally designed to see that the system of competitive tenders employed in awarding public contracts does not have the effect of cutting down wage rates. In use the "Fair Wage Clause" for the wider purpose of *directly* spreading fair wage rates and improving general labour conditions may prove difficult and even impracticable. The Government of India, therefore, feel that this problem should be faced directly. Where organisations representative of substantial proportions of the employers and workers in the trade or industry in the district or region exist, they should be encouraged to conclude, by mutual negotiation, fair wage agreements. These agreements can be, as has been done in some countries, made applicable to all the workers in the trade or industry in the district. Where important sections of industry have been or are being brought within the sphere of State ownership, fair wage rates may be fixed by negotiation between workers' organisations and the public corporations managing the socialised industry or where representative and responsible organisations do not exist, by the management after consultation with such organisations of workers as exist and with the approval of the State. Where the machinery of collective bargaining does not exist, then legislation should be promoted for the creation of Wage Boards with power to fix fair wages. In India legislation is being promoted for the fixation of minimum wages in occupations where labour is unorganised and weak. This legislation also gives power to the appropriate Government to fix the normal hours of work, overtime rates and to provide for weekly rest periods. Government of India have also under consideration the question of promoting legislation for the establishment of Wage Boards with power to fix fair wages in what may be called organised industries. This, they consider, will be a more effective and satisfactory way of achieving the objectives which this enquiry has in view.

The position in regard to contracts for the construction, alteration, repair or demolition of public works is different from other contracts. These contracts are executed by distinct groups of workers who are employed wholetime on work covered by contracts. It is desirable that Government should act as a good employer and take such measures as may be necessary to secure to the workers employed on such contracts, fair wage rates, especially in the building industry where workers are not organised or in a position to secure by their own efforts, fair wage rates. It would also be easy to enforce the regulations by a system of inspection, if they cover a restrict field.

Question 18 visualises the creation of an enforcement machinery. This is very necessary, if the regulations are to be satisfactorily enforced. At the same time, the question arises whether if the terms of the regulations are so drafted as to cover a very wide field, it would be possible to organise a satisfactory system of inspection without involving a disproportionate amount of expenditure from public funds and without the inspections resulting in unnecessary pin-pricks or harassment to contractors. Whatever may be the condition in economically developed countries, Government of India consider that it would be almost impossible to arrange for a proper system of inspection in countries which are not fully developed, if the regulations are to cover the very wide field indicated in Question No. 3. They would, therefore, suggest that if it should be ultimately decided that the regulations should cover the wide field suggested by question 3 (ii) and (iii), there should be two or more Conventions covering

this field, for example, one governing public contracts for the construction, alteration, repair or demolition of public works, another applying to public contracts for the manufacture, assembling, handling or shipment of materials, supplies and equipment, and a third covering contracts for the performance or supply of services. This would make it possible for the countries to ratify one or more Conventions depending upon the state of development reached and on their ability to secure a proper enforcement of the conditions set out in the regulations.

*Question.*—4. (i) and (ii). Do you consider that, for purposes of the international regulations, a "public contract" should be defined as a contract—

- (i) in which at least one of the parties is a public authority; and
- (ii) the execution of which involves the expenditure of public funds and the employment of workers?

*Answer.*—Yes.

*Question.*—5. Do you consider that the international regulations should apply to work done by—

- (i) contractors; and
- (ii) subcontractors or assignees of contractors?

*Answer.*—5. (i) Yes.

(ii) It would be desirable to bring subcontractors and assignees of contracts within employing labour within the scope of the regulations, provided the regulations are applied only to public works. It would be administratively difficult to include sub-contractors or assignees of contracts if works other than public works are brought within the purview of the regulations.

*Question.*—6. Do you consider that the international regulations should apply to contracts entered into—

- (i) by authorities of the Central Government; and
- (ii) by local authorities?

*Answer.*—6. (i). In many countries the constitutional structure is federal. All contracts entered into by a Government, whether Central or Provincial, Federal or State, as the case may be, should be subjected to the international regulations.

6. (ii). It would be desirable, but this should be left to be covered by a Recommendation.

In many countries, especially in Asia, the local authorities are numerous and scattered; the nature of their duties is also varied and, in some cases, complicated. But the expenditure incurred by local authorities is limited, the bulk of the expenditure being by the Central or Provincial Government. It would, therefore, be appropriate for the present to limit the scope of the Convention to contracts entered into by a Government, Central or Provincial and leave contracts entered into by 'local authorities' to be governed by a Recommendation.

*Question.*—7. (a) Do you consider that contracts involving the expenditure of public funds below a limit fixed by national laws or regulations should be permitted to be exempted from the international regulations?

(b) Are there any other exemptions which you consider should be provided for?

*Answer.*—7. (a) and (b). The regulations should make provision for exemption, from their scope, of contracts—

(a) involving the expenditure of public funds below a limit fixed by national laws and regulations,

- (b) in respect of which a smaller number of workers than that prescribed by national law or regulations are employed,
- (c) which are completed in a period less than that prescribed by national laws and regulations, and
- (d) contracts which are awarded or executed under abnormal conditions, and where the primary motive is not the execution of the work so much as the provision of relief or of training opportunities or of finding work to people not used normally to work, with a view to their learning some useful trade and settling down as useful citizens of the community.

It would also be necessary to provide for the suspension of the regulation in times of national emergency, if such a course is demanded by national interests.

It will be difficult to apply the regulations to all contracts. If they are effectively enforced in respect of the big and worthwhile contracts, the bulk of the workers would have received protection. The pervasive influence of the application of the regulations in respect of the bigger contracts will secure for all other workers the same wage rates, even without their being made formally subject to the regulations. Where the contracts are executed very quickly it may be difficult to secure their effective enforcement. These cases will also be special, and should, if necessary, be kept outside the purview of the regulations.

In India Government have recognised the necessity for executing public works in areas stricken by famine with a view to affording employment opportunities to people left without work. Such works are executed under exceptional circumstances and cannot be made subject to the international regulations of the type in discussion for various reasons. For example, workers in famine stricken areas are not in a condition where they can do a normal day's job judged by the standard applicable to normal workers. For these reasons famine relief work should be exempted from the scope of the regulations.

It is also necessary that contracts where the primary objective is not the performance of service, but the provision of training opportunities either to young persons or adults or of work to people addicted to criminal habits, with a view to their becoming useful-citizens of the community, should be excluded from the regulations.

*Question.—8.* Do you consider that the international regulations should apply to arrangements analogous to public contracts whereby, as a measure of public policy, economic benefits are extended to private employers by such means as the granting of subsidies or of licences to operate a public utility, the approval of a tariff or table of rates, or the fixing of a minimum price schedule ?

*Answer.—8.* It would be desirable to apply, wherever possible, international regulations to arrangements whereby economic benefits are extended to private employers. As, however, conditions vary considerably from case to case, national authorities should be given discretion to exempt cases, where they are satisfied that the international regulations cannot be applied. In other words, the only obligation of the national authorities should be to consider this question at the time of extending the economic benefits, the actual application, including the extent of application, being left to be adjusted to the circumstances of the case. This may be left to be covered by a Recommendation.

*Question.—9.* Do you consider that the international regulations should apply—

- (i) to workers employed directly in the execution of a contract ; or
- (ii) to all workers employed in an undertaking or establishment which is engaged in the execution of a contract ?

*Answer.*—9. (i) and (ii). If the application of the regulations is limited to contracts for public works, the regulations should apply only to workers employed directly in the execution of the contracts concerned. If on the other hand a wider field is to be covered, then the regulations should inevitably apply to all workers, employed in the undertaking or the establishment engaged in the execution of the public contract, for reasons already explained in the answer to Question No. 3.

*Question.*—10. Do you consider the exceptions should be provided for in the international regulations for any particular classes of workers, and if so, which classes?

*Answer.*—10. Yes. For example, to meet cases of partially disabled workers who are unable to give a full outturn of work.

### III. BASIC STANDARDS FOR DETERMINING LABOUR CONDITIONS IN PUBLIC CONTRACTS.

*Question.*—11. Do you consider that the international regulations should provide that the labour clauses in public contracts should ensure to the workers concerned conditions of work not less favourable than the most favourable conditions fixed by collective agreements or arbitration awards, if such exist, for work of the same character in the district, where the work is carried out?

*Answer.*—11. Fair wage clauses, definition, must be concerned with the enforcement of fair wages. Their object should be, as set out in the resolution of the British Parliament on the subject, to ensure the spread of terms agreed to by organisations of employers and workers representative of substantial number of workers. In other words, the effort should be to secure the applications to all or as nearly as possible all the workers, what has been agreed to in the case of the majority of workers. The reference to the most favourable conditions in this context is, therefore, inapposite, although the qualifying phrase 'fixed by collective agreements or arbitration awards' would indicate that the object is really the application to all what has been agreed to in the case of the majority of workers.

*Question.*—12. Do you consider that in districts in which collective agreements or arbitration awards fixing conditions of work do not exist, such clauses should prescribe conditions of work not less favourable than those—

- (i) prevailing in the district or in the nearest district in which the general industrial conditions are similar; or
- (ii) fixed by national laws or regulations?

*Answer.*—12. The object of the question is not clear. Government of India's view is that if fair wage rates have been fixed by collective agreements or arbitration—these methods should secure fair rates then such rates should be applied to workers employed on public contracts. Where such do not exist, suitable measures should be taken to fix fair wage rates. If the Convention relates only to public works contracts, the fixation of such rates would be comparatively easy. If, on the other hand, the scope of the Convention is widened to include all contracts, fixation by the competent authorities may prove very difficult, even unworkable. Where fair wage rates have been fixed by national laws or regulations, they will naturally prevail and no further fixation will be required.

*Question.*—13. Do you further consider that where, by reason of the stage of economic development of an area, the prevailing conditions of work fall below a standard which, in the judgment of the competent authority, can be considered to be fair and reasonable, the labour clauses should prescribe fair and reasonable conditions of work?



*Answer.*—13. Yes, wherever possible, but it should not be forgotten that the grant of higher rates to workers employed on Government works amounts to the creation of a privileged class at the expense of the general body of the community. The aim should be to secure for all workers the best terms possible taking account of the state of economic development of the community, and not merely good conditions to a comparatively small section of workers at the expense of others, community, and not merely good conditions to a section of workers at the expense of others.

*Question.*—14. Have you any other suggestions to make concerning the general standards on which the labour clauses of public contracts should be based?

*Answer.*—14.

#### IV. CONDITIONS PRESCRIBED IN FAIR WAGES CLAUSES.

*Question.*—15. (a) Do you consider that the international regulations should provide that fair wages clauses in public contracts should specify—

- (i) the normal rates of wages to be paid to the various categories of workers; and
- (ii) overtime wage rates?

(b) Are there any other details of the wages provisions of public contracts which you consider should be dealt with in the international regulations?

*Answer.*—15. (a) (i) and (ii). It would be desirable to specify in the contracts the normal rates of wages and overtime rates, wherever it is possible to do so. This may not be practicable in all cases. It is, therefore, suggested that this question may be covered by a Recommendation.

(b) Government of India would suggest that provision should be made for the prompt payment of wages and without any deductions, other than those which may be permitted by national laws and regulations, to workers engaged on public contracts.

*Question.*—16. Are there any other conditions of work which you consider should be dealt with in fair wages clauses, and if so, which?

*Answer.*—16. From the notes explaining the scope of the question, it appears that the intention is to enquire whether the fair wage clauses should include provision relating to such matters as hours of work, safety conditions, etc. Fixation of wage rates will inevitably involve a certain amount of regulation in regard to hours of work. It is necessary that workers should be protected not only in regard to wages, but also in regard to hours of work, and they should be assured of safe and healthy conditions of work. The fair wage clause may not, however, be an appropriate method of securing these conditions. They should be prescribed by national regulations for all workers or to as many categories of workers as can be covered by the regulations, whether engaged on public contracts or not.

#### V. PROCEDURES AND METHOD OF ENFORCEMENT.

*Question.*—17. Do you consider that the international regulations should provide that the labour conditions prescribed in public contracts should be—

- (i) determined by a competent authority, in consultation with the organisations of employers and workers concerned, where such exist; and
- (ii) included in the advertised specifications of contracts?

*Answer.*—17. Yes, provided the regulations apply only to public works.

*Question.*—18. (a) Do you consider that the international regulations should provide that there should be maintained a system of inspection adequate to ensure effective enforcement of the fair wages clauses of public contracts?

(b) Do you further consider that the international regulations should specify that the system of inspection should be the general labour inspectorate?

*Answer.*—18. (a) No regulation can be effectively enforced unless there is a system of inspection. It is, therefore, fundamental that there should be an adequate system of inspection for the enforcement of every Convention.

(b) The agency to be entrusted with inspection may be left to be determined by national laws. It will introduce an element of unnecessary rigidity if it is to be laid down in the Convention that the responsibility for the enforcement of the "Fair Wage Clause" should be entrusted to the general Labour Inspectorate. If at all regulations should cover this question, it is suggested that they should be covered by a Recommendation.

*Question.*—19. Do you consider that the international regulations should provide that the laws and regulations concerning fair wages clauses in public contracts should—

- (i) be brought to the notice of all persons concerned;
- (ii) define the persons responsible for compliance therewith;
- (iii) prescribe adequate penalties for any violation thereof;
- (iv) require the posting of the labour clauses in conspicuous places at the establishments and workplaces concerned; and
- (v) provide for the maintenance of adequate records of the hours worked by and the wages paid to the workers concerned?

*Answer.*—19. Yes, subject to the scope of the regulations being restricted to public works.

*Answer.*—20. This would be desirable and may even be necessary in certain circumstances. An absolute rule that the authority awarding the contract should withhold such funds as may be necessary to meet the claims of the workers, would be unworkable, as the authority cannot always undertake this responsibility. What is necessary, therefore, is a provision that national laws and regulations may provide for the withholding of a sufficient amount from the dues of the contractors, if it is found that the contractors have defaulted in paying the rates of wages. The question may, therefore, be left to be covered by a Recommendation.

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*Question.*—21. Do you consider that the international regulations should provide that contracts should be withheld, for such a period as may be fixed by national laws or regulations, from persons or firms found guilty of deliberate and repeated violations of the fair wages provisions of public contracts?

*Answer.*—21. Yes, but as definite provisions regarding periods for which contracts should be withheld or as to what should constitute "deliberate and repeated violations" cannot be made in a Convention, it is considered that this may also be left to be covered by a Recommendation.

## APPENDIX II.

## ITEM I (A) (a) (ii) : REPLIES AND COMMENTS OF THE GOVERNMENT OF INDIA TO THE I. L. O. QUESTIONNAIRES AND REPORTS ON PROTECTION OF WAGES.

## I. Form of the International Regulations.

## Questions.

....

## Answers.

1. Do you consider that the International Labour Conference should adopt international regulations concerning the protection of wages and that these regulations should take the form of a Convention ?

Yes.

2. (a) Do you consider it desirable to supplement the proposed Convention with one or more Recommendations on the subject ?

Yes.

(b) If so, which of the following points should, in your opinion, be excluded from the Convention and included in a Recommendation ?

The answers to the questions will indicate what points should be covered by a Convention and what should be included in a Recommendation.

## II. Scope.

3. (a) Do you consider that the international regulations should apply to—

Yes. The expression "capable of being expressed in terms of money" needs careful definition. It should, for example, exclude items like :—

(i) remuneration or earnings, however designated or calculated, capable of being expressed in terms of money, which are payable by the employer to the worker in virtue of a written or unwritten contract of employment ; and

(a) the value of any house accommodation, supply of light, water, medical attendance or other amenity or services excluded under national regulations ;

(ii) allowances or supplementary payments, such as bonuses and severance pay or dismissal wages, which are payable by the employer to the worker in virtue of a contract of employment or national law ?

(b) any contribution paid by the employer to any Pension Fund or Provident Fund or in respect of any social insurance scheme ;

(c) any travelling allowance or the value of any travelling concession ;

(d) any sum paid to the person employed to defray the special expenses entailed on him by nature of his employment ;

(e) any gratuity payable on discharge.

The objects of the proposals are :—

(a) to guarantee the worker against practices which would

tend to make him unduly dependent on his employer and (b) to ensure that he receives promptly and in full the wages which he has earned. It will be sufficient for these purposes if the regulations cover only payments which are normally, paid in cash like wages, cost of living allowances, bonuses, etc. To defeat any attempt that may be made to circumvent the regulations by making payments in kind or services, it would be desirable to employ the express "capable of being expressed in terms of money." At the same time care should be taken to see that this wide expression does not include certain services which cannot and need not be covered by the Regulations. The reason for suggesting that gratuity payable on discharge should be excluded from the scope of the regulations is this. This payment is related to the total approved service of the employee and sometime must be allowed to employers to verify the service. Before payment is arranged, it will also be necessary to see that there are no dues from the workers. Consequently it may not be possible to arrange for the payment of the gratuity within the time normally allowed for the payment of wages. No hardship will be caused to the workers if the payment of this lump sum is deferred for a short period.

3. (b) Do you consider that the international regulations should provide for the possibility of excluding employed persons whose remuneration exceeds an amount prescribed by law ?

Yes. But the limit should be left to be prescribed by national regulations.

3. (c) Do you further consider that the international regulations should provide for the possibility of excluding any other categories of employed persons, and if so, which ?

The International Regulations should apply, in the case of India, only to employments in industrial undertakings to which the payment of Wages Act is applied.

3. (d) Have you any further suggestions to make concerning the scope of the international regulations?

### III. Medium of Wage Payments.

#### A. PAYMENT IN KIND.

4. Do you consider that the international regulations should provide that the partial payment of remuneration in the form of allowances in kind may be authorised by law only in industries or occupations in which such payments are customary or necessary by reason of the nature of the industry or occupation concerned?

5. (a) Do you consider that the international regulations should provide that, in cases in which the law authorises part payment of wages in kind, appropriate measures should be taken to ensure that—

(i) such allowances in kind are restricted to those which are necessary for the personal use of the worker and his family;

(ii) the value attributed to such allowances should not exceed their real value; and

(iii) such allowances are of adequate quality and quantity?

Yes. The question whether payment in kind is necessary or not in any industry or occupation should be left to be determined by national authorities.

In some cases, for example, in agricultural employments payments in kind need not necessarily be "restricted by those which are necessary for the personal use of the workers and his family", especially in countries where money economy has not completely superseded the ancient system of payment in kind. So long as provision is made.

(a) that payments in kind may be allowed only if authorised by national regulations, and

(b) that regulations permitting payment in kind should also lay down sufficient safeguards against abuses associated with payments in kind (vide questions, 5(a) (ii) and (iii)).

It is not necessary to lay down a further stipulation that such payments in kind should be restricted to the amounts as may be necessary for the personal use of the worker and his family. If it is considered necessary that this point should be covered by international regulations, it is suggested that the regulations should take the form of a Recommendation.

Yes.

The principle is acceptable, but difficulty is how to ensure that in every case the allowance in kind is of adequate quality and quantity. As explained in the answer to

question 4 (a) (i); payment in kind must be authorised under a national law; such authorisation will inevitably include suitable safeguards against any attempt to defraud the worker in respect of quality or quantity of the payments in kind. It is suggested that international regulations, covering this point should take the form of a Recommendation, so that Member States will have some latitude in giving effect to the principle, depending upon and suited to the circumstances obtaining in their respective countries.

5. (b) Are there any other provisions which you consider should be included in the international regulations concerning the partial payment of wages in kind, and if so, which?

In India certain classes of workers are supplied foodgrains and other essential commodities at concessional prices. This custom grew up during war-time when workers found it difficult to secure a sufficient quantity of supplies at reasonable prices. This arrangement has been continued in many cases even after the war, because the workers regard this as a valuable privilege. The regulations should be so framed as to permit its continuance or for its provision even where it is not now in existence, if such provision is considered desirable and in the interests of the workers.

#### B. PAYMENT IN CASH.

6. (a) Do you consider that the international regulations should provide that wages should be paid only in legal tender and that payment in the form of promissory notes, vouchers, coupons or any other token alleged to represent legal currency should be prohibited?

Yes, but it should be made clear that the wages referred to here relate to the portion ordinarily paid or payable in cash.

(b) Do you consider that wages may, with the consent of the worker, be paid by bank draft or cheque?

Yes.

7. Do you consider that the international regulations should provide that, except as otherwise specified by the workers; wages should be paid directly to the worker concerned?

Yes.

## C. FREE DISPOSAL OF WAGES AND REGULATION OF COMPANY STORES.

8. Do you consider that the international regulations should provide that the employer should be prohibited from limiting in any manner the freedom of the worker to dispose of his wages ? Yes.

9. (a) Do you consider that the international regulations should provide that in appropriate cases works stores or similar services may be established for the sale of merchandise to the workers subject to conditions to be prescribed by national laws or regulations ? Yes.

(b) If so, do you consider that such conditions should include the following : Yes.

(i) that the workers concerned should be free from any coercion to make use of such services ; Yes.

(ii) that no financial profit should accrue to the employer from the operation of such services ; Yes.

(iii) that the appropriate measures should be taken to ensure the sale of goods at fair and reasonable prices ; and

The principle enunciated is unexceptionable, but the difficulty is one of enforcement. If it is intended that there should be a check of prices, it will be necessary for Government to employ a staff of Cost Accountants. 9(b) (ii) provides that no financial benefits should accrue to the employer. This itself must ensure that the prices are fair and reasonable. Further 9(b) (iv) provides for the association of representatives of workers wherever possible, in the administration of these services. This again should act as a safeguard against profiteering. It is therefore suggested that 9(b) (iii) should be deleted, as being unnecessary and difficult to enforce.

(iv) that representatives of the workers concerned, and more particularly members of works welfare committees or similar bodies, where such exist, should be associated in the administration of such services ? Yes, as far as practicable.

9. (c) Are there any other provisions concerning the regulation of works stores and similar services which you consider should be included in the international regulations, and if so, which ?

#### IV.. Deductions from Wages.

10. (a) Do you consider that the international regulations should include provisions concerning deductions from wages ? and Yes.

(b) If so, do you consider that the conditions under which deductions may be made should be prescribed by national laws or regulations and notified to the workers concerned in the manner deemed most appropriate by the authority ? Yes.

11. Do you consider that the international regulations should provide that no deductions from wages may be made in the form of direct or indirect payments by a worker to an employer or his representative or to any intermediaries (such as subcontractors or labour recruiters) for the purpose of obtaining or retaining employment ? Yes.

12. (a) Do you consider that the international regulations should provide that the employer may not make any deductions from wages in order to reimburse himself for loss or damage to his products, goods or installations except under the following conditions :

(i) that the damage or loss has been caused internationally or through grave negligence on the part of the workers ; and

(ii) that the deduction is fair and does not exceed the real value of the damage or loss ?

12. (b) Are there any other conditions which you consider should be prescribed, and if so, which ?

It would be sufficient if it is said that the damage or loss should have been caused through the negligence or default on the part of the employee. There is no need to go into the intention or assess the extent of negligence especially as employee will be given an opportunity to show cause why the deduction should not be made, vide answer to Question 12(b).

Yes.

The International regulations may provide (i) that the worker should be given an opportunity to show cause why no deduction should be made and (ii) that the deductions on this account should not exceed such limit as may be imposed by the National authority.



13. Do you consider that the international regulations should provide that the employer may not make any deductions from wages in the form of disciplinary fines except under the following conditions :

(i) that the worker has committed a breach of legal regulations or of the provisions of works regulations previously established in conformity with national laws and regulations ;

(ii) that the worker concerned or representatives of the staff should be heard ; and

(iii) that the proceeds from disciplinary fines are used exclusively for the benefit of the staff of the undertaking concerned ?

Yes.

Yes.

Yes.

The proceeds of disciplinary fines need not necessarily be used for the benefit of the staff of the undertaking concerned. A provision that fines should be utilised for the benefit of workers should be sufficient. As a safeguard, a further provision may be made that payment should be made only to such funds for workers' benefits as are approved by the National authority.

14. Do you consider that the international regulations should provide that deductions from wages in respect of tools, materials or equipment supplied by the employer may be made only if such deductions—

(i) are a recognised custom of the trade or occupation concerned ;

(ii) are provided for by collective agreements ; or

(iii) are authorised by a procedure recognised by national laws or regulations ?

Yes.

#### V. Attachment and Seizure of Wages.

15. (a) Do you consider that the international regulations should provide that wages should be subject to attachment or seizure only in a manner and within limits prescribed by law ?

Yes, National laws should lay down in what manner and within what limits wages can be subject to adjustment or seizure.

(b) Do you consider that, to the extent deemed to be necessary for the maintenance of the worker and his family, wages should not be subject to attachment or seizure ?

The principle is generally accepted. Provision has already been made in 15(a) for national laws to regulate the extent to which wages can be subjected to adjustment or

seizure, in other words the extent to which they should not be attached or seized. In making these regulations national laws will, no doubt, provide that an amount necessary for the maintenance of the worker and his family should be exempted from adjustment on seizure. The amount exempt from seizure or attachment will vary from time to time and country to country. For these reasons, there appears to be no need for making special mention of this point in the regulations. If, however, mention should be made in the regulations, it is suggested that this matter be covered by a Recommendation.

## VI.—Wages as a Privileged Debt.

16. (a) Do you consider that the international regulations should include provisions to declare wages a privileged debt ?

(b) If so, do you consider that the international regulations should provide that, in the event of the bankruptcy or judicial liquidation of an undertaking, workers in the employer's service should be treated as privileged creditors as regards wages due to them for services rendered prior to the bankruptcy or judicial liquidation ?

(c) Do you consider that the international regulations should include any provisions concerning the relationship between privileged wages and other types of privileged debts, and if so, what kind of provision would you regard as appropriate ?

(d) Do you consider that the international regulations should provide that the wages constituting a privileged debt should be paid in full before ordinary creditors may establish any claim to a share of the assets ?

It would be desirable to declare wages a privilege debt, but the privilege should be restricted to the wages due in respect of the month prior to the month of filing an application for adjudication in the case of bankruptcy or judicial liquidation. Provision is made elsewhere for the regular payment of wages. There seems to be no reason why the wages due in respect of periods other than the debts immediately preceding wage period or month should be treated as a privileged debt.

## VII. Periodicity, Time and Place of Wage Payments.

### A. PERIODICITY OF PAYMENTS.

17. Do you consider that the international regulations should prescribe maximum intervals for the payment of wages ?

The international regulations need only provide that wages should be paid as soon as possible, after the expiry of the wage period. Details may be left to be prescribed by national regulations.

18. If your reply is in the affirmative, do you consider that the international regulations should provide that payment should be made not less often than—

Please see answer to Question 17. If the international regulations should cover the points referred to in this question, they may make the form of a Recommendation.

(a) twice a month in the case of workers whose remuneration is calculated—

(i) by the hour, day or week ;

or

(ii) on a piece-work or output basis ; and

(b) once a month in the case of other employed persons ?

19. In the case of workers employed to perform a task the completion of which requires more than a fortnight, do you consider that the international regulations should provide that—

(a) payments should be made on account not less than twice a month in proportion to the amount of work completed ; and

(b) final settlement should be made within a fortnight of the completion of the task ?

20. Are there any other categories of workers in respect of which the international regulations should include provisions concerning intervals for the payment of wages ? If so, what intervals do you suggest for such categories of workers ?

## B. TIME AND PLACE OF PAYMENTS.

21. Do you consider that the international regulations should provide that payment of wages should be made only on working days ? Yes.

22. Do you consider that the international regulations should provide that, when the contract of payment is terminated, a final settlement of wages should be effected within a period to be prescribed by national laws or regulations ? Yes.

23. Do you consider that the international regulations should provide that, the payment of wages should be made at or near the workplace ? Yes.

24. Do you consider that the international regulation should prohibit the payment of wages in taverns, shops, places of amusement or other similar establishments except in the case of persons employed in such establishments ? Yes.

## VIII. Notification of Wages Conditions to Workers.

### A. NOTIFICATION OF WAGE RIGHTS.

25. (a) Do you consider that the international regulations should provide that workers should be informed, in a manner to be prescribed by national laws or regulations, of the conditions in respect of wages under which they are employed ? Yes.

(b) Do you further consider that the international regulations should specify the details of the conditions which should be brought to the knowledge of the workers, and that such details should, wherever appropriate, include particulars as to:

These matters relate to details. They may be left to be covered by a Recommendation which would give the national Government some latitude in giving effect to these provisions.

(i) the rates of wages payable ;

(ii) the method of calculation ;

(iii) the intervals of payments ;

(iv) the place of payment ; and

(v) the conditions under which deductions may be made ?

(c) Are there any other provisions which you consider should be included in the international regulations concerning notification to workers of wage conditions, and, if so, what provisions would you suggest? Nil.

#### B. STATEMENTS OF EARNINGS.

26. (a) Do you consider that the international regulations should provide that workers should be informed, with each payment of wages, of the following particulars: Yes, but these matters should be left to be covered by a Recommendation.

(i) the gross amount of wages earned;

(ii) the method of calculation;

(iii) any deductions which may have been made; and

(iv) the net amount of wages paid?

(b) Are there any categories of workers to which you consider that the foregoing provisions should not apply, and if so, which? Nil.

#### IX. Enforcement Measures.

27. Do you consider that the international regulations should provide that the laws and regulations concerning the protection of wages should— In principle this is desirable; but to allow the national authorities some latitude, this matter may be left to be covered by a Recommendation.

(i) be brought to the notice of all persons concerned;

(ii) define the persons responsible for compliance therewith;

(iii) prescribe adequate penalties for any violation thereof; and

(iv) provide for the maintenance of a system of inspection adequate to ensure effective enforcement?

28. (a) Do you consider that the international regulations should provide for the maintenance of payroll records in a form and manner to be prescribed by national laws or regulations? Yes.

(b) Do you further consider that such records should, in respect of each worker employed, include the following particulars, wherever appropriate? These matters may be left to be covered by a Recommendation.

- (i) the gross amount of wages earned in each pay period ;
- (ii) the method of calculation ;
- (iii) deductions from wages; and
- (iv) the net amount of wages paid ?

### APPENDIX III.

#### ITEM I(A)(b): REPLIES AND COMMENTS OF THE GOVERNMENT OF INDIA TO THE I.L.O. QUESTIONNAIRE ON THE FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE.

##### I. Desirability and Form of International Regulations.

###### Questions.

###### Answers.

1. Do you consider that the Conference should adopt international regulations concerning freedom of association and the protection of the right to organise in the form of one or several Conventions ?

Yes.

2. If the answer to Question 1 is in the affirmative, do you consider that the Conference should adopt two separate Conventions, one concerning freedom of association and the other concerning the protection of the right to organise ?

The Conference should adopt two separate Conventions, one concerning the freedom of association and the other concerning the protection of the right to organise.

##### II. Establishment of Organisation.

3. (a) Do you consider that it would be desirable to provide that employers and workers, without distinction whatsoever, should have the inviolable right to establish or join organisations of their own choosing without previous authorisation ? or alternatively,

Yes, but the regulations should be so framed as to make clear that the right to establish or join organisations should be in conformity with the provisions in the National Constitution regarding the freedom of speech and co-operation, the right to form associations and the right of assembly.

(b) Do you consider that it would be preferable to enumerate descriptively the persons to whom the right of association should apply, and, therefore, to provide that employers and workers, public or private, without distinction as to occupation, sex, colour, race, creed, nationality or political opinion, should have the inviolable right to establish or join organisations of their own choosing without previous authorisation ?

(c) Do you consider that it would be desirable to provide that the recognition of the right of association of public officials by international regulations should in no way prejudge the question of the right of such officials to strike ?

Yes, but it should be made clear that the recognition of the right of association of public officials does, in no way, imply any recognition, directly or indirectly, of the right of such officials to strike.

### III. Functioning of Organisations.

4. (a) Do you consider that it would be desirable to provide that employers' and workers' organisations should have the right to draw up their constitutions and rules, to organise their administration and activities and to formulate their programmes ?

(a) & (b) Yes: it would be desirable to provide that employers' and workers' organisations should have the "right to draw up their constitutions and rules, organise their administration and activities and formulate their programmes," provided the methods followed are open, strictly peaceful and within the law, and are not in any way calculated to interfere with the exercise of similar rights by other people and organisations.

(b) Do you consider that it would be desirable to provide further that the public authorities should refrain from any interference which would restrict this right or impede the organisations in the lawful exercise of this right ?

### IV. Dissolutions and Suspension of Organisations.

5. Do you consider that it would be desirable to provide that employers' and workers' organisations should not be liable to be dissolved or have their activities suspended by administrative authority ?

The employers' and workers' organisations should not be liable to be dissolved or have their activities suspended except by a due process of law.

### V. Federations, Confederations and International Organisations of Employers and Workers.

6. Do you consider that it would be desirable to provide that employers' and workers' organisations should have the right to establish federations and confederations and to affiliate with international organisations of employers and workers ?

Yes, provided the exercise of this right does not in any way, injure the security of the State.

### VI. Guarantees relating to Federations and Confederations.

7. Do you consider that it would be desirable to provide that the guarantees with regard to the establishment, functioning, dissolution and suspension of employers' and workers' organisations referred to in Questions 3, 4 and 5 should apply to federations and confederations of such organisations ?

Yes.

### VII. Legal Personality of Organisations.

8. Do you consider that it would be desirable to provide that the acquisition of legal personality by employers' and workers' organisations should not be made subject to conditions of such a character as to restrict freedom of association as hereinbefore defined ? Yes.

### VIII. Responsibilities of Organisations.

9. (a) Do you consider that it would be desirable to provide, in the international regulations concerning freedom of association, that the acquisition and exercise of the rights defined above should not exempt employers' and workers' organisations from their full share of responsibilities and obligations ? Yes. Every right has its counterpart in obligations. The recognitions of a right should be, therefore, balanced by a recognition of corresponding responsibilities.

or alternatively,

(b) Do you consider that it would be preferable to reserve such a provision for inclusion in international regulations concerning collective agreements or conciliation and arbitration ?

### IX. Guarantee of the Exercise of the Right to Organise.

10. Do you consider that international regulations should guarantee the exercise of the right to organise ? Yes.

11. If the answer to Question 10 is affirmative, do you consider that the protection of the right to organise should be effectively assured by means of mutual agreement between organised employers and workers ? Yes.

12. Do you consider that, in the absence of full and effective guarantee by means of mutual agreements, appropriate measures should be taken to protect the exercise of the right to organise without fear or intimidation, coercion or restraint from any source ? Yes.

### K. Establishment of Agencies for the Purpose of Ensuring Respect of the Right to Organise.

13. Do you consider that international regulations should include the obligation of establishing appropriate agencies for the purpose of ensuring the respect of the right to organise ? Yes.



14. Have you any proposal or suggestion to make on any point relating to the questions of freedom of association and of protection of the right to organise, to which no reference has been made in this questionnaire?

The object of the regulations is to secure an effective functioning of free institutions in democratic communities. It is, therefore, essential to provide that the rights shall be available only to employers and workers which—

- (a) do not exclude from their membership any individual or group of individuals, who may otherwise be eligible, merely on the grounds of sex, colour, race, creed or nationality;
- (b) do not interfere in any way with the right of any individual or group of individuals to pursue peacefully his or their trade and vocation and exercise the right of citizenship; and
- (c) conduct their activities in accordance to democratic procedure.

#### APPENDIX IV.

ITEM I (c) REPLIES AND COMMENTS OF THE GOVERNMENT OF INDIA TO THE I. L. O. QUESTIONNAIRES ON—

#### I. APPLICATION OF THE PRINCIPLES OF THE RIGHT TO ORGANISE AND TO BARGAIN COLLECTIVELY.

##### I. Desirability and Form of International Regulations.

*Questions.*

*Answers.*

1. Do you consider that the International Labour Conference should adopt international regulations concerning the application of the principles of the right to organise and to bargain collectively, in the form of a Convention? Yes.

##### II. Guarantee of the Workers' Right to Organise.

2. Do you consider that the international regulations should include provisions regarding the protection of the workers' right to organise? Yes.

3. If so, do you consider that the international regulations should prohibit all acts of anti-union discrimination on the part of the employer or his agents through which— Yes.

(a) the employment of a worker is made dependent on the condition that he shall not join a union or shall withdraw from one to which he already belongs ?

(b) a worker is prejudiced by reason of his membership of a union or his union activities ?

(c) a worker is dismissed by reason of his membership of a union or his union activities ?

### III. Guarantee of the Rights of Workers' Organisations.

4. Do you consider that the international regulations should include provisions regarding the protection of the rights of workers' organisations? Yes.

5. If so, do you consider that the international regulations prohibit all acts on the part of employers, employers' organisations or their agents, infringing the workers' right to organise by— Yes.

(a) furthering the establishment of unions under the domination of employers ?

(b) interfering in the establishment or conduct of a union or supporting it by financial or other means ?

### IV. Guarantee of the right to organize of employers and third parties.

6. Do you consider that the international regulations should include provisions regarding the protection of the right to organise of employers and third parties ? This is desired.

7. If so, do you consider that the international regulations should prohibit recourse to assault, intimidation and violence with the object of forcing an employer or a worker to join or not to join an organisation of employers or workers ? Yes.

### V. Union Security Clauses.

8. Do you consider that the international regulations should include a provision to the effect that legislation—or a collective agreement concluded in conformity with legislation—requiring membership in a given union as a previous condition to engagement, or as a condition to maintenance in employment is not incompatible with the provisions of the present regulations?

The inclusion of such a provision in the international regulations would infringe on the workers individual freedom.

### VI. Guarantee of the Principle of Collective Bargaining

9. Do you consider that the international regulations should include a provision making it an obligation for employers or employers' organisations on the one hand, and for workers' organisations on the other, to give effect to the principles of union recognition and collective bargaining?

Yes Existing legislation already provides for the compulsory recognition of the trade unions.

### VII. Supervisory Measures.

10. Do you consider that the international regulations should specify the obligation to establish appropriate machinery for the purpose of ensuring respect for the right to organise?

Yes, but it should be left to the discretion of the national authority to decide what would be the appropriate machinery.

### VIII. Methods of applying the International Regulations.

11. Do you consider that the international regulations should state that effect may be given to the present Convention :

- (a) By means of legislation ?
- (b) By means of agreements between the organisations of employers and workers ?
- (c) By means of a combination of (a) & (b) ?

It would be preferable to give effect to the Convention by legislation. In countries in which industrial relations are not very highly developed, agreements between employers' and Workers' organisations may not be effective. More so in those countries where trade unions are run by outsiders.

12. In case of an affirmative reply to question 11 (b) or (c) do you consider that the following conditions should be fulfilled :

- (a) The employers' and workers' organisations should recognise one another and undertake to provide effective guarantees for the exercise of the right of employers and workers to organise and to bargain effectively ?

Yes, in cases where convention can be given effect to by agreement.

(b) The employers' and workers' organisations parties to such agreements should include a substantial proportion of all employers and employed persons in the country concerned?

13. Have you any proposal or suggestion to put forward on any point relating to the question of the application of the principles of the right to organise and to bargain collectively, which has not been mentioned in the present questionnaire?

(i) The regulations should not apply to employment in the armed and police forces of the Government, and

(ii) Nothing in the regulations should be construed as preventing Government from imposing, in respect of employment in its administrative services, such restrictions as may be considered necessary in the public interest.

(iii) Nothing in the regulations should be construed as giving protection to any organisation or worker from the consequences of an illegal act.

## II. COLLECTION AGREEMENTS.

### I. Desirability and Form of International Regulations.

1. Do you consider that the International Labour Conference should adopt international regulations regarding collective agreements in the form of a Convention, and one or several Recommendations?

Yes.

2. If the reply to Question 1 is in the affirmative, do you consider that the Conference should adopt;

(a) a convention relating to the points covered by Questions 4, 5, 6 and 7?

(a) Yes, except in regard to 7. This provides that collective agreements "may be rendered applicable" etc. By its very nature the point should be dealt with on a recommendation other than a Convention.

(b) a Recommendation relating to the points covered by Questions 3, 8, 9 and 10?

(b) Yes.

### II. Collective Bargaining Machinery.

3. Do you consider that it should be provided, in a Recommendation, that Governments should establish appropriate machinery which would be available to assist the parties in the conclusion, revision and renewal of collective agreements?

Yes.

## VII. Definition, Legal Effect and Extension of Collective Agreements.

### A. DEFINITION OF COLLECTIVE AGREEMENTS.

4. Do you consider that collective agreements might be defined as agreements regarding conditions of work concluded between an employer, a group of employers or an employers' organisation on the one hand, and one or several organisations of workers on the other ?

Yes.

### B. LEGAL EFFECT OF COLLECTIVE AGREEMENTS.

5. Do you consider that the international regulations should provide that, the stipulations of individual or group contracts of employment concluded between employers and workers bound by a collective agreement should be valid only to the extent to which they are more favourable to the workers than the corresponding stipulations of the collective agreement ?

Yes.

6. Do you consider that the international regulations should provide that, the stipulations of a collective agreement should apply to all the workers in the service of the employer or employers bound thereby, even if these workers are not members of the organisation which concluded the agreement ?

Yes, provided such organisation of employees is a representative organisation.

### C. EXTENSION OF COLLECTIVE AGREEMENTS

7. (a) Do you consider that it should be provided, in the international regulations, that collective agreements binding the majority of the workers and the majority of the employers (who should also employ the majority of the workers) may be rendered applicable to all employers and workers engaged within the industrial and territorial scope of the agreement as defined by the contracting parties ?

Yes.

(b) Do you consider that any employers and workers to whom the stipulations of a collective agreement are to be rendered applicable should be authorised to submit their observations and objections in advance ?

Yes.

(c) Do you consider that the international regulations regarding the extension of collective agreements should take the form of a Convention or that of a Recommendation?

#### IV. Application of Collective Agreements.

##### A. INTERPRETATION OF COLLECTIVE AGREEMENTS.

8. (a) Do you consider that it should be provided in a Recommendation that disputes arising out of the interpretation and application of collective agreements should be submitted to a procedure for settlement agreed to by the parties and, if this breaks down, should be referred to an appropriate judicial procedure?

Yes.

(b) If so, do you consider that it should be provided in a recommendation that the parties should receive appropriate guarantees regarding the gratuitous character of the judicial procedure, its rapidity, the technical competence of the judges, etc.

Because of the vagueness of the terms "appropriate guarantees", it is considered that such provision would be of doubtful value. It would be better to provide simply that the judicial procedure should be gratuitous, speedy and efficient.

##### B. RESPONSIBILITY OF THE PARTIES TO COLLECTIVE AGREEMENTS.

9. (a) Do you consider that there should be included in a Recommendation stipulations regarding the responsibility of the parties to collective agreements?

Yes, but the determination of the responsibility of the parties to collective agreements should be left entirely to the discretion of the Government.

(b) If so, do you consider that it should be provided that the parties to collective agreements should undertake to determine their respective responsibility by agreement?

(c) Do you consider that, failing an appropriate determination by agreement, the responsibility of the parties to collective agreements should be determined by legislation?

(d) If so, do you consider that, in such legislation, limits to the liability of the parties should be prescribed?

##### C. SUPERVISION OF APPLICATION OF COLLECTIVE AGREEMENTS.

10. Do you consider that it should be provided in a Recommendation that the labour inspectors should be empowered to supervise the application of collective agreements in all the establishments covered thereby?

Yes, Labour inspectors or Welfare Officers.

11. Have you any proposal or suggestion to put forward on any point regarding the question of collective agreements which has not been mentioned in the present questionnaire ? .....

### III. CONCILIATION AND ARBITRATION

#### I. Desirability and Form of International Regulations

1. Do you consider that the International Labour Conference should adopt international regulations concerning voluntary conciliation and arbitration in the form of a Recommendation ?

Yes.

#### II. Voluntary Conciliation.

2. Do you consider that it should be provided that regional and national conciliation authorities should be established to aid the parties in the prevention and settlement of collective industrial disputes ?

Yes.

3. Do you consider that it should be provided that the organisations of the employers and workers concerned in the disputes should be associated in all stages of the procedure ?

Yes. In the absence of any organisation Government may nominate representatives of employers and employees to be associated in all stages of the conciliation procedure.

4. Do you consider that it should be provided that the conciliation procedure should be free of charge and expeditious, and that the periods prescribed for appearance of the parties, hearing of witnesses and submission of other evidence should therefore be fixed in advance and kept to a minimum ?

Yes, it will be enough if the period for completing the conciliation proceedings is fixed in advance.

5. Do you consider that it should be provided that, once a dispute has been submitted to a conciliation authority with the consent of all the parties concerned, the latter should be required to abstain from strikes and lockouts while the conciliation is in process ?

Yes.

6. Do you consider that it should be provided that if the recommendation of a conciliation authority has been voluntarily accepted by the parties, it should be binding upon them ?

Yes.

7. Do you consider that it should be provided that agreements which the parties may reach during the procedure, and recommendations of the conciliation authorities freely accepted by the parties, should have the same legal force as collective agreements concluded in conformity with national legislation ?

Yes.

### III. Voluntary Arbitration.

8. Do you consider that it should be provided that a system of voluntary arbitration should be established, to which the parties might have recourse either at the outset or after breakdown of a conciliation procedure ?

Yes.

9. Do you consider that it should be provided that, once a dispute has been submitted to arbitration with the consent of all the parties concerned, the latter should be required to accept the arbitration award ?

Yes.

10. Have you any proposal or suggestion to put forward on any point regarding the question of voluntary conciliation and arbitration which has not been mentioned in the present questionnaire ?

(i) Where parties to a dispute do not go in for voluntary conciliation or arbitration there should be provision for Government conciliation machinery to undertake conciliation and, if necessary for reference of disputes to adjudication, at least in the case of public utility undertakings.

(ii) the recommendation should specify the period of operation of settlements and awards.

### IV. CO-OPERATION BETWEEN PUBLIC AUTHORITIES AND EMPLOYERS' AND WORKERS' ORGANISATIONS.

#### I. CO-OPERATION AT THE LEVEL OF THE UNDERTAKING.

##### I. Desirability and Form of International Regulations.

1. Do you consider that the International Labour Conference should adopt international regulations concerning co-operation between employers and workers in the undertaking, in the form of a Convention or of a Recommendation ?

Convention.

##### II. Establishment of Machinery for Co-operation.

2. Do you consider that it should be provided in the international regulations that machinery for co-operation such as for instance, Works Committees, Production Committees, Staff Delegations etc., should be established, either by agreement between the parties or by legislation, in order to promote a gradual raising of the conditions of work and life of the personnel and a continuous improvement in the organisation of production ?

Yes ; preferably by agreement, but legislation may be necessary.



### III. Scope of the Regulations.

3. Do you consider that it should be provided in the international regulations that machinery for co-operation should be established in all industrial and commercial establishments, public or private ordinarily employing at least fifty persons ?

On practical considerations the international regulations should extend to industrial undertakings ordinarily employing 100 or more persons.

### IV. Appointment of Representatives of Personnel.

4. (a) Do you consider that it should be provided in the international regulations that the representatives of the personnel for the purpose of co-operation in the undertaking should be elected by whole of the personnel by direct secret ballot, or

Yes.

(b) Do you consider that the representatives of the personnel should be appointed by the representative organisations of the workers ?

No.

### V. Composition of Representative Bodies.

5. Do you consider that it should be provided in the international regulations that the number of representatives of the personnel on the committees or other bodies for co-operation in the undertaking should be proportionate to the number of persons employed therein ?

Yes, but subject to a maximum number so that the Committee, etc. may not become unwildly.

6. Do you consider that it should be provided in the international regulations that the different categories of persons employed in the undertaking—manual workers, salaried employees, technicians should be represented on the said committees, etc. ?

Yes, by broad categories. Some discretion should be given to the Government in determining the different categories.

### VI. Working of the Co-operation Machinery.

7. Do you consider that it should be provided in the international regulations that the Committees or other bodies for co-operation in the undertaking should meet whenever they have urgent questions to consider and in any case not less than once a month ?

Yes, but it would suffice in some cases if the committee were to meet once a quarter.

8. Do you consider that it should be provided in the international regulations that the said committees, etc. should be able to have the assistance of trade union representatives whenever their deliberations relate to matters for which such persons are competent ?

Yes. It is desirable that the committees should be allowed to Co-opt any person with expert knowledge on any matter before it.

9. Do you consider that it should be provided in the international regulations that appropriate action should be taken to secure close collaboration between the machinery for co-operation in the undertaking and the occupational organisations of the employers and workers concerned ? Yes.

#### VII. Functions of the Co-operation Machinery.

10. Do you consider that it should be provided in the international regulations that the machinery for co-operation in the undertaking should have more particularly the following functions of a social character : Yes.

(a) to secure application of collective agreements, social legislation and regulations regarding health and safety ;

(b) to give an opinion regarding the engagement and dismissal of employees and their allocation to different jobs ;

(c) to promote the vocational training of the different categories of employees ;

(d) to set up and administer social schemes for the welfare of the employees and their families ; and

(e) in general, to promote a good understanding between the management and the personnel ?

11. Do you consider that it should be provided in the international regulations that the machinery for co-operation in the undertaking should have more particularly the following functions of an economic character : Yes.

(a) to inform the personnel regarding the economic and technical situation of the undertaking ;

(b) to study any suggestion put forward by the management of the undertaking or by the personnel with the object of raising the level of production or improving the efficiency of undertaking ;

(c) to propose to the management the rewards to be granted to employees whose suggestions have been effectively applied ; and

(d) to study the methods of production used in the undertaking and to make proposals to the management regarding the best utilisation of its material and human resources.

### VIII. Obligations of the Management.

12. Do you consider that it should be provided in the international regulations that the management of an undertaking should be required :

Yes.

(a) to place at the disposal of the Committees or other bodies for co-operation in the undertaking the premises, material and in appropriate cases the staff essential to its meetings or indispensable for its secretariat ;

(b) to allow the representatives of the personnel the time required for performance of their functions as such and to remunerate them for this time as hours of work ;

(c) to consult the said committees, etc. on questions concerning the organisation and general conduct of the undertaking ;

(d) to inform the said committees, etc. at regular intervals, but at least once a year, regarding the activity of the undertaking and the plans for the coming twelve months; and

(e) where the undertaking is a limited company, to submit to the said committees, etc. the same documents as are submitted to the general meeting and more particularly the annual balance sheet and the profit and loss account ?

### IX. Obligations of the Representatives of the Personnel.

13. Do you consider that it should be provided in the international regulations that the representatives of the personnel chosen for co-operation should be required, within the limits laid down by national legislation not to disclose confidential information which may be communicated to them by the management ?

Yes.

14. Do you consider that it should be provided in the international regulations that the representatives of the personnel should be required to give an account of their activity to the whole personnel at regular intervals but at least once a year ?

Yes. Such a provision is desirable but there may be difficulties in countries where the workers are illiterate.

**X. Protection of Representatives of the Personnel**

15. Do you consider that it should be provided in the international regulations that appropriate action should be taken to ensure that the representatives of the personnel are adequately protected in the performance of their functions ? Yes.

**XI. Application of the International Regulations.**

16. Do you consider that the international regulations should provide that effect may be given to their provisions:

(a) by means of legislation ? Yes.

(b) by means of collective agreements ? No.

17. If the reply to question 16(b) is in the affirmative, do you consider that the international regulations should provide that States should be required to communicate to the Director General of the International Labour Office information regarding the measures on the strength of which the regulations are applied, and particularly data regarding all collective agreements through which effect is given to the regulations and regarding the number of undertakings having such machinery for co-operation, the number of persons employed in these undertakings, and the distribution of the co-operation machinery by industry or occupation ? Does not arise.

18. Have you any proposal or suggestion to put forward on any point regarding the question of co-operation in the undertaking which has not been mentioned in the present questionnaire. No.

**II. CO-OPERATION AT THE LEVEL OF THE INDUSTRY.**

**I. Desirability and Form of International Regulations.**

1. Do you consider that the International Labour Conference should adopt international regulations concerning co-operation at the level of the industry, in the form of a Recommendation ? Yes.

**II. Establishment of National Industrial Boards.**

2. (a) Do you consider that it should be recommended in the international regulations that joint national boards should be established on a permanent basis in the different branches of industry and commerce, either by agreement between the employers' and workers' organisations concerned or by legislation ? Yes, but Governments should be given a certain measure of discretion in determining the branches of industry, commerce in which joint national boards should be established. The joint national boards may be set up either by agreement or by legislation.

(b) Do you consider that where there are several representative organisations of employers and of workers in the branch concerned, the representation of the workers on the board should be proportionate to the membership of such organisations ? Broadly speaking, yes.

### III. Functions of National Industrial Boards.

3. Do you consider that it should be recommended that the national industrial boards should have the function of taking all appropriate action : Yes.

(a) to raise the standard of life of the workers;

(b) to increase the level of production and the efficiency of the industry; and

(c) in general, to examine the social, technical and economic problems of the industry or trade concerned ?

4. Do you consider that it should be recommended in the international regulations that the national industrial Boards should have the power to submit to the competent authorities opinions or recommendations on all questions of an economic or social character falling within their terms of reference ? Yes.

### IV. Co-operation in Nationalised Industries and those Established in the Public services.

5. Do you consider that it should be recommended in the international regulations that, where certain branches of economy have been nationalised, or established in the public services, all appropriate action should be taken to ensure close and permanent co-operation between the authorities responsible for the administration of the nationalised industries and the workers' organisations concerned ? Yes.

6. Have you any proposal or suggestion to put forward on any point regarding the question of co-operation at the level of the industry which has not been mentioned in the present questionnaire ? No.

### III. CO-OPERATION AT THE NATIONAL LEVEL.

#### I. Desirability and Form of International Regulations.

1. Do you consider that the International Labour Conference should adopt international regulations concerning co-operation at the national level, in the form of a Recommendation? Yes.

#### II. Consultation of Employers' and Workers' Organisations.

2. Do you consider that it should be provided in the international regulations that the employers' and workers' organisations should be consulted during the preparation and implementation of economic and social measures of national scope? Yes.

#### III. Establishment of Machinery for Co-operation at the National Level.

3. Do you consider that the international regulations should recommend the establishment by legislative or other means, of national advisory councils of a social and economic character such as, for instance, National Economic Councils, National Labour Councils, etc.? Yes.

4. Do you consider that it should be provided in a Recommendation that the National Advisory Councils should include among their members an equal number of employers' and workers' representatives, either nominated directly by the representative organisations of employers and workers, or appointed by the competent authorities on the basis of proposals from these organisations? Yes, where such organisations exist.

#### IV. Functions of National Advisory Councils.

5. Do you consider that it should be provided in a Recommendation that the National Advisory Councils should have more particularly the following functions: Yes.

(a) to study social and economic questions falling within their terms of reference, undertake the necessary investigations to this effect, and submit their opinions and recommendations to the competent authorities?

(b) to give a previous opinion on proposed legislation of an economic or social character falling within their terms of reference, and on proposed regulations to apply such legislation?

6. Do you consider that it should be provided in a Recommendation that the competent authorities should be required to submit to the National Advisory Councils, for their opinion, proposed legislation of an economic or social character falling within their terms of reference, and proposed regulations to apply such legislation ? Yes.

#### V. Participation in Administration of Social Institutions.

7. Do you consider that it should be provided in a Recommendation that the employers' and workers' organisations should be associated in the administration of national institutions, such as those responsible for social security, organisation of employment, industrial health and safety and other forms of labour welfare ? Yes.

8. Have you any proposal or suggestion to put forward on any point regarding the question of co-operation at the national level which has not been mentioned in the present questionnaire ? No.

### APPENDIX V.

#### ITEM I(A)(d): REPLIES AND COMMENTS OF THE GOVERNMENT OF INDIA TO THE I.L.O. QUESTIONNAIRES AND REPORTS ON VOCATIONAL GUIDANCE.

##### INTRODUCTION.

Vocational guidance for all is a desirable ideal but the rate of progress towards this ideal must vary according to the needs and circumstances of each country. India is predominantly an agricultural country with a large surplus population. A more pressing problem here is that of unemployment or under-employment. Vocational training cannot obviously be introduced on a comprehensive scale all at once and a beginning has to be made in the larger centres and with special types of employment. It is also important that vocational training should be planned with due regard to available employment otherwise it will involve unnecessary expenditure with no benefit to the workers. The replies to the questionnaire should, therefore, be read in the above context.

##### I. Form of the Regulations.

###### Questions.

###### Answers.

1. Do you consider it desirable that the International Labour Conference should adopt international regulations on vocational guidance ? Yes.

2. Do you consider that these regulations should take the form of a Recommendation ? Yes.

## II. Scope of Vocational Guidance.

3. Do you consider that the Recommendation should stipulate that public vocational guidance facilities should be made available, to the maximum extent possible and as rapidly as possible, to all juveniles leaving school and to other young persons up to an age fixed according to national circumstances, whether such persons are seeking admission to vocational training or seeking employment for the first time or already in the employment market ? Yes.

4. Do you consider that in addition the Recommendation should stipulate that public vocational guidance or employment counselling facilities should be made available, to the maximum possible extent and as rapidly as possible, to all persons regardless of age who wish to obtain advice concerning the choice of occupation ? Yes.

## III. Principles and Methods of Vocational Guidance for Young Persons

5. Do you consider that the Recommendation should include the principle that policy governing the vocational guidance of young persons should be framed and applied through the co-operative efforts of each organisation and agency dealing with the child in his transition from school to work (such as the education authorities and the authorities responsible for youth training and placement) to the end that each young person concerned may have the benefit of unified and co-ordinated service ? Yes.

6. (a) Do you consider that the Recommendation should stipulate that the preliminary vocational guidance of young persons should begin before the end of general education ? Yes.

(b) If so, at what stage of education do you consider that such preliminary vocational guidance should be introduced as a general rule? If it is begun early, do you consider that it should receive additional emphasis in the last period of schooling? During the last 1 to 2 years.



(c) Do you consider that preliminary vocational guidance should include :

(i) the provision, by the competent public authorities or under public supervision, of comprehensive occupational and industrial information of a general character, presented in suitable form ?

Yes, as far as possible.

(ii) visits to industrial and commercial establishments, coal mines, model farms and other workplaces ?

(iii) Preliminary personal interviewing ?

Yes.

(iv) experimental periods of practical work experience ?

Yes, but it would be difficult to put into practice.

7. Do you consider that the Recommendation should stipulate the principal methods of vocational guidance for young persons to be encouraged to the fullest possible extent in the different countries ?

Yes.

8. (a) If so, do you consider that the Recommendation should specify that personal interviewing should be an essential factor in the process of vocational guidance for young persons and that particular attention should be given to continuously adapting and improving the methods of interview ?

Yes.

(b) Do you consider that special attention should be given to personal interview at the time of leaving school and entering the employment market ?

Yes.

9. Do you consider that the Recommendation should also stipulate that a cumulative record of scholastic progress, including an evaluation of character, personality and aptitudes, should be made available and utilised for vocational guidance purposes ?

Yes.

10. (a) Do you consider that the Recommendation should stipulate that vocational guidance for young persons should include medical examination ?

Yes.

(b) If so, do you consider that this examination should be accompanied by advice for corrective action if needed ?

Yes.

11. Do you consider that the Recommendation should stipulate that vocational guidance for young persons should include provision of facilities for psychological and aptitude testing, to be administered by qualified persons ?

Yes, as far as possible.

12. Do you consider that the Recommendation should also specify that vocational guidance for young persons should include the provision in individual cases, through personal interview and otherwise, of reliable information in regard to occupations and employment and training opportunities related to the aptitudes and tastes of the young person concerned and to the national labour requirements ?

Yes.

13. Do you consider that the Recommendation should urge that special attention should be given to the development of appropriate vocational guidance services for young persons in rural areas ?

The recommendation is desirable in principle but it would be very difficult to give effect to all this stage of India's development.

14. Do you consider that the Recommendation should also state that special attention should be given to the maintenance of appropriate vocational guidance services for physically or mentally handicapped young persons (or those manifesting anti-social behaviour) requiring such services ?

Yes.

15. (a) Do you consider that the Recommendation should specify that the use of vocational guidance facilities for young persons should be on a fully voluntary basis ?

Yes.

(b) Do you consider that it should be stated that the competent national and local authorities should undertake to develop specific methods and co-operative procedures for encouraging full use of such facilities ?

Yes.

(c) Have you any methods or procedures to suggest for this purpose :

(i) in respect of school-leavers ?

(ii) in respect of other young persons ?

There should be an Advisory Agency from which school-leavers and other young persons may obtain competent advice. This Agency should be centrally controlled to ensure uniformity and should work in close co-operation with all other interested bodies.

(d) Are there any circumstances in which you consider it desirable to require schools, or individual young persons, or particular categories of young persons, to make use of vocational guidance facilities ?

Yes, it is felt that mentally deficient and disabled young persons should be the special concern of the Advisory Agency.

16. (a) Do you consider that the Recommendation should also specify that the process of vocational guidance should include methods or co-operative procedures designed to facilitate application of the young person's vocational plans, as, for example,

Yes.

(i) making suggestions to him about carrying out these plans ?

Yes.

(ii) ensuring that he is brought into contact with the other agencies or persons subsequently concerned with placing him in training or employment in the occupation chosen by him ?

Yes.

(b) What other methods or procedures do you consider desirable for this purpose ?

By arranging career talks by, or interviews with, persons qualified in and competent to give advice in individual professions|occupations.

17. (a) Do you consider that the Recommendation should specify that vocational guidance should include follow-up aimed primarily at finding out whether the young persons is satisfactorily following his vocational programme and whether the occupation selected is proving suitable for him ?

Yes.

(b) If so, how do you propose that such follow-up might be organised ?

By securing the co-operation of employers|training institutions in supplying reports of progress made and by regular meetings between members of the Advisory Body and young persons.

18. Have you any suggestions to make in regard to other principles and methods of vocational guidance for young persons suitable for inclusion in international regulations ?

No.

#### IV. Principles and Methods of Employment Counselling for Adults.

19. (a) Do you consider that the Recommendation should specify that appropriate arrangements for the vocational guidance of adults should be developed and applied, by or in co-operation with the employment service, with a view to providing specialised employment counselling for adults requiring such assistance to find suitable and useful employment ?

Yes.

(b) If so, do you consider that the process of employment counselling should include, as appropriate in indivi-

Yes.

duel cases, any or all of the following methods :

- (i) personal interview ? Yes.
- (ii) cumulative record of work experience ? Yes.
- (iii) provision of occupational and industrial information ? Yes.
- (vi) health record, Yes.
- (v) psychological or aptitude testing ? Yes, as far as practicable.
- (vi) follow-up aimed at discovering whether satisfactory placement and vocational adjustment have been achieved ? Yes, as far as possible.

20. (a) Do you consider that the Recommendation should provide that in cases of prolonged unemployment the use of employment counselling facilities should be made a condition for the continued receipt of unemployment benefit or allowance ? Yes.

(b) Are there any other circumstances in which you consider it particularly desirable that employment counselling facilities should be used by audit job-seekers ? Yes, when it is known that there is a surplus of persons in particular occupations for whom no prospect of absorption exists.

21. Do you consider that the Recommendation should specify the desirability of developing, within the framework of the general facilities, specialised employment counselling for : Yes.

(i) disabled persons ? Yes.

(ii) persons seeking technical, professional and executive posts ? Yes.

(iii) ex-service personnel, so long as the need exists ? Yes.

22. Do you consider that the Recommendation should provide that special attention should be given, in connection with employment counselling work, to the development and improvement of methods for the technical selection of workers for particular jobs and undertakings ? Yes.

23. Are there any other principles or methods of employment counselling for adults which, in your opinion, should be specified in the Recommendation ? No.

## V. Principles of Administrative Organisation.

24. (a) Do you consider that the Recommendation should state that vocational guidance and employment counselling activities should be developed and co-ordinated on the basis of a comprehensive general programme, established so far as practicable by or on the initiative of the competent central authorities in the light of regional and local conditions and adaptable to such conditions ?

In India the necessary administrative organisation can only be built up slowly and gradually. At this stage it is not possible to express any definite opinion.

(b) Do you consider that the central authorities should assume fixed responsibilities for promoting vocational guidance and employment counselling activities, including, for example, the grant of financial and technical assistance for this purpose ?

Do.

25. Do you consider that the Recommendation should provide that the competent public authorities should take all necessary and desirable measures to encourage co-ordination of public and private vocational guidance activities nationally and locally so that each organisation or agency concerned with any aspect of the process may contribute effectively in the framing and application of policy in regard to vocational guidance and employment counselling ?

Yes.

### A. YOUNG PERSONS.

26. (a) Do you consider that the Recommendation should stipulate that administrative arrangements for co-ordinated policy and action in regard to the vocational guidance of young persons should be maintained nationally and locally ?

Yes, but this must be subject to adjustment in the light of the constitutional arrangements in each country.

(b) Do you consider that these arrangements should aim more particularly at co-operative planning and procedures to ensure effective service to young persons without duplication of effort and to facilitate the interchange of information concerning :

Yes.

(i) the extent and character of the need for vocational guidance and of the service provided ;

(ii) the young persons applying for vocational guidance ;

(iii) industries and occupations ;

(iv) employment and training opportunities ; and

(v) the preparation and use of vocational guidance materials of all kinds ?

Yes.

(c) Do you consider that the administrative responsibility for the vocational guidance of young persons :

(i) should be divided among various authorities (as, for example, the education authorities, the employment service authorities, or autonomous specialised agencies or centres under public authority) ; or

(ii) should be carried jointly by the interested agencies with the necessary structural relationships developed by law or regulation ; or

(iii) should be entrusted primarily to one authority, and, if so, to which authority ?

No general answer can be given to this question. Everything will depend on the conditions prevailing in each country. It is felt that no detailed recommendations of this nature should be made.

27. (a) Do you consider that the Recommendation should provide that vocational guidance for young persons should be developed and administered with the assistance of representative advisory committees ?

Yes.

(b) If so, do you consider that these councils should include representation of any or all of the following groups :

(i) employers' organisations ?

(ii) trade unions ?

(iii) education authorities ?

(iv) employment service ?

(v) vocational training, including apprenticeship authorities ?

(vi) parents' association ?

(vii) organisations of youth and youth-serving organisations ?

(viii) any other organisations or agencies, such as those with special knowledge of vocational guidance questions and with special knowledge of employment market questions (e.g. social and economic planning institutes) ?

Yes.

(c) Do you consider that a committee concerned, among other things, with developing juvenile vocational guidance policy and programme should be maintained at the national level ?

This should be left to individual countries to decide.

(d) Do you consider that such committee should be maintained locally, so far as possible, to help develop and implement policy, to adapt it to local conditions or suggest results of experience to the local and national authorities concerned, and to assist in co-ordinating local vocational guidance activities ?

Yes.

28. Have you any other suggestions to make in regard to principles of administrative organisation of vocational guidance for young persons appropriate for inclusion in the international regulations.

No.

#### B. ADULTS.

29. (a) Do you consider that the Recommendation should state that administrative responsibility for employment counselling for adult should be entrusted primarily to the employment service ?

Yes.

(b) If so, do you consider that the employment service offices should include, at each administrative level so far as practicable, specialised employment counselling units or personnel ?

Yes.

30. Do you consider that the Recommendation should stipulate that arrangements should be made to ensure that employment counselling for adults is developed and applied in the closest co-operation with—

(i) the authorities responsible for the placement work of the employment service ?

(ii) the authorities responsible for the administration of unemployment insurance and assistance and vocational training and retraining schemes and plans to promote labour mobility ?

Yes.

(iii) the authorities responsible for the vocational guidance of young persons ?

(iv) the representative organisations of employers and workers.

## VI. Training of Vocational Guidance Personnel.

31. (a) Do you consider that the Recommendation should provide that the competent authorities should take immediate and appropriate measures to ensure to the fullest possible extent the recruitment and specialised training of an adequate number of vocational guidance officers, with suitable training, experience or other qualifications, and that for this purpose Governments, in co-operation with representatives of employers' and workers' organisations and where appropriate of other bodies concerned (such as universities), should take all necessary measures :

(i) to establish minimum qualification standards for vocational guidance personnel ?

(ii) to maintain regulations or procedures for recruiting and selecting such personnel on a basis of merit ?

(iii) to ensure the maintenance, for persons seeking to enter the vocational guidance profession, of specialised training courses, given by or with the approval of the competent public authorities, such courses to include, so far as possible, academic instruction, laboratory experience and practical work experience ?

(iv) to organise basic in-service courses of background training for newly recruited vocational guidance personnel ?

(v) to organise continued supplementary training and refresher courses for vocational guidance personnel, such courses to include laboratory and research activities where appropriate ?

(vi) to ensure that the conditions of appointment and employment of vocational guidance personnel are such as to provide an inducement to qualified persons to enter and remain in the profession ?

Yes.



(b) Do you consider that the Recommendation should provide that Member States should co-operate, where necessary and practicable, and where desired with the help of the International Labour Office, in the training of vocational guidance personnel by such methods as :

(i) the provision in one country of training for senior personnel from another country to enable them to acquire broader skill or experience not available in their own country ?

Yes.

(ii) the loan of experienced senior vocational guidance personnel from one country to another to help organise training for vocational guidance personnel or to help meet particular short-term needs ?

(iii) the preparation and provision of handbooks and other materials for the training of vocational guidance personnel ?

(c) Have you any other suggestions to make concerning the methods by which the training of vocational guidance personnel should be developed and promoted ?

Arrangements should be made to keep the Vocational Guidance Personnel in close touch with industry to enable them to keep themselves informed of the changing developments and needs of industry.

## VII. Vocational Guidance

### Research and Publicity.

32. (a) Do you consider that the Recommendation should stipulate that special measures should be taken, on the basis of a co-ordinated plan, to promote and encourage public and private research and experiment with methods and techniques of vocational guidance and employment counselling ?

Yes.

(b) Do you consider that such research should include, among other things, examination of—

(i) the relationship of one occupation or group of occupations to another and the technical analysis of job and career requirements in the different occupations ?

All very desirable, but there are practical difficulties which cannot be overlooked at least so far as Asian countries are concerned.

(ii) the provision of industrial, occupational and employment market information in forms adapted for vocational guidance and employment counselling purposes ?

(iii) general aptitude and psychological test construction and validation and specialised tests for the technical selection of workers for particular jobs and occupations?

(iv) the development of model vocational guidance forms for inscribing material concerning the record of school progress, health, and work experience?

(v) methods of organising follow-up for the purpose of evaluating vocational guidance principles and practice?

33. Do you consider that the Recommendation should specify that the competent authorities should take the necessary measures to ensure the maintenance, under public auspices or under public supervision, of national institutes which include vocational guidance research among their principal duties?

34. (a) Do you consider that the Recommendation should state that special and systematic efforts should be made by the authorities responsible for vocational guidance, in co-operation with employers' and workers' organisations and where appropriate with other bodies concerned, to promote wide public understanding of the purposes, principles, and methods of vocational guidance?

(b) Have you any suggestions to make as to the means by which such public understanding may be developed?

All very desirable, but there are practical difficulties which cannot be overlooked at least so far as Asian countries are concerned.

This would perhaps be going too far specially as many (perhaps most) countries are not yet able to set up such institutes.

Yes.

By using recognised methods of publicity.

## APPENDIX VI

### ITEM I(B). REVISION OF CONVENTIONS CONCERNING— I. NIGHT WORK.

Text of Convention (No. 6) concerning the Night Work of Young Persons Employed in Industry (1919).

#### Article 1.

1. For the purpose of this Convention, the term "industrial undertaking" includes particularly:—

(a) Mines, quarries, and other works for the extraction of minerals from the earth.

Proposed Text of Convention (No....) concerning the Night Work of Children and Young Persons Employed in Industry (Revised 1948).

1. For the purpose of this Convention, the term "industrial undertaking" includes particularly:—

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up, or demolished, or in which materials are transformed, including ship-building; and the generation, transformation, and transmission of electricity or motive power of any kind.

(c) Construction, reconstruction, maintenance, repairs, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction as the preparation for or laying the foundation of any such work or structure.

(d) Transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.

2. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

### Article 2.

1. Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed except as hereinafter provided for.

(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in ship-building or in the generation, transformation or transmission of electricity or motive power of any kind;

(c) undertakings engaged in building and civil engineering work, including constructional repair, maintenance, alteration and demolition work.

(d) undertakings engaged in the transport of passengers or goods by road, rail, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports.

2. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

3. National laws or regulations may exempt from the application of this Convention employment on work which is not deemed to be harmful, prejudicial, or dangerous to children or young persons in family undertakings in which only parents and their children or wards are employed.

(See above, Article 1, paragraph 3, and below, article 3, paragraphs 1 and 2.)

2. Young persons over the age of sixteen may be employed during the night in the following industrial undertakings on work which, by reason of the nature of the process, is required to be carried on continuously day and night:—

- (a) Manufacture of iron and steel; processes in which reverberatory or regenerative furnaces are used, and galvanising of sheet metal or wire (except the pickling process).
- (b) Glass works.
- (c) Manufacture of paper.
- (d) Manufacture of raw sugar.
- (e) Gold mining reduction work.

### Article 3.

1. For the purpose of this Convention the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

2. In coal and lignite mines work may be carried on in the interval between ten o'clock in the evening and five o'clock in the morning, if an interval of ordinarily fifteen hours, and in no case of less than thirteen hours, separates two periods of work.

### Article 2.

1. For the purpose of this Convention the term "night" signifies a period of at least twelve consecutive hours, including:

- (a) in the case of children and young persons under sixteen years of age, the interval between ten o'clock in the evening and six o'clock in the morning;
- (b) in the case of young persons who have attained the age of sixteen years but are under the age of eighteen years, the interval between ten o'clock in the evening and five o'clock in the morning.

2. Provided that the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that in the case of young persons employed in a given area, industry, undertaking, or branch thereof, who have attained the age of sixteen years but are under the age of eighteen years, another interval of seven consecutive hours falling between eleven o'clock in the evening and seven o'clock in the morning may be substituted for the interval between ten o'clock in the evening and five o'clock in the morning.

3. Where night work in the baking industry is prohibited for all workers, the interval between nine o'clock in the evening and four o'clock in the morning may be substituted in the baking industry for the interval between ten o'clock in the evening and five o'clock in the morning.

4. In those tropical countries in which work is suspended during the middle of the day, the night period may be shorter than eleven hours if compensatory rest is accorded during the day.

(See above, Article 2 and Article 3, paragraphs 2 and 3).

### Article 3.

1. Children and young persons under eighteen years of age shall not be employed or work during the night in any public or private industrial undertaking or in any branch thereof except as hereinafter provided for.

2. Young persons who attained age of sixteen years may be employed during the night in the following industrial undertakings and processes on work which, by reason of the nature of the process, is required to be carried on continuously day and night.

- (a) manufacture of iron and steel;
- (b) processes in which reverberatory or regenerative furnaces are used;
- (c) galvanising of sheet metal or wire (except the pickling process);
- (d) glass works;
- (e) manufacture of paper;
- (f) manufacture of raw sugar;
- (g) gold mining reduction work.

3. The competent authority shall, after consultation with the employers' and workers' organisations concerned, define the work upon which the young persons designated under paragraph 2 of this Article may be employed at night; young persons who are so employed at night shall enjoy a rest period of at least thirteen consecutive hours between two periods of work.

4. The competent authority may after consultation with the employers' and workers' organisations concerned, permit young persons who have attained the age of sixteen years to be employed during the night in coal and lignite mines if an interval of at least thirteen hours separates two periods of work.

5. Where night work in the baking industry is prohibited for all workers, the interval between nine o'clock in the evening and four o'clock in the morning may, for purposes of vocational training, be substituted for the interval between ten o'clock in the evening and five o'clock in the morning, in the case of young persons who have attained the age of sixteen years.

(See above, Article 3, paragraph 4).

#### Article 4.

1. In countries where the climate renders work by day particularly trying the night period may be shorter than that prescribed in the above articles if compensatory rest is accorded during the day.

#### Article 4.

The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in case of emergencies which could not have been controlled or foreseen, which are not of a periodical character, and which interfere with the normal working of the industrial undertaking.

(See below, Article 7).

2. The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in case of emergencies which could not have been controlled or foreseen, which are not of a periodical character, and which interfere with the normal working of the industrial undertaking.

#### Article 5.

The prohibition of night work may be suspended by the Government, for young persons between the ages of sixteen and eighteen years, when in cases of serious emergency the public interest demands it.

#### Article 6.

1. The laws or regulations giving effect to the provisions of this Convention shall:

- (a) require the competent authority to bring them to the notice of all persons concerned;

- (b) define the persons responsible for compliance therewith;
- (c) prescribe adequate penalties for any violation thereof;
- (d) provide for the maintenance of a system of inspection adequate to ensure effective enforcement;
- (e) require every employer in an industrial undertaking to keep a register, or to keep available official records showing the names and dates of birth of all persons under eighteen years of age employed by him and their hours of work.

2. The annual reports submitted by Members under Article 22 of the Constitution of the International Labour Organisation shall contain full information concerning such laws and regulations and a general survey of the results of the inspections made in accordance therewith.

## PART II. SPECIAL PROVISIONS FOR CERTAIN COUNTRIES.

### Article 7.

1. Any Member which, before the date of the adoption of the laws or regulations permitting the ratification of his Convention, had laws or regulations restricting the night work of children in industry under an age limit lower than eighteen years may, by a declaration accompanying its ratification, substitute an age limit lower than eighteen years, but in no case lower than sixteen years, for the age-limit prescribed in Article 3, paragraph 1.

2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.

3. Every Member for which a declaration made in virtue of paragraph 1 of this Article is in force shall indicate each year in its annual report upon the application of this Convention the extent to which any progress has been made with a view to the full application of the provisions of the Convention.

#### Article 5.

In the application of this Convention to Japan, until 1 July 1925, Article 2 shall apply only to young persons under fifteen years of age and thereafter it shall apply only to young persons under sixteen years of age.

#### Article 6.

In the application of this Convention to India, the term "industrial undertaking" shall include only "factories" as defined in the Indian Factories Act, and Article 2 shall not apply to male young persons over fourteen years of age.

#### Article 8.

In the application of this Convention to Japan, Part I shall apply only to young persons under sixteen years of age.

#### Article 9.

1. The provisions of Part I of this Convention shall apply to India subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Indian legislature has jurisdiction to apply them.

3. The term "industrial undertaking" shall include:—

- (a) factories as defined in the Indian Factories Act;
- (b) mines as defined in the Indian Mines Act;
- (c) all employments covered by the Employment of Children Act, 1938.

4. Article 2, paragraph 1 (a), shall apply to children who have attained the age of thirteen years but are under the age of fifteen years.

5. Article 2, paragraph 1 (b) and paragraph 2, shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

6. Article 3, paragraph 1, and Article 4, paragraph 1, shall apply to children and young persons under the age of seventeen years.

7. Article 3, paragraphs 2, 3, 4 and 5, Article 4, paragraph 2, and Article 5 shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

8. Article 6 shall apply to children and young persons under the age of seventeen years.



### Article 10.

1. The provisions of Part I of this Convention shall apply to Pakistan subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Pakistan legislature has jurisdiction to apply them.

3. The term "industrial undertaking" shall include:—

(a) factories as defined in the Factories Act;

(b) mines as defined in the Mines Act;

(c) all employments covered by the Employment of Children Act, 1938.

4. Article 2, paragraph 1 (a), shall apply to children who have attained the age of thirteen years but are under the age of fifteen years.

5. Article 2, paragraph 1 (b) and paragraph 2, shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

6. Article 3, paragraph 1, and Article 4, paragraph 1, shall apply to children and young persons under the age of seventeen years.

7. Article 3, paragraph 2, 3, 4 and 5, Article 4, paragraph 2, and Article 5 shall apply to young persons who have attained the age of fifteen years but are under the age of seventeen years.

8. Article 6 shall apply to children and young persons under the age of seventeen years.

### Article 11.

1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority draft amendments to any one or more of the preceding articles of Part II of this Convention.

2. Any such draft amendment shall state the Member or Members to which it applies, and shall, within the period of one year or, in exceptional circumstances, of eighteen months from the closing of the session of the Conference, be submitted by the Member or Members to which it applies to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

3. Each such Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Director-General of the International Labour Office for registration.

4. Any such draft amendment shall take effect as an amendment to this Convention on ratification by the Member or Members to which it applies.

#### Article 7.

(See above Article 5).

The prohibition of night work may be suspended by the Government, for young persons between the ages of sixteen and eighteen years, when in case of serious emergency the public interest demands it.

Articles 8 to 15 (Standard Articles).

#### PART III. FINAL ARTICLES.

(To be inserted in the text by the Drafting Committee—see proposed Resolution, Appendix I, page 49.)

## II. YOUNG PERSONS.

CONVENTION (No. 4) CONCERNING EMPLOYMENT OF WOMEN DURING THE NIGHT<sup>1</sup>

The General Conference of the International Labour Organisation of the League of Nations,

Having been convened at Washington by the Government of the United States of America, on the 29th day of October, 1919, and

Having decided upon the adoption of certain proposals with regard to "women's employment: during the night", which is part of the third item in the agenda for the Washington meeting of the Conference, and

Having determined that these proposals shall take the form of a draft international convention,

adopts the following Draft Convention for ratification by the Members of the International Labour Organisation, in accordance with the Labour Part of the Treaty of Versailles of 28 June, 1919, and of the Treaty of St. Germain of 10 September, 1919:—

## ARTICLE 1.

For the purpose of this Convention, the term "industrial undertaking" includes particularly:—

- (a) Mines, quarries, and other works for the extraction of minerals from the earth;
- (b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind;
- (c) Construction, reconstruction, maintenance, repair, alteration, or demolition any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

## ARTICLE 2.

For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

<sup>1</sup> This Convention came into force on 13 June 1921. It had been ratified on 1 September 1937 by 30 States: Albania, Argentina, Austria, Belgium\*, Brazil\*, Bulgaria, Chile, Colombia, Cuba, Czechoslovakia, Estonia\*, France, Great Britain\*, Greece\*, Hungary\*, India, Irish Free State\*, Italy, Lithuania, Luxemburg, Netherlands\*, Uruguay, Venezuela and Yugoslavia.

The Convention was revised in 1934 by Convention No. 41.

\* Ratification denounced in consequence of ratification of Convention No.

In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term "night" may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

#### ARTICLE 3.

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

#### ARTICLE 4.

Article 3 shall not apply:—

- (a) In cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character.
- (b) In cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

#### ARTICLE 5.

In India and Siam, the application of Article 3 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

#### ARTICLE 6.

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

#### ARTICLE 7.

In countries where the climate renders work by day particularly trying to the health, the night period may be shorter than prescribed in the above articles, provided that compensatory rest is accorded during the day.

#### ARTICLE 8.

The formal ratifications of this Convention, under the conditions set forth in Part XIII of the Treaty of Versailles of 28 June, 1919, and of the Treaty of St. Germain of 10 September, 1919, shall be communicated to the Secretary-General of the League of Nations for registration.

#### ARTICLE 9.

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing:—

- (a) Except where owing to the local conditions its provisions are inapplicable; or
- (b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office, the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

## ARTICLE 10.

As soon as the ratification of the two Members of the International Labour Organisation have been registered with the Secretariat, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organisation.

## ARTICLE 11.

This Convention shall come into force at the date on which such notification is issued by the Secretary-General of the League of Nations, but it shall then be binding only upon those Members which have registered their ratifications with the Secretariat. Thereafter this Convention will come into force for any other Member at the date on which its ratification is registered with the Secretariat.

## ARTICLE 12.

Each Member which ratifies this Convention agrees to bring its provisions into operation not later than 1 July, 1922, and to take such action as may be necessary to make these provisions effective.

## ARTICLE 13.

A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Secretary-General of the League of Nations for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the Secretariat.

## ARTICLE 14.

At least once in ten years, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention, and shall consider the desirability of placing on the agenda of the Conference the question of its revision or modification.

## ARTICLE 15.

The French and English texts of this Convention shall both be authentic.

**CONVENTION (No. 41) CONCERNING EMPLOYMENT OF WOMEN DURING THE NIGHT  
(REVISED 1934)<sup>1</sup>.**

The General Conference of International Labour Organisation of the League of Nations,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighteenth Session on 4 June 1934, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Convention concerning employment of women during the night adopted by the Conference at its First Session, which is the seventh item on the Agenda of the Session, and

Considering that these proposals must take the form of a Draft International Convention,

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<sup>1</sup> This Convention came into force on 22 November 1936. It had been ratified on 1 September 1937 by 11 States: Belgium, Brazil, Estonia, Great Britain, Greece, Hungary, India, Irish Free State, Netherlands, South Africa and Switzerland.

adopts, this nineteenth day of June of the year one thousand nine hundred and thirty-four, the following Draft Convention which may be cited as the Night Work (Women) Convention (Revised), 1934 :—

ARTICLE 1.

1. For the purpose of this Convention, the term "industrial undertaking" includes particularly:—

- (a) Mines, quarries, and other works for the extraction of minerals from the earth;
- (b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind;
- (c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

2. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

ARTICLE 2.

1. For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

2. Provided that where there are exceptional circumstances affecting the workers employed in a particular industry or area, the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that in the case of women employed in that industry or area, the interval between eleven o'clock in the evening and six o'clock in the morning may be substituted for the interval between ten o'clock in the evening and five o'clock in the morning.

3. In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term "night" may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

ARTICLE 3.

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

ARTICLE 4.

Article 3 shall not apply:—

- (a) In cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character.

- (b) In cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

#### ARTICLE 5.

In India and Siam, the application of Article 3 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

#### ARTICLE 6.

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

#### ARTICLE 7.

In countries where the climate renders work by day particularly trying to the health, the night period may be shorter than prescribed in the above articles, provided that compensatory rest is accorded during the day.

#### ARTICLE 8.

This Convention does not apply to women holding responsible positions of management who are not ordinarily engaged in manual work.

#### ARTICLE 9.

The formal ratifications of this Convention shall be communicated to the Secretary-General of the League of Nations for registration.

#### ARTICLE 10.

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

#### ARTICLE 11.

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the Secretariat, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

#### ARTICLE 12.

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Secretary-General of the League of Nations for registration.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

## ARTICLE 13.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the Agenda of the Conference the question of its revision in whole or in part.

## ARTICLE 14.

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:—

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## ARTICLE 15.

The French and English texts of this Convention shall both be authentic.

## DRAFT TEXT OF THE PROPOSED REVISING CONVENTION.

PROPOSED TEXT OF CONVENTION (No. ) CONCERNING NIGHT WORK OF WOMEN EMPLOYED IN INDUSTRY (REVISED 1948).

The General Conference of the International Labour Organisation.

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Night Work (Women) Convention, 1919, adopted by the Conference at its First Session, and the Night Work (Women) Convention (Revised), 1934, adopted by the Conference at its Eighteenth Session, which is the ninth item on the agenda of the session, and

Considering that these proposals must take the form of an international Convention,

adopts this day of July of the year one thousand nine hundred and forty-eight, the following Convention, which may be cited as the Night Work (Women) Convention (Revised), 1948:—

## PART I.—GENERAL PROVISIONS.

## ARTICLE 1.

1. For the purpose of this Convention, the term " industrial undertaking " includes particularly—

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;



(c) undertakings engaged in building and civil engineering work including constructional, repair, maintenance, alteration and demolition work.

2. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

#### ARTICLE 2.

1. For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

2. Provided that the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that, in the case of women employed in a given area, industry, undertaking or branch thereof, another interval of seven consecutive hours falling between eleven o'clock in the evening and seven o'clock in the morning may be substituted for the interval between ten o'clock in the evening and five o'clock in the morning.

3. (See below; Part II, Article 9).

#### ARTICLE 3.

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

#### ARTICLE 4.

Article 3 shall not apply—

- (a) in cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;
- (b) in cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

(See below, Part II, Articles 10 to 13).

#### ARTICLE 5.

The prohibition of night work for women may be suspended by the Government in specified undertakings when in case of serious emergency the national interest demands it.

#### ARTICLE 6.

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

#### ARTICLE 7.

In countries where the climate renders work by day particularly trying, the night period may be shorter than that prescribed in the above articles if compensatory rest is accorded during the day.

#### ARTICLE 8.

This Convention does not apply to—

- (a) women holding responsible positions of a managerial or technical character; and
- (b) women employed in health and welfare services.

## PART II.—SPECIAL PROVISIONS FOR CERTAIN COUNTRIES.

## ARTICLE 9.

In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term "night" may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

## ARTICLE 10.

In Siam, the application of Article 3 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

## ARTICLE 11.

1. The provisions of this Convention shall apply to India subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Indian legislature has jurisdiction to apply them.

3. The term "industrial undertaking" shall include—

(a) factories as defined in the Indian Factories Act; and

(b) mines as defined in the Indian Mines Act.

## ARTICLE 12.

1. The provisions of this Convention shall apply to Pakistan subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Pakistan legislature has jurisdiction to apply them.

3. The term "industrial undertaking" shall include—

(a) factories as defined in the Factories Act;

(b) mines as defined in the Mines Act.

## ARTICLE 13.

1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority draft amendments to any one or more of the preceding articles of Part II of this Convention.

2. Any such draft amendment shall state the Member or Members to which it applies, and shall, within the period of one year or, in exceptional circumstances, of eighteen months from the closing of the session of the Conference, be submitted by the Member or Members to which it applies to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

3. Each such Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Director-General of the International Labour Office for registration.

4. Any such draft amendment shall take effect as an amendment to this Convention or ratification by the Member or Members to which it applies.

## PART III.—FINAL ARTICLES.

(To be inserted in the text by the Drafting Committee—see proposed Resolution, Appendix I).

## APPENDIX VII.

## ITEM II. MEMORANDUM ON PROVISION FOR OLD-AGE-INSTITUTION OF PROVIDENT FUNDS AND INSURANCE SCHEMES.

There is now a general recognition of the need for organising social security services. These services include medical aid and monetary grant or cash compensation in the case of maternity, sickness and employment injury; cash payments during unemployment and in old age, and in the event of the death of the bread-winner, to his dependents.

2. There has been, for some years past, a strong demand from the workers' organisations for the institution of social security schemes. The Employees' State Insurance Bill, now before the Indian Legislature, provides for the institution of a unified scheme for the grant of maternity and sickness benefits and employment injury compensation. It is now necessary to consider the question of devising a scheme which will make provision for old-age and for the support of dependents in the event of the death of the bread-winner. These benefits are provided in other countries in the form of old age and survivors' pensions, either by means of social insurance or social assistance schemes. In either case, they involve substantial subsidies from public funds. Central and Provincial Governments in India are, at the moment, unable to provide these subventions by reason of the large outlay which they have to incur on other essential social services, like health and medical services, free and compulsory education and on development schemes for increasing production and employment to which high priority must be accorded. The introduction of a Pension Scheme will also have to be preceded by a detailed investigation into the average periods of employment and rates of mortality, which necessarily will take time to complete. Moreover, a Pension Scheme is not likely to be of as much benefit as a Provident Fund Scheme to a population of industrial workers with a large turnover, such as is the case in India. The only immediately feasible method, in the circumstances, is to make provision for old age by the institution of compulsory Provident Fund and Life Insurance Schemes. Indeed, that this is generally accepted by Governments. Employers and Workers, will be seen from the fact that the resolution on Social Security, which recognised that "Government of Asian Countries would be unable for some time to afford substantial subsidies to finance old age and survivors' pension schemes by reason of the large outlay they have to make for social services to which a higher priority should be accorded" recommended that "as first steps towards making adequate provision against the risks of old age and death" measures should be taken for:—

- (a) the institution of compulsory provident funds for as many categories of workers as possible and in particular for all regulated labour, and
- (b) the extension of the scope of the existing State-managed insurance schemes, (such as Postal Insurance Scheme, administered by the Government of India) or the introduction of such schemes for the benefit of persons of small means."

was passed unanimously at the Preparatory Asian Regional Conference held in October-November, 1947, at New Delhi.

3. Provident Funds are already being maintained by some industrial employers. A perusal of the details of the schemes shows, however, that they are usually restricted to clerical and supervisory staff, and that only in a few cases are workers in general covered by the Provident Fund Schemes. Even so, it is only the permanent employees who generally get the benefits. A very large proportion of industrial concerns have no provident funds at all.

4. It may be noted, in this connection, that a decision has been taken to institute a compulsory Provident Fund Scheme for all colliery workers, in pursuance of a unanimous recommendation of the Colliery Conciliation Board, which submitted its Report early in 1947. The question of instituting Provident Funds in other industries has been engaging the attention of the Government. It is, therefore, appropriate that the Labour Conference should consider the best ways in which a compulsory Provident Fund and Insurance Schemes for workers in industry could be introduced as a first step towards provision against the risks of old age and death of the bread-winner.

5. If the Conference agrees with the view that the time is now ripe for the institution of compulsory Provident Fund Schemes for industrial workers in general, the question arises whether the Provident Fund Schemes should not be supplemented by some scheme of Life Insurance. The latter is necessary for the reason that a Provident Fund Scheme yields benefit mainly to those who have put in a substantial period of service and have been, themselves, able, during that period, to contribute an appreciable amount and earn a similar amount by way of employers' contribution. People dying young or in early middle age will not have sufficient amounts to their credit in the Provident Fund to provide any real benefit to their dependents.

6. Insurance may either be optional or compulsory. If it is optional, the benefit will accrue only to those who have the foresight to cover the risk by insurance. A compulsory scheme of insurance, on the other hand, would provide benefits for dependents in all cases, and, because of its wide coverage, be cheaper. A compulsory scheme can be either a group insurance or individual life insurance. In individual life insurance there is the risk of lapse and consequent loss to the worker, if he is unable to continue the payment of premia during periods of unemployment or because of his being obliged to leave employment for one reason or another. In view of these difficulties, group insurance would be preferable. If the cover is limited to cases of death while in employment, not only will all essential requirements be met, but the cost can also be kept low.

7. If a scheme for the institution of compulsory provident funds covering industrial workers is generally accepted, the following questions will need consideration:—

- (a) what minimum qualifications regarding service as a worker should be prescribed for entry into the scheme, so as to exclude the purely casual workers;
- (b) what should be rate of contribution; the generally accepted rate is 1/16th of the salary, but in the Railways, contribution is levied at 1/12th, the employer contributing an equal amount;
- (c) whether the funds should be maintained and administered by individual units or whether they should be managed by a Central Organisation; the advantages of the latter course are that there would be continuity, even if the worker changes employment from one unit of industry to another, and that it would provide an effective safeguard against frequent withdrawals and consequent frittering away of the funds;
- (d) if a Central fund is preferred it may not be possible to have all the accounts administered centrally *ab initio*; it may take some time to set up a suitable organisation and till the central organisation is in a position to take over the administration of all the funds, provision should be made for the maintenance of industrial funds;

- (e) if individual concerns are to maintain Provident Funds, should small concerns be exempted and if so what should be the criteria for determining exemption?
8. To sum up, the Conference is requested to consider:—
- (a) whether schemes of compulsory Provident Fund should be set up covering all industrial workers?
- (b) if the answer to (a) is in the affirmative, to consider the points set out in paragraph 7 above, and
- (c) whether a part of the contribution to the Provident Fund should be utilised to provident a scheme of compulsory insurance against the risks brought about by death, while in employment.

#### APPENDIX VIII.

#### ITEM III.—MEMORANDUM ON DECASUALISATION OF LABOUR IN MAIN INDUSTRIES.

As a beginning, a scheme for the decasualisation of Textile Labour in the Province has been prepared by the Government of Bombay. A copy of the scheme is attached. The Provincial Labour Advisory Board, has set up a Committee consisting of six members with the Joint Secretary to Government, Labour Department, as the convener, to consider the Scheme. The report of the Committee will be considered by the Provincial Labour Advisory Board, at its next meeting early in March.

At a meeting of their representatives held by the Joint Secretary this month, it was found that the Textile Unions in the Province are strongly in favour of such decasualisation. They desire that the Badli-Control System should be completely done away with and replaced by a full fledged decasualisation scheme, although the representative of the Mill Mazdoor Sabha are of opinion that decasualisation was not going to be of any material benefit to labour unless properly organised labour market was first brought into existence—by which he meant that occupations, standards of works and wages as well as the man-power requirement of the industry should be fixed.

#### A SCHEME FOR THE DECASUALISATION OF TEXTILE WORKERS IN THE BOMBAY PROVINCE.

##### EXPLANATORY MEMORANDUM.

##### *Introduction.*

The engagement of labour, a matter of vital importance to every industry, has not received in this country the close and careful attention it deserves. In almost all industrially advanced countries, the engagement of labour is the function of management. Unfortunately, in this country, the work is left to inter-mediaries, who hold almost a complete sway over the workers.

The inter-mediary in the textile industry is the jobber. He is not only the *de-facto* recruiter, but also the personnel officer largely exercising, in practice, the powers of engagement, promotion and dismissal. For giving a job, temporary or permanent, or for giving promotion, he usually exacts a monetary reward. He also sometimes exacts a monthly payment by keeping the sword of dismissal hanging over his head. The result is that recruitment of labour becomes a matter of bribery, corruption and favouritism.

It is not, however, only the worker who suffers under this system. The employer also equally does so. A jobber must create vacancies to fill his pockets. His interest, therefore, lies in as much casualisation as possible. Dismissing workers on the slightest pretext, he engages raw or incompetent workers, who, experienced and efficient workers roam about for want of employment. The high rate of labour turnover, which this implies, leads to the reduction of skill and efficiency of workers, higher up-keep and depreciation charges for machinery and diminished output of industry. The competitive power of an organised industry depends, to a considerable extent on the experience and efficiency of its workers, which the methods of the jobber are not calculated to promote.

The 'Badli' control system now in force at Bombay and Sholapur is, of course, an improvement over the pure jobber system. It has undoubtedly helped to check the powers of the jobber in the employment of labour. It cannot, however, be claimed that it has succeeded in entirely disassociating him from the work of recruitment. It is still possible for him, particularly in the mills where the system is not properly worked, to exact illegal gratification from Badlis seeking employment and to give, for permanent employment, preference to raw recruits coming from the villages, who happen to be his relations, or friends, even when senior Badlis have been waiting for a longer period.

An organisation is, therefore, needed to take over recruitment from the jobber and to deal directly with the Mills. That organisation can best be an Employment Exchange.

#### *The nature of the problem.*

The daily fluctuations in employment in the mills demand that a pool of workers should be available to meet day-to-day requirements. In times of pressure there is likely to be a shortage; in periods of depression, a surplus. To avoid wastage of human material, this common pool should neither be too large nor too small to meet the day-to-day demands. It is necessary, therefore, to regulate the number of workers in the textile industry by the creation of a common pool of workers.

Under the Badli control system, Badlis are assigned to each mill. This results in Badlis of one mill going without work even when some other mill has run short of Badlis. In addition to the regulation of numbers, therefore, an arrangement must exist to switch Badlis from the place they are not wanted to the place where they are.

The question of new entrants to the industry has also so far received no consideration at all. No systematic arrangements for training have been made and no distinction at present exists between raw recruits and experienced workers.

In essence, therefore, the problem is one of decasualisation and training.

#### *Decasualisation schemes in other countries.*

Valuable experiments in decasualisation have been made during the recent war in connection with the employment of dock workers. Several schemes were in force but their broad features were the same.

The essence of the schemes was the creation of a common register, entry to which was, *inter alia* dependent on the immediate requirements of the industry. An allocating authority was created and the employers undertook to engage only workers on such register and according to the orders of the allocating authority. Workers also likewise undertook to serve only such employers as were approved by the allocating authority.

The workers on the register formed a common pool and were liable to serve any employer to whom they were sent by the allocating authority. Those who could not be found work were given what was variously called attendance money,

waiting pay or pool pay. It was, of course, a condition precedent for the payment of this amount that they should be available for work and undertake such work as was assigned to them. All the wages were paid through the allocating authority.

The cost of the administration of such schemes as well as the money required for the payment of pool wages were recovered by the allocating authority in the form of a percentage levy on the total wage bill. The schemes, of course, had the sanction of war time legislation behind them.

### *The proposed scheme.*

Legal sanction, however, is not absolutely essential for the introduction of such schemes. Such schemes can be introduced by a tri-partite agreement between the Provincial Government, the employers and the workers. It is proposed that this scheme should be introduced in this manner.

The aim of the scheme is to rationalize recruitment in the textile industry. Complete rationalization would, logically speaking, involve the abolition of the Badli Control System. It is, however, not proposed to abolish it in the transitional period. It is also not proposed in the first instance to attempt decasualization between one mill and another. In other words, the Badli control system would continue. The provision regarding waiting pay would also be not enforced. The scheme, however, pre-supposes the existence of the Badli Control System.

## DECASUALISATION SCHEME.

### *Name of the Scheme.*

1. This Scheme shall be known as the Textile Workers' Decasualisation Scheme.

### *Manner of introducing the Scheme.*

2. This scheme shall come into force at such date and at such place as may be determined by the voluntary agreement between the Government of Bombay, the representatives of textile employers and the representatives of textile workers of the place concerned.

### *Objects of the Scheme.*

3. The principal objects of the scheme are :

- (i) to secure the rationalization of the recruitment system in the textile industry ;
- (ii) to increase efficiency and production by reducing labour turnover ;
- (iii) to reduce the waiting period of unemployed textile workers ;
- (iv) to eliminate bribery, corruption and favouritism in the recruitment of textile workers ;
- (v) to encourage the systematic training of textile workers with a view to ensuring a steady supply of efficient workers.

### *Organisation.*

4. The Government of Bombay shall establish an Employment Exchange at the place to which the scheme applies. It shall be in charge of a Manager, who shall be provided with such staff as may be necessary for the proper administration of the scheme.

**Registers.**

5. The Manager shall maintain a register of all workers who are employed in the textile industry at the place on the date of the introduction of the scheme and of such workers as may subsequently obtain employment whether as permanent workers, probationers or temporary workers in the industry in accordance with the provisions of the scheme.

The register shall be known as the Master Register.

The Manager shall maintain a register of all persons seeking employment in textile mills consisting of two parts as follows :—

- (i) Workers with previous experience in the textile occupation or operation which they wish to pursue.
- (ii) Persons with no previous experience of any textile occupation or operation or of the textile occupation or operation which they wish to pursue.

The Manager shall maintain a Badli register of all Badlis to whom Badli cards have been given in accordance with the provisions of this scheme.

All these registers shall be maintained according to the card index envelope system.

The card index envelope shall be in the form given in Annexure I.

**Preparation of the 'Badli' register.**

6. The Badli register shall be so regulated as to avoid unduly large surpluses or shortages of textile labour.

An estimate shall be made of the probable number of absentees every month every ..... months and the number of Badlis shall be based on such estimate. Each person, whether a trainee or otherwise, admitted to the Badli register, shall be furnished with a Badli card. Priority of registration shall be the only consideration in issuing a Badli card.

The Badli card shall be in the form given in Annexure II.

Where the estimate of absentees referred to in the preceding paragraph necessitates a reduction in the number of Badli cards already issued, such number of Badli cards shall be withdrawn as may be necessary on the principle 'last in, first out'.

**Training of Textile Workers.**

7. No textile mill shall employ a trainee without adequate and systematic arrangements for his training. The Manager shall, from time to time, determine which mills shall be entitled to employ trainees and their numbers and categories.

**Duties of Employers.**

8. No textile employer governed by this scheme or any person acting on his behalf shall employ a Badli except in accordance with the provisions of this scheme. No textile employer governed by this scheme or any person acting on his behalf shall fill a permanent vacancy except from the Badlis attached to his mills.

Provided that he may fill such vacancy by internal promotion from amongst or by transfer of the permanent employees of the mill in which the vacancy occurs.



*Duties of Textile Workers and Trainees.*

No textile worker or trainee shall seek or obtain employment in the textile mills governed by the scheme except in accordance with the provisions of this scheme.

*Continuous Service Certificates.*

9. Every textile employer shall issue a continuous service certificate in the form given in Annexure III, when a textile worker or trainee leaves his employment.

*Power of the Manager in relation to the employers.*

10. The Manager shall have the power to require any employer governed by the scheme to furnish him such information as he may require for the efficient introduction and administration of the scheme and in particular information regarding ;

- (1) The average daily number of Badlis who present themselves for work but cannot get it ;
- (2) The number of Badlis appointed to permanent jobs during a month or such period as he may specify ;
- (3) The number of vacancies, temporary or permanent, that occur during a month or such period as he may specify.

The Manager or such officer, being not lower in rank than the Assistant Manager, as he may depute, shall have the right to enter the premises in the occupation and inspect any records maintained by any textile employer governed by the scheme with a view to securing compliance with the provisions of this scheme.

*Advisory Committee.*

11. The Manager shall be assisted by an Advisory Committee consisting of equal number of representatives of employers and workers, with the Manager as Chairman.

The members of the Committee shall be nominated by the Government of Bombay in consultation with the organisations of employers and workers of the place concerned where they exist or such of them as Government may deem fit. Vacancies shall also be filled in the same manner.

Every member shall hold office for one year.

The functions of the Committee shall be purely advisory.

The Committee shall advise and assist the Manager on all matters connected with the efficient introduction and administration of the scheme, and in particular on :

- (1) the regulation of the number of Badli Card holders ;
- (2) the mills to be permitted to employ trainees and the numbers and categories of trainees to be employed by each.

*Appeals.*

12. An appeal shall lie to the Deputy Director of Labour or such officer as the Government of Bombay may appoint in this behalf against the orders of the Manager :

- (1) refusing to issue a Badli card whether for employment or for training ;
- (2) withdrawing a Badli card ;
- (3) refusing to allow more or less Badlis ;
- (4) refusing to permit the employment of trainees, their numbers or categories.

Time limit for appeal.

No appeal shall be considered which is not filed within 30 days of the date of the order of the Manager appealed against.

ANNEXURE I.

1. Regn. No.		3. Marks of Identification.		4. Usual trade or Occupation.		5. Trade Index Number.				
2. Name in full (Block Capitals).		6. Age or year of birth.		7. (*) M W S		8. Religion & Caste.				
				9. Present address		10. Permanent Address.				
				Tenement No. Chawl No. Street. Postal Div.		Street ..... Village or town ..... Post Office ..... Taluka ..... Dist. ....				
11. Languages.				12. Educational Qualifications			13. Relatives in Particular Mills.			
Lang- uage.	Speak	Read	Write		Exam. pass- ed.	Date	Name	Rela- tion- ship.	Name of Mill.	Dept.
				Gen- eral Tech- nical						
14. Physical Fitness.		15. Apprenticeship.					16. Membership of which Trade Union.			
Height. Weight.		Name of Fac- tory.		Shop in which trained.		From		To		
		(*) Delete inapplicable terms.								
17. Occupational Record.							18. The information recorded on this card has been read over to me and I certify it to be true:			
Name of Factory.	Job	Date of joining.	Date of leaving.	Pay on leaving	Whether checked by reference to certificates produced or otherwise.		Date..... Signature. or thumb impression.			

19. For Official Use.

Regd.	Check- ed.	Regn.	Renew- ed.	21. Submission for vacancies.					
Date	Initi- als.	Date.	Initi- als.	Parti- culars of Em- ployer or Vacancy Officer.	Salary Offered.	Vacancy Tr. Ind. No.	Order No.	Date sub- mitted.	Result (if placed) give date : rejec- ted give rea- son.
20. Transferred to									
Bad: ...	Regis:	Muster	Regis.						
Date.	Initi- als.	Date.	Initials.						

ANNEXURE II.

BADLI CARD.

NAME OF MILL .....

Date ..... 19 ..

DEPARTMENT ..... OCCUPATION|OPERATION .....

NAME .....

Date.	Number.	Signature.
1	.....	.....
2	.....	.....
3	.....	.....
4	.....	.....
5	.....	.....
6	.....	.....
7	.....	.....
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23	.....	.....
24	.....	.....
25	.....	.....
26	.....	.....
27	.....	.....
28	.....	.....
29	.....	.....
30	.....	.....
31	.....	.....

Date of engagement as 'badli' ..... 19 ..

Whether continuous service certificate holder..... Yes|No.

Remarks re : Attendance ..... Very regular|Regular|Not regular.

Remarks re : Efficiency ..... Very good|Good|Moderate.

.....

Head of Department.

Manager.



## APPENDIX IX.

## ITEM IV.—IMPLEMENTATION OF RESOLUTION REGARDING INDUSTRIAL TRUCE.

In December last the Industries Conference consisting of representatives of Governments (Central, Provincial and Indian States), Employers and Workers unanimously adopted the following resolution on industrial peace :—

This Conference considers that the increase in industrial production which is so vital to the economy of the country cannot be achieved without the fullest co-operation between labour and management and stable and friendly relations between them. The employer must recognise the proper role of labour in industry and the need to secure for labour fair wages and working conditions ; labour for its part must give equal recognition to its duty in contributing to the increase of the national income without which a permanent rise in the general standard of living cannot be achieved. Mutual discussion of all problems common to both and a determination to settle all disputes without recourse to interruption in or slowing down of production should be the common aim of employers and labour. The system of remuneration to capital as well as labour must be so devised that while in the interests of the consumers and the primary producers excessive profits should be prevented by suitable measures of taxation and otherwise, both will share the product of their common effort after making provision for payment of fair wages to labour, a fair return on capital employed in the industry and reasonable reserves for the maintenance and expansion of the undertaking.

For attaining these objectives, this Conference recommends :

- (a) that the fullest use should be made of statutory and other machinery for the resolution of industrial disputes in a just and peaceful manner ; where it does not exist, it should be created without delay. Such machinery should as far as possible be uniform throughout India.
- (b) the establishment of machinery, Central, regional and functional, for the study and determination of fair wages and conditions of labour, and fair remuneration for capital ; and methods for the association of labour in all matters concerning industrial production, such as the formation of Central Regional and Unit Production Committees.
- (c) the constitution in each industrial undertaking of Works Committees representing management and duly elected representatives of labour for the settlement of any dispute which may arise from day to day.
- (d) that, as a first step towards improving the standard of living of workers immediate attention should be devoted to the problem of housing of industrial labour ; the cost of such housing should be shared in suitable proportions between the Government, employers and labour, the share of labour being given in the shape of a reasonable rent.

The principles enunciated above having been accepted, this Conference calls upon labour and management to agree to maintain industrial peace and to avert lock-outs, strikes or slowing down of production during the next 3 years.

This Conference invites labour and Management to assist Government to secure, promote and guarantee such agreements between the parties as will usher in a period of contended and orderly advancement towards a co-operative Commonwealth.

The resolution reproduced above recognised that for increasing industrial production, which is so vital to the economy of the country, fullest co-operation between labour and management and friendly relations between them were essential. As the representatives of Employers and Workers attended the Industries Conference in their individual capacity and could not commit their respective organisation, a reference was made to important organisations of Employers and Workers as to whether they also accepted the resolution. Replies from all have not yet been received but it is hoped that by the time the Conference meets the attitude of Employers' and Workers' organisations will be definitely known.

*Machinery for the study and determination of fair wages, conditions of Labour and fair remuneration for Capital.*

2. In order to give effect to the objectives laid down in the resolution, the Central Government consider that machinery should be established for the study and determination of fair wages, conditions of labour and fair remuneration for capital and in addition ways and means should be found for associating labour in all matters concerning industrial production. The machinery which it is proposed to set up will function at different levels, central, regional and unit. At the Centre, there will be a Central Advisory Council which will cover the entire field of industry and will have under it Committees for each major industry. These Committees may be split up into Sub-Committees dealing with specific questions relating to each industry, e.g., production, industrial relations and economic questions including all questions relating to wages and profit.

The regional machinery under the Provincial Governments will be Provincial Advisory Boards which like the Central Advisory Council will cover the entire field of industry within the province and these Boards will have under them Provincial Committees for each major industry. The Provincial Committees may also be split up into various Sub-committees dealing with specific questions relating to production, wage fixation, distribution of profits and industrial relations. Below the Provincial Industrial Committees will come the Works Committees and Production Committees for each industrial establishment.

Every part of the machinery detailed above, excluding the Works Committees and Production Committees, will be tripartite in character consisting of Government, Employers and Workers' representatives in equal numbers. The Works Committees and the Production Committees which are explained below will be bipartite, that is, consisting of equal numbers of representatives of employers and workers only.

*Works Committees.*—Section 3 of the Industrial Disputes Act, 1947, provides for the formation of Works Committees consisting of representatives of employers and workmen. Under Section 38 of the Act, the Central Government have made rules which apply to all Chief Commissioner's Provinces, Central Government undertakings, Federal Railways, major ports, mines and oilfields. Part 5 of the rules (copy enclosed) relates to Works Committees. It deals with the constitution of these Committees, election of representatives, their term of office, election of office bearers and matters connected with the holding of meetings.

A survey of the present position regarding Works Committees in the Central sphere and the Provinces is given in the memorandum relating to item II of the agenda.

*Production Committees.*—It is considered that Production Committees should be constituted for each unit, industry, region and Province. With a view to avoiding multiplicity of Committees, it may be expedient to have a common-

personnel for the Works and Production Committees but even if the personnel be common, it would perhaps be desirable that the two Committees should meet and function separately for dealing with matters falling within their respective spheres. The functions of the Production Committee will include all matters relevant to, or having a bearing on, production.

#### *Machinery for the Resolution of Industrial Disputes.*

3. The Central Government hopes that in view of the machinery proposed above, the volume of industrial disputes would diminish. It is further hoped that in their own interests and in the larger interests of the country as a whole, both employers and employees will agree to settle their disputes through recognised channels of conciliation and arbitration. For this purpose, the Labour Relations Machinery both at the Centre and the Provinces, is being strengthened and permanent Labour Tribunals are being established for dealing with major disputes.

The Industrial Disputes Act, 1947, provides for the settlement of industrial disputes. It empowers the Central Government to deal with such disputes in the Central sphere covering Central undertakings, Federal Railways, mines, oilfields and major ports. For other industrial disputes the responsibility is that of the Provincial Government. Some Provincial Governments, *viz.*, Bombay, U.P. and the C.P. and Berar have also their own special Acts for the settlement of industrial disputes.

The Central Government has recently set up an Industrial Tribunal at Dhanbad primarily for the coalmine areas. It is also proposed to set up shortly two more such Tribunals—one at Calcutta and the other at Bombay—to be followed later by additional Tribunals at Madras and Kanpur. In addition, *ad hoc* Tribunals may also be appointed by the Central and Provincial Governments, as and when necessary. Some of the Provincial Governments, *e.g.*, Bombay, Madras, and Bengal have already appointed standing industrial tribunals. It is intended that the standing industrial tribunals of the Central Government will be made available for dealing with *major* disputes not only in the Central but also in the Provincial spheres and the Provincial standing tribunals or *ad hoc* Tribunal's will be utilized for adjudication of disputes which are of lesser importance.

The labour relations machinery set up by the Central Government for dealing with disputes in the Central sphere consists of 1 Labour Commissioner, 4 Regional Labour Commissioners, 10 Conciliation Officers and 26 Labour Inspectors (Central). Another Regional Labour Commissioner is expected to be appointed shortly and it is proposed to make two more appointments in the near future. The cadre of Labour Inspectors will also be increased to 36 by the appointment of 10 more Inspectors. In the Provinces almost all Provincial Governments have Labour Commissioners, Deputy or Assistant Labour Commissioners and a number of Conciliators invested with statutory powers for conciliation.

#### *Industrial Housing.*

4. The Central Government is also taking special steps to improve workers' housing as rapidly as possible.

There are two bottlenecks to any scheme of industrial housing, *viz.*, (a) Finance and (b) availability of raw materials, the latter being at present the more serious of two. The Central Government has started a housing scheme in the coalfields and it is hoped to construct 50,000 houses in the course of the next 5 years, each providing the minimum standard of accommodation accepted by the Housing Sub-Committee appointed by the Standing Labour Committee. The progress here was held up not on account of finance but on account of the non-availability of raw materials and the difficulty in regard to the acquisition of sites.



Nevertheless it is hoped that there will now be a great improvement in the rate of progress. A Scheme for the construction of a million workers' houses to be completed in the course of the next ten years is also under consideration, the cost being shared in suitable proportions between the Government, Employers and Labour, the share of labour being in the shape of a reasonable rent. In this connection, it is proposed to set up a Housing Board to work out the details of the scheme and to supervise its operation. The Board will also conduct research work for improving designs of houses and reducing the cost of construction.

*Appointment of Special Officer for implementation of various measures proposed.*

5. It is proposed to place an officer with considerable experience of labour matters in charge of all the executive work in connection with the various measures proposed. In particular, he will be required to devote special attention to the establishment and proper functioning of the various committees to be set up.

6. The Indian Labour Conference is invited to consider the above proposals and to make their comments on the action contemplated. Suggestions are also invited as to any other measures which are considered necessary in order to ensure industrial peace with a view to increase industrial production which as stated in the Industrial Truce resolution is so vital to the economy of the country.

**PART V.**

*Works Committees.*

32. *Constitution.*—Any employer to whom an order made under sub-section (1) of section 3 relates shall forthwith proceed to constitute a Works Committee in the manner prescribed in this Part.

33. *Number of members.*—The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and classes of workmen engaged in, and to the sections, shops or departments of, the establishment :

Provided that the total number of members shall not exceed twenty :

Provided further that the number of representatives of the workmen shall not be less than the number of representatives of the employer.

34. *Representatives of employer.*—Subject to the provisions of these rules, the representatives of the employer shall be nominated by the employer and shall as far as possible, be officials in direct touch with or associated with the working of the establishment.

35. *Consultation with trade unions.*—Where any workmen of an establishment are members of a registered trade union, the employer shall ask the union to inform him in writing—

(a) how many of the workmen are members of the union ; and

(b) how their membership is distributed among the sections, shops or departments of the establishment.

36. *Groups of workmen's representatives.*—On receipt of the information called for under rule 35, the employer shall provide for the election of workmen's representatives on the Committee in two groups—

(1) those to be elected by the workmen of the establishment who are members of the union or unions, and

(2) those to be elected by the workmen of the establishment who are not members of the union or unions,

bearing the same proportion to each other as the union members in the establishment bear to the non-members;

Provided that where more than half the workmen are members of a union, no such division shall be made.

37. *Electoral constituencies.*—Where under rule 36 the workmen's representatives are to be elected in two groups, the workmen entitled to vote shall be divided into two electoral constituencies, the one consisting of those who are members of a union and the other of those who are not :

Provided that the employer may, if he thinks fit, sub-divide the two electoral constituencies and direct that workmen shall vote in either by groups, sections, shops or departments.

38. *Qualifications of candidates for elections.*—Any workman of not less than 19 years of age and with a service of not less than one year in the establishment may if nominated as provided in these rules, be a candidate for election as a representative of the workmen on the Committee.

Provided that the service qualification shall not apply to the first election in an establishment which has been in existence for less than a year.

39. *Qualifications for voters.*—All workmen, other than casual employees, who are not less than 18 years of age and who have put in not less than 6 months' service in the establishment shall be entitled to vote in the election of the representatives of workmen.

40. *Procedure for election.*—(1) The employer shall fix a date as the closing date for receiving nominations from candidates for election as workmen's representatives on the Committee.

(2) For holding the election, the employer shall also fix a date which shall not be earlier than three days and later than ten days after the closing date for receiving nominations.

(3) The dates so fixed shall be notified at least seven days in advance to the workmen and the union or unions concerned, such notice shall be affixed on the notice board or given, adequate publicity amongst the workmen. The notice shall specify the number of seats to be elected by the groups, sections, shops or departments and the number to be elected by the members of the union or unions and by the non-members.

(4) A copy of such notice shall be sent to the union or unions concerned.

41. *Nomination of candidates for election.*—(1) Every nomination shall be made on a nomination paper in form 'H', copies of which will be supplied by the employer to the workmen requiring them.

(2) Each nomination paper must be signed by the candidate to whom it relates and attested by at least two other voters belonging to the electoral constituency and shall be delivered to the employer.

42. *Scrutiny of nomination papers.*—(1) On the day following the last day fixed for filling the nomination papers, the nomination papers shall be scrutinised by the employer in the presence of the candidates and the attesting persons and those which are not valid shall be rejected.

(2) For the purpose of sub-rule (1), a nomination paper shall be held to be not valid if (a) the candidate nominated is ineligible for membership under rule 38 or (b) the requirements of rule 41 have not been complied with.

43. *Voting in election.*—(1) If the number of candidates who have been validly nominated is equal to the number of seats, the candidates shall be forthwith declared duly elected.

(2) If in any constituency the number of candidates is more than the number of seats allotted to it, voting shall take place on the day fixed for election.

(3) The election shall be held in such manner as may be convenient for each electoral constituency.

(4) The voting shall be conducted by the employer, and if any of the workmen concerned belong to a union, by such of them as the union may nominate.

44. *Arrangements for election.*—The employer shall be responsible for all arrangements in connection with the election.

45. *Officers of the Committee.*—(1) The Committee shall elect office bearers including one Chairman, one Vice-Chairman and two Joint Secretaries.

(2) The Chairman shall be nominated by the employer from amongst the employers' representatives on the Committee.

(3) The Vice-Chairman shall be elected by the Committee from amongst the workmen's representatives on the Committee.

(4) The two Joint Secretaries shall be elected by the Committee from among the representatives of the employer and of the workmen respectively.

46. *Term of office.*—(1) The term of office of a workmen's representative on the Committee other than a member chosen to fill a casual vacancy shall be two years.

(2) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor.

47. *Vacancies.*—In the event of a workmen's representative ceasing to be employed in the establishment or in the event of his resigning the membership in the Committee, his successor shall be elected from the constituency to which the member vacating the seat belonged.

48. *Power to co-opt.*—The Committee shall have the right to co-opt in a consultative capacity persons employed in the establishment having a particular or special knowledge of a matter under discussion. Such co-opted members shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Committee.

49. *Number of meetings.*—The committee may meet as often as necessary but not less often than once a month.

50. *Facilities for meetings, etc.*—The employer shall provide accommodation for holding meetings of the Committee. He shall also provide all necessary facilities to the Committee and to the members thereof for carrying out the work of the Committee.

## APPENDIX IX.

### SUPPLEMENT TO ITEM IV.

*Copy of correspondence with the All-India Organisations of Workers and Employers relating to the Industrial Truce Resolution.*

*Letter No. L.R. 86(3), dated the 12th January 1948, from the Ministry of Labour.*

I am directed to invite a reference to the resolution unanimously adopted at the Industries Conference held in December 1947 at New Delhi (copy enclosed). The Central Government has initiated action to set up the requisite machinery for implementing the various points covered by the resolution and both Central and Provincial Governments are expected to take action forthwith to set up machinery of a tripartite character envisaged in the resolution. The Central

Government is gratified by the determination shown in the resolution by both employers and labour to settle all disputes without recourse to interruption in production. I am to request that the resolution adopted at the Conference may now be placed before your organisation which, the Ministry of Labour hopes, will accept it *in toto*.

### RESOLUTION.

This conference considers that the increase in industrial production which is so vital to the economy of the country cannot be achieved without the fullest co-operation between labour and management and stable and friendly relations between them. The employer must recognise the proper role of labour in industry and the need to secure for labour fair wages and working conditions: labour for its part must give equal recognition to its duty in contributing to the increase of the national income without which a permanent rise in the general standard of living cannot be achieved. Mutual discussion of all problems common to both and a determination to settle all disputes without recourse to interruption in or slowing down of production should be the common aim of employers and labour. The system of remuneration to capital as well as labour must so devised that while in the interests of the consumers and the primary producers excessive profits should be prevented by suitable measures of taxation and otherwise, both will share the product of their common effort after making provision for payment of fair wages to labour, a fair return on capital employed in the industry and reasonable reserves for the maintenance and expansion of the undertaking.

For attaining these objectives, this Conference recommends :

- (a) that the fullest use should be made of statutory and other machinery for the resolution of industrial disputes in a just and peaceful manner ; where it does not exist, it should be created without delay. Such machinery should as far as possible be uniform throughout India.
- (b) the establishment of machinery, Central, Regional and functional for the study and determination of fair wages and conditions of labour, and fair remuneration for capital ; and methods for the association of labour in all matters concerning industrial production, such as the formation of Central, Regional and Unit Production Committees.
- (c) the constitution in each industrial undertaking of Works Committees representing management and duly elected representatives of labour for the settlement of any dispute which may arise from day to day.
- (d) that, as a first step towards improving the standard of living of workers, immediate attention should be devoted to the problem of housing of industrial labour ; the cost of such housing should be shared in suitable proportions between the Government, employers and labour, the share of labour being given in the shape of a reasonable rent.

The principles enunciated above having been accepted, this Conference calls upon labour and management to agree to maintain industrial peace and to avert lock-outs, strikes or slowing down of production during the next 3 years.

This Conference invites labour and management to assist Government to secure, promote and guarantee such agreements between the parties as will usher in a period of contented and orderly advancement towards a co-operative Commonwealth.

*Letter dated the 5th March 1948, from the Employers' Federation of India, to the Secretary to the Government of India, Ministry of Labour.*

I beg to acknowledge receipt of your letter No. L.R. 86(3), dated the 12th February and to say that the Resolution adopted by the Industries Conference has been forwarded to all our Members with a recommendation that they accept the principles outlined in the Resolution.

I am, however, to point out that the response from Labour has been most disappointing, and Industrial Truce is very far from being achieved. It is a situation which, in the opinion of the President of my Federation, calls for positive action on the part of the Central and Provincial Governments.

I am also to invite your attention to the fact that the requisite machinery for the study and determination of the matters detailed in the Resolution has not yet been set up by the Government of India. In the meantime, some of the Provincial Governments have initiated discussions for the formation of Provincial machinery for the purpose of implementing the Resolution. My Federation is of the opinion that if individual Provincial Governments take up the matter initially without a lead from the Centre there is every likelihood of un-coordinated decisions being reached by them. It is, therefore, essential that questions involving fundamental principles should first be decided at the All-India level by the Government of India, so as to enable the Provincial Governments to take such action as may be necessary in their spheres. If this is not done immediately, there is every likelihood of the Provincial Governments laying down divergent industrial and labour policies, which, it is, submitted, it is essential to avoid.

*Letter dated the 4th March 1948, from the All-India Trade Union Congress, to the Secretary, Government of India, Ministry of Labour.*

I have the honour to enclose herewith a copy each of the ten resolutions adopted unanimously at the meetings of the General Council of the All-India Trade Union Congress held at Calcutta on 25th, 26th and 27th February, 1948.

Hope they will receive sympathetic consideration from the Government of India.

#### RESOLUTION ON 'INDUSTRIAL TRUCE'

Having given serious and careful consideration to the resolution on what is generally known as "Industrial Truce" adopted at the Industries Conference convened by the Government of India at Delhi in December last, the General Council of the All-India Trade Union Congress, at its meeting held at Calcutta on the 25th, 26th and 27th February 1948, offers its considered commands on the subject matter of the Industrial Truce resolution as contained in the following statement :

The General Council realises the fact that if the vast millions of our country are to be fed, housed and clothed, industry and agriculture have to be built on a big scale and production and distribution to be planned and organised to satisfy the needs of the people.

But it has to be remembered that most of the industries, banks, insurance companies and other occupations are at present owned and controlled by a small class of persons who conduct them in order to make profits and not primarily with the object of supplying the needs of the community. Factories are shut

down or opened and large number of workers are hired or thrown into unemployment to suit the profit motive of the employers without regard to the interests of the community. The consideration of supplying the needs of the community of goods does not primarily govern the system of production to-day.

Under such conditions it would be unjust to hold the workers responsible for production and its ups and downs.

The General Council desires to point out that the anxiety to eliminate strikes altogether and to ensure complete industrial peace in a competitive society can only remain a pious wish. So long as the competitive system of private industry for profits remains, one can endeavour only to minimise strikes and this can be achieved to some extent only if firm and effective measures are taken to restrict profits, dividends and rents, to reduce, regulate and stabilize prices and to organise suitable distribution by rationing of all essential commodities. The present policy of the Government which is against control as such is to industrial peace. In fact, Government have laid themselves open to the charge of not being serious in their professions in as much as their present decontrol policy is inconsistent with the maintenance of industrial peace. When the Government expect labour not to resort to strike on the ground that the present time should be treated as that of national emergency they conveniently forget that they themselves treat the present time as normal by removing control even on food and cloth. In effect the present policy of Government appears to be to control only one commodity, namely, that of human labour and to decontrol everything also. Let it be stated unambiguously that industrial peace cannot be achieved by such a policy.

It is unfair and misleading that labour organisations and labour leaders should be criticised by Government and employers for the alleged breach of the terms contained in the Industrial Truce resolution. The resolution clearly imposes certain conditions to be fulfilled before labour is expected to give effect to the operative part of the resolution. In the absence of the fulfilment of these conditions, it is highly improper to put one-sided blame on labour. Moreover, the resolution imposes serious responsibilities on all the three parties concerned, namely, Central and Provincial Governments, Employers' and Workers' Organisations. As long as Government do not discharge their share of the responsibility and do not also compel employers to do so, it is most improper to criticise labour in season and out of season for alleged breach of the terms of the resolution which can come into operation when the necessary conditions are fulfilled.

One of the necessary conditions to be fulfilled is the speedy nationalisation of the basic industries, banks, etc., which would give a feeling to the workers that the production is for the public good and not primarily for private profits.

Not only are the vast resources of production and wealth allowed to be used for the profit of the few and not for social use, the working class, on whose labour depends production itself, is even denied its minimum living wage and social security and human rights to decent existence. While profits have been rising and prices soaring up, the workers' low pre-war wages which further sank during the war have been hardly made up to-day in spite of the dearness allowances and small increase which they had to fight for. The working class on whom mainly falls the responsibility to feed, house and clothe society itself, is almost denied security of life, decent housing or clothing. Proposal for a general all-round increase to secure living wage are generally not carried out; hundreds of thousands of workers are retrenched and thrown into unemployment and the very existence of millions of producers is made insecure. It is unfair under such conditions to charge the working class with breaches of industrial truce.

Knowing fully well the hardships of workers, which give rise to stoppage of work, the Government with the intention to provide machinery for the settlement of disputes instituted legislation which in effect amounted to practical banning of the right of strike and imposing compulsory and dilatory process of Conciliation and Arbitration. When the workers win even under such conditions awards in their favour, the employers refuse to abide by them and the Government in some cases have not taken any action against the employers, while under an award in favour of employers recommending rationalisation resulting in wage cuts and unemployment, powers have been taken under Public Security Act and these powers are made applicable to prevent workers in essential industries from seeking better employment at their choice without the permission of the Police Commissioner. Such measures are calculated to lead to discontent. In our considered opinion, the proper method of settlement of trade dispute is voluntary collective bargaining and recognition of trade unions.

The General Council hopes that serious consideration will be given by the Government to the views expressed in this statement. The Council would like to emphasise that industrial peace and increased national production can be achieved only as a result of enlightened and progressive labour and social policy as indicated in this statement. In the absence of such a policy it would not be proper to put one-sided blame for industrial unrest on labour.

*Letter No. L.R. 86(3), dated the 18th March 1948, from the Secretary to the Government of India, Ministry of Labour, to the All-India Trade Union Congress.*

I am directed to invite a reference to your letter of the 4th March 1948 enclosing, among others, a copy of the resolution on Industrial Truce, adopted unanimously at the meeting of the General Council of the All-India Trade Union Congress held at Calcutta on 25th, 26th and 27th February 1948. This resolution is in the nature of a statement and contains comments on the subject matter of the Industrial Truce resolution. There is nothing in it to indicate whether the Industrial Truce resolution is or is not accepted by your organisation, as was expected in reply to this Ministry's letter No. LR. 86(3) of 12th January 1948. In this connection, I am to observe that members of your organisation, who attended the Industries Conference in December last, supported this resolution and declared that while they could not commit their organisation as they were attending the Conference in their individual capacity they hoped to carry their organisation with them. The Hon'ble Shri Jagjivan Ram, the Labour Minister, in concluding the discussion stated that he would take the earliest opportunity to set up the requisite machinery in order to give effect to the various clauses of the resolution. Accordingly, the Government of India are now proposing to set up Central and Regional tripartite Committees to implement the Industrial Truce resolution. Before nominating representatives of organisations of employers and workers to these Committees, it is necessary to know whether the organisations concerned have in fact accepted the resolution. I am accordingly to request that an early intimation may be sent as to whether the Industrial Truce resolution has in fact been accepted by your organisation.

*Letter dated the 29th March 1948 from the All-India Trade Union Congress to the Secretary to the Government of India, Ministry of Labour.*

I am in receipt of your letter No. LR-86(3), dated 18th March 1948, asking us whether the Industrial Truce Resolution was accepted by the All-India Trade Union Congress or not. I have also received today the following telegram from you :—

**“ LR 86(3) WILL BE GRATEFUL FOR EARLY REPLY OUR LETTER DATED EIGHTEENTH REGARDING INDUSTRIAL TRUCE RESOLUTION ”.**

In reply to your above letter I have to state that the resolution which was passed by the General Council of the All-India Trade Union Congress on 27th February is self explanatory. The nature of the Industrial Truce Resolution passed at the Delhi Conference is such that the views of the All-India Trade Union Congress on it could not be expressed either by “yes” or “no”.

In the first place the Delhi Resolution merely enunciates certain principles regarding what is necessary to be done by Government in order to make the Industrial Truce practicable in the opinion of the Conference and details of the proposed machinery for protecting the interests of the workers are still left to be worked out by joint discussion. In the absence of the details of these proposals, the General Council of the All-India Trade Union Congress could not be reasonably expected to express its opinion regarding their suitability for the achievement of the objective.

In the second place the implementation of the objective of the Delhi Resolution, namely, increased production, can only be practicable under certain suitable overall economic conditions such as a controlled economy and policy of nationalisation of industries. In the absence of such overall necessary conditions, the Delhi Industrial Truce Resolution will be found to be inadequate for its purpose even though the principles mentioned in the Resolution to which I have referred above are satisfactorily worked out in practical proposals.

For these two reasons, the General Council of the All-India Trade Union Congress could only state its comments on the Delhi Resolution and incidentally indicate its views as to how the objective of increased production could be obtained and industrial peace secured. You will easily realise how under these circumstances we cannot either say expressly whether we accept or not accept without the risk of our views being misunderstood. We have, therefore, contented ourselves by accepting the need for increased production and by indicating our views briefly regarding the Delhi Resolution which is both vague and omits reference to important requisite conditions.

In my opinion it will be wrong and unfair on the part of the Labour Ministry to take into consideration the fact whether an organisation has accepted the Delhi Resolution or not in nominating representatives on the Committees to be appointed for the purpose of carrying out the objective of the Resolution. In the first place, the principles mentioned in the Resolution are still to be worked out in concrete proposals and in the second place, decisions of the Committees to be set up will effect the interests of all workers and not only of those who accept the Delhi resolution. I can only express a hope that the Labour Ministry will not follow a policy in appointing these Committees which will be unfair to certain sections of workers and for that reason not likely also to be suitable for the achievement of your objective.



*Letter No. 6|323, dated the 20th March 1948 from the Indian National Trade Union Congress to the Secretary to the Government of India, Ministry of Labour.*

In reply to your No. LR-86(3), dated the 12th January, I am enclosing a copy of the resolution adopted at the recent meeting of our Executive. Resolutions 3 and 4 refer to Industrial Truce."

## RESOLUTIONS

1. The Executive Committee of the Indian National Trade Union Congress expresses its deep sorrow and anguish at the loss of Mahatma Gandhiji. While the Mahatma by his life long service has put the entire nation under debt, and while his death is mourned by millions as though it were a personal bereavement, the voiceless masses owe him a special debt of gratitude. He was the vigilant guardian of their rights and redoubtable champion. A pioneer in his own unique fashion in the labour movement of the country he was a source of inspiration and unfailing guide to the workers in their struggle. To them, his loss comes as a stunning blow, especially now as the struggle is entering a new phase, passing from the political to the economic stage. Gandhiji's guidance would have made our economic and social resolution short and quick and have taken away from it the pain and bitterness that usually accompany such conclusions. While mourning his loss, let the working class and the community as a whole seek courage in the thought that nothing would please the spirit of our departed leader more than a memorial in the form of a Social Order as envisaged by him founded on Non-violence Truth and Justice.

2. The murder of Gandhi is the outcome of a deep seated disease that has in recent time been overtaking a growing section of our people. Several parties, communal and political, have assiduously been poisoning the mass mind with the cult of violence and inculcating in them a contempt for moral and social values and defiance of established authority.

This Committee warns the community against this growing menace which is the surest road leading to disorder and chaos and ultimately to the installation of a Government which will be a very negation of democracy. While commending the steps already taken to eradicate this evil, this Committee urges upon the Government to speed up and further intensify the measures and offers the utmost support to any drive for putting down the inculcation of the spirit of violence and lawlessness.

3. In view of the grave economic and political crisis facing the country, this Committee welcomes the Industrial Truce concluded at the Industries Conference held at New Delhi, in December last, and assure the Government and the people of the country of its complete adherence to the truce, and offers its fullest co-operation in achieving the maximum production.

4. The Executive Committee of the Indian National Trade Union Congress is deeply concerned at the fact that there is no visible progress in giving concrete shape to the unanimous recommendations embodied in the resolution on Industrial Truce. The Committee urges upon the Government the necessity of taking immediate steps in the direction of an adequate provision of suitable houses for the workers, of establishing machinery for assuring speedy justice to them by means of conciliation, arbitration or adjudication, for effective association of labour with management through Works Committees and Production Committees; and for determining fair wages, fair return on capital and due share of labour in the surplus of industry having due regard to the interest of the consumers.

The Committee is firmly of opinion that evoke the enthusiastic co-operation of the workers in the drive for production and to develop among them a high sense of responsibility to play an effective role as citizens in the Co-operative Commonwealth, measures should be taken for the quick realization of the workers' status as full partners in admission and control of industry.

5. The Committee deplores the fact that trade union organisations with which some of the labour leaders who were a party to the Industrial Truce agreement at Delhi were connected immediately thereafter did the utmost to destroy hopes of peace by launching an intensive campaign of direct action. The strike campaigns in Bombay, Calcutta, Cawnpore, Malabar and elsewhere which met with a varying degree of success was clearly part of a concerted plan calculated to weaken our economic position, undermine our strength and security and generally prepare the country for a violent upheaval aimed at destroying our free democratic institutions. The Committee has to solemnly warn the working class against participation or connivance in these demonstrations which are essentially political in their objective, and to point out that the duty of every one who values freedom and democracy lies in actively opposing and making impossible all such moves.

6. The Executive Committee of the Indian National Trade Union Congress records its appreciation of the promptness with which the Government of India have implemented the recommendations of Board of Conciliation appointed for the coal industry.

These recommendations particularly that of four months' bonus in a year to every worker, constitute in the opinion of the Committee a land mark in the history of the working class struggle for better emoluments, in the country. The Committee, however, thinks it necessary to draw the attention of the Government to the fact that the wages of a vast number of workers, employed in the coal industry, particularly of the skilled workers, have not undergone the improvement as they should have been with the result that a good deal of discontent lingers amongst these workers.

As such a condition, is a great impediment to production, the Committee urges upon the Government to immediately take steps, if necessary by appointing a Tribunal or Conciliation Board, to review the wages of these workers with a view to bringing them in line with wages enjoyed by other workers in the same industry.

7. This Committee expresses its deep concern at the new offensive made by the employers and the management by effecting retrenchment while a Tribunal is sitting or following an award given by a Tribunal involving increase in emoluments, as well as by delaying implementation of an award, or by only partially implementing it or not implementing it at all.

Such an attempt not only shows want of co-operative spirit on the part of the management, but goes to nullify the Industrial Disputes Act itself, thereby blocking the way for the utilisation of existing machinery for resolution of Industrial disputes in a peaceful and just manner.

The Committee therefore urge, upon the Central Government to immediately amend the Act, particularly clauses 29 and 33 in such a way as to remove the existing defects, defining retrenchment as violation of the "Status Quo" and providing for stringent measures for non-implementation, partial implementation or delay in the implementation of an award given by a Tribunal.

8. The Executive Committee of the Indian National Trade Union Congress welcomes the assurance given by the Hon'ble Minister for Railways on the floor of the Dominion Parliament that the anomalies in the Pay Structure of S.I.,

M.S.M. and O.T. Railways will be removed first and that any inequity resulting from the implementation of Pay Commission's Recommendations will be redressed. The Committee hopes that the assurance will be carried out with any loss of time.

Resolved to request the Railway Board that in the matter of consultation with the Railway Labour Representative generally, and particularly with reference to the removal of anomalies in S.I., M.S.M. and O.T. Railways and redressing of grievances arising out of the implementation of the Pay Commission's recommendations, all recognised unions should be given opportunities to represent the workers' case, instead of merely the unions affiliated to the All-India Railwaymen's Federation.

Resolved to request the Government of India to include Plantation as an Industry within the meaning of the Industrial Disputes Act 1947.

In view of the growing evils and double exploitation arising out of the continuance of the Kangani System in the South Indian Plantation Industry, and in view of the fact that the all Committees appointed to go into the question of Plantation labour, right from the Whiteley Commission to the Rege Committee, have uniformly recommended to India to take early steps to abolish this undesirable system by legislation.

*D.O. letter dated the 28th March 1948 from the Indian Federation of Labour to the Under Secretary to the Government of India, Ministry of Labour.*

Please refer to your talk with me on the telephone yesterday regarding Industrial Truce Resolution. The Third All India Conference of the Indian Federation of Labour held in Bombay on December 31st, 1947 and January 1, 1948 considered the resolution as well as the report of Indian Federation of Labour representatives who attended the Industries Conference convened by the Government of India and adopted a resolution on it. I enclose a copy of the printed resolutions for your ready reference.

The Conference has read with great care and attention the resolution on "Industrial Truce" adopted at the recent tripartite conference held in Delhi. It has also heard from Com. Maniben Kara and Com. Rajani Mukerji a report of the Conference. On the basis of that report, the Conference resolves as follows :—

- (a) The Conference welcomes the efforts made by the Government to concentrate public attention on the alarming fall in production and to bring together labour and industry for devising ways and means for stepping up production.
- (b) The Conference is of the opinion that the basic causes of the fall in production and of the failure of industry to expand in spite of a very large unsatisfied demand lie in the nature and form of the Indian economy. It will not be possible to secure a stable rise in production without changing that nature and form and without framing and enforcing a plan for an around economic development of the country on the lines of the People's Plan. The tripartite conference has failed to devise any such plan. It is hardly likely, therefore, that the decision taken at the conference will lead to any appreciable increase in production.
- (c) The Conference rejects as unworthy of consideration the allegation made in certain quarters that labour is responsible for the fall in production. It is, on the other hand, its considered opinion that

- many of the big monopolistic industrial concerns are deliberately sabotaging production in order to reap high profits out of an artificially stimulated scarcity. The Conference demands that there should be a thorough investigation in the matter, and steps should be taken to stop such anti-social practices.
- (d) The Conference reiterates the resolve of the workers to do everything within their power to step up production. The Conference is, however, alarmed by the attempts made at the tripartite conference to relate increased production to the needs of war. It is, therefore, genuinely afraid that the production drive may result only in the production of arms and ammunition and not of consumer goods which are so badly needed by the people. The Conference condemns any such move and warns the Government that the workers will resist it.
- (e) It has been all along the policy of the Federation not to foment or encourage strikes. The Federation and its affiliated unions have been all along endeavouring to secure the settlement of industrial disputes without recourse to strikes. The Federation and its affiliated unions will continue to follow the same policy and will try their best to avoid stoppages of work. It cannot, however, give up the workers' right to strike or accept any limitations upon it. The Conference hopes, however, that the Government and the employers will adopt a reasonable and fair and just attitude towards the demands of workers. The Conference is emphatically of the opinion that the adoption of such an attitude can alone avoid strikes.
- (f) The Conference welcomes the recommendations made by the tripartite conference to set up Works Committees and Production Committees and to devise machinery for early settlement of disputes and for providing fair wages and conditions of work. The Conference hopes that immediate steps will be taken to give effect to those recommendations. The Conference, has, however, to warn that any such machinery that may be set up will not yield fruitful results unless it is motivated by a progressive and enlightened labour policy. The Conference urges upon the Governments, Central and Provincial, to adopt and declare such a labour policy as early as possible and to take immediate steps to give effect to it.
- (g) The Conference authorises the General Secretary to make representations to the Government and the employers' organisations in terms of this resolution and to take all such steps as may be necessary for securing action in pursuance of the recommendations made by the tripartite conference.