

# INTERNATIONAL LABOUR REVIEW

VOL. VIII, No. 6

DECEMBER 1923

## The Fifth Session of the International Labour Conference

**F**OR the fifth time since its inception under the Treaty of Peace of Versailles, the International Labour Organisation has held the annual General Conference provided for in that Treaty. In describing the third and fourth sessions of this Conference, allusion had to be made to the difficulties of the existing economic and political situation, difficulties which were reflected to some extent in the deliberations of the sessions, and to a still greater extent in their effect upon the results which followed upon the decisions adopted.

It cannot be stated that the Fifth Session met under much happier circumstances. Though there are those who profess to see the beginning of the end of a dark and troubled time, it has to be confessed that the end itself is not yet, that the period of recuperation will still in all probability be long and difficult. The International Labour Organisation, like other international institutions, is performing the functions allotted to it by the Treaties of Peace in a welter of happenings which whilst probably of no greater — perhaps much less — significance than are its labours and its decisions, have yet greater dramatic appeal and the property of filling more columns of the world's press.

That a Conference of the proportions and importance of that just concluded could have been held to discuss the apparently dull and uncontroversial question of the general principles of factory inspection is in itself possibly surprising to those who may not have followed the fortunes of the Organisation since its beginnings in 1919. The reader in England, France, Germany or any other modern industrial state now accepts factory inspection as he accepts street lighting or main drainage, that is, as a necessity of civilised life, perhaps a little expensive, but presenting no problems or principle, nothing of the nature of a great cause to be embraced with ardour. He should reflect, however: the "great causes" of to-day are necessarily less simple, less direct in their appeal to the emotions, than were those of less complicated eras. Civilisation is maintained not only by high ideals expressed in noble terms, but by those same ideals translated into street lighting, main drainage, and factory inspection.



And the subject of factory inspection is not without its romance. There is here no opportunity to recall the experiments of the early years of the nineteenth century, the amateur, untrained, and unpaid "inspectors" whose intentions were often better than their achievements, leading in the eighteen-thirties to the beginnings of the creation of the expert paid professional "inspector" who, through reviling and adulation both immoderate, has come in the modern state to be the pillar upon which the enforcement of much civilisation-saving legislation now rests, and one of the principal sources of improvement in the future.

The Organisation has long been preoccupied with the question of inspection. An international code is in process of formation by the decisions of the successive sessions of the Conference, a code which already covers very important matters in the sphere of labour conditions. That code is being transformed into action by the enactment of portions of it in this or that national legislation, and the ends appointed for the Organisation by the Treaties of Peace, the securing of that "social justice" upon which alone universal peace can be established, and the improvement of those conditions of labour which involve "such injustice, hardship, and privation to large numbers of people" as to imperil the peace and harmony of the world, are to that extent being brought nearer. Precisely for this reason — the translation, that is, of international decisions upon labour conditions into national legislation — the question of factory inspection and the part it plays in the enforcement of legislation and in the improvement of legislation becomes of pre-eminent importance. Further, since the improvement of labour conditions may involve increases in the cost of production (at any rate immediate and perhaps temporary increases), any given country may hesitate to impose upon its industries the additional burden of improved regulations unless it is assured that its competitors are doing the same, and are *effectively enforcing* their legislation. The best guarantee of that is efficient inspection.

The Treaties of Peace themselves took note of the importance of this question. Among those "methods and principles for regulating labour conditions which all industrial communities should endeavour to apply", which are "of special and urgent importance", appears the following :

Each State should make provisions for a system of inspection, in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed.

And, when urging the importance of these methods and principles, the framers of the Treaty made, as a condition of their efficacy to confer lasting benefits upon the wage-earners of the world, the proviso that they should be safeguarded in practice by an adequate system of inspection.

From time to time the question has been touched upon in discussions during the sessions of the Conference. On the occa-

sion of three of the four previous Conferences — the exception being the Genoa session of 1920, which was occupied exclusively with maritime affairs — the inspectors of factories who happened to be present as delegates or technical advisers held unofficial meetings at which matters germane to their profession were usefully discussed. One Government proposed that a special conference of representatives of the European inspection services should be convened. The Governing Body of the International Labour Office, however, upon which lies the duty of determining the agenda of the General Conference, considered that the best method of giving effect to the various suggestions made was to place the subject upon the agenda for the session of this year.

### THE AGENDA

The subject did not, in the first instance, form the whole of the agenda of the session, as it came to do in effect. The intention of the Governing Body, at the moment when its decision was taken, was to hold a session of normal length with an agenda comprising a number of items. Two circumstances contributed to a change of plan. In the first place, demands for economy in expenditure led to the suggestion that no session of the Conference should be held during the present financial year; in the second place, one of the Governments had proposed, and the proposal had been warmly received, that the normal time at which the sessions of the Conference were held should be changed from the autumn to the spring. The Conference did, in fact, tend rather to clash with the annual Assembly of the League of Nations. The Governing Body decided to attempt to meet both suggestions, but, since under the Treaties of Peace a session of the Conference must be held during each year, it was not possible to abandon entirely the session of 1923 and hold the fifth session in the spring of 1924. A single subject — that of the general principles for the organisation of factory inspection — was therefore chosen from the agenda already agreed upon, and it was anticipated that a session of short duration, involving a minimum of expense, would suffice for its adequate examination.

Under these circumstances, it would not have been surprising if the number of states represented at the Conference had been markedly smaller than usual; that the event proved otherwise is probably an indication both of the importance attached to the question under discussion and of the lively interest taken in the International Labour Organisation by the industrial states. Forty-two states sent delegations, and no state of any great economic importance (except, of course, the United States of America and Russia, which remain outside the League of Nations and the International Labour Organisation) was unrepresented (1).

---

(1) The states represented at the first session (Washington) numbered 40, at the second (Genoa — exclusively maritime) 27, at the third (Geneva 1921) 39, and at the fourth (Geneva 1922) 39.

## THE DELEGATIONS

The Treaties provide that a national delegation to the Conference should consist of four persons, two representing their government, the others appointed by their government "in agreement with the industrial organisations, if such organisations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries". If, then, all delegations are complete, the composition of the Conference exhibits a certain balance; one half of its members represent the Governments, one quarters the employers and one quarter the workers. The importance of the preservation of this balance will be seen when it is recalled that the principal decisions of the Conference must be made by a two-thirds majority, and from time to time vigorous protest has been raised against the sending of incomplete delegations. On the present occasion 17 delegations consisted of Government representatives only. In two further instances the "most representative organisation", in the one case of workers and in the other of employers, had failed to come to an agreement with regard to the nomination of a delegate, with the result that the Norwegian employers' representative and the Bulgarian workers' representative, though present at the Conference and taking part in its work, were not able to exercise their vote, Article 390 of the Treaty of Versailles providing that when a State Member of the Organisation fails to nominate one of the non-Government delegates the other may sit and speak, but not vote at the Conference.

But a more difficult type of problem arises from the method of appointing non-Government representatives. At each session of the Conference there have been a number of cases in which the credentials of a delegate have been challenged on the ground that the organisation consulted by the Government in making the nomination was not the "most representative". In this session also "credentials" gave difficult problems to the committee which examined them. For the most part these cases arise in countries where the organisation of the workers or employers has not yet reached a stage at which the "most representative" of them can be indicated without possibility of doubt. Japan and India are cases in point, and the validity of the nomination of the workers' delegates of these two countries was challenged. Recent changes in Italy provided another knotty problem. The new Fascist unions, by their constitution and rules, are alleged, by those who questioned the nomination of the Italian workers' delegate, to admit employers to membership as well as employees; it was therefore somewhat humorously suggested that the Italian employers were represented at the Conference by "one and a half delegates", the workers by "half a delegate" only. The majority of the Credentials Committee recommended, however, that the Fascist delegate be admitted, basing their decision in

the first place upon the formal denial made by the Italian Government, as well as by the delegate himself, that the trade union organisations which the latter represented and which had been consulted by the Government were in fact joint organisations of employers and workers, and in the second place upon the consideration that the Fascist federation of unions appeared to be, at any rate from the point of view of numbers, the "most representative" organisation. This latter point was not contested. The Conference, which is master of its own house in this respect, admitted him, as it did also the other delegates, workers and employers, whose credentials had been contested.

The personnel of the Conference, thus finally determined, comprised 74 Government, 24 employers', and 24 workers' delegates; they were accompanied by some seventy technical advisers. Notable among the delegations were those of the Argentine Republic, of Persia, and of Panama, countries which had been represented at the first session of the Conference at Washington in 1919, but not subsequently until this occasion, and that of Ireland, newly admitted as a Member of the League of Nations and by that fact of the International Labour Organisation also.

#### PERSONNEL

The nature of the subject to be discussed made it inevitable that there should be many changes in the personnel of the Conference. Governments had sent, in many instances, either as delegates or as technical advisers, as was to be expected, their heads of inspection services. There were therefore many new faces present. But fortunately perhaps for the continuity of the development of that technique in conference procedure which is of so great importance in international assemblies of this kind, a large number of those who can claim experience were present; and among them there were few with greater claims to knowledge of the Organisation than could be put forward by Dr. Adatci, the first Japanese Government delegate. His experience as Chairman of the Selection Committee at the previous session, as member of the Governing Body, as member of the Fourth Committee of the Assembly of the League of Nations, and, not least, his continuous interest in and marked friendliness towards the Organisation were excellent qualifications, which the Conference recognised by electing him unopposed to the presidency of the session.

According to the Standing Orders, the three vice-presidents are nominated by the Government, employers', and workers' groups respectively, and must be of different nationalities. In order to avoid certain difficulties caused by the latter point, the new Standing Orders adopted in 1922 provided that the order in which the groups should nominate their vice-presidents was to be determined by lot at the Fifth Session, and that at subsequent

sessions the groups should have priority of nomination in rotation. The vice-presidents so elected were Mr. Pfister, one of the Swiss Government delegates who has long been associated with the Conference and the Governing Body, Mr. Jouhaux, French workers' representative, member of the Governing Body, and delegate at every session of the Conference with the exception of that held at Genoa in 1920, and Mr. Olivetti, representative of the Italian employers at three sessions of the Conference, and member of the Governing Body.

### PREPARATORY WORK

The subject to be discussed was, as has been stated, the apparently simple and non-controversial one of the general principles for the organisation of factory inspection. The preliminary examination of the question, carried out according to established practice by the International Labour Office, had shown, however, that the subject was exceedingly complicated. Diversities of practice as regards the scope of inspection, the ordinary and extraordinary duties of inspectors, their relations to the executive and judicial authorities of their countries, their recruitment and training were revealed by the replies forwarded by the Governments in response to the Questionnaire issued by the Office early in the year. The diversity of view and of practice did not appear to preclude agreement upon general principles, but pointed to the adoption of a decision in the form of a Recommendation rather than in that of the less elastic Convention.

Incidentally, it may be said that the nature and quality as well as the number of the replies to the Questionnaire call for remark. They are collected and analysed in a Report, issued some time before the Session opened, and they form what is undoubtedly the most instructive material yet issued on the general question of inspection, a subject upon which published material appears to be singularly scanty.

The subject had been divided for the purposes of examination into four principal sections, under the headings: (1) Scope of Factory Inspection; (2) Nature of the Functions and Powers of Factory Inspectors; (3) Organisation of Factory Inspection; and (4) Inspection Reports. The draft for a Recommendation prepared by the Office as a basis for discussion followed the same plan.

When the Conference approached the consideration of the subject, it accepted the draft prepared by the Office in so far as the division of the question was concerned, but again divided the second section, relating to the nature of the functions and powers of inspectors, in such a way as to confide to a separate committee the important study of the relations of inspection services to the problems of safety.

## THE WORK OF THE COMMITTEES

Five committees were therefore appointed, composed as usual of equal numbers from the three groups. Three of the Committees were composed of 24 members, and the other two of 18 members, arrangements being made by which the Governments were as far as possible represented on the particular committees in which they were most interested.

*The Sphere of Inspection*

The First Committee, which was under the chairmanship of Mr. Jules Gautier, French Government delegate, had to examine the question of the sphere of inspection. There is of course general agreement in principle and in practice among those states in which a system of factory inspection has developed, that the principal function of that system is to secure the enforcement of the legislation governing the conditions of labour and the protection of workers during the hours of their employment. That legislation is fairly uniform in scope throughout the industrial world, though it of course differs much in detail. It covers the hours of labour and of rest from labour, and prescribes under what conditions and for what classes of workers work during the night is permissible. It also treats of dangerous and unhealthy work, laying down provisions for avoiding the evils incident to such work as far as may be possible, and further, it is concerned with the general questions of hygiene and safety which arise in connection with all employment, apart from the particular dangers associated with what are more specifically the dangerous and unhealthy occupations.

The Committee considered that, in addition to this primary function of the inspectorate, certain additional duties might very well be entrusted to it (as indeed they are in practice), but on the condition that such duties should be allied in character to the primary functions and should not be of a nature to impede their efficient exercise; and further that any additional duties should not be such as would be likely to impair that complete impartiality which is so important a desideratum in any inspectorate or that authority which should attach to it.

The nature of these additional duties the Committee considered would depend upon the needs and customs of each particular state, and it therefore declined to enumerate them. One point which led to considerable debate in the Committee is worthy of note. The draft prepared by the Office had suggested that one of the accessory duties of an inspectorate might be the examination of plans for proposed factories and workplaces from the point of view of ensuring the health and safety of the workers who

## THE WORK OF THE COMMITTEES

Five committees were therefore appointed, composed as usual of equal numbers from the three groups. Three of the Committees were composed of 24 members, and the other two of 18 members, arrangements being made by which the Governments were as far as possible represented on the particular committees in which they were most interested.

*The Sphere of Inspection*

The First Committee, which was under the chairmanship of Mr. Jules Gautier, French Government delegate, had to examine the question of the sphere of inspection. There is of course general agreement in principle and in practice among those states in which a system of factory inspection has developed, that the principal function of that system is to secure the enforcement of the legislation governing the conditions of labour and the protection of workers during the hours of their employment. That legislation is fairly uniform in scope throughout the industrial world, though it of course differs much in detail. It covers the hours of labour and of rest from labour, and prescribes under what conditions and for what classes of workers work during the night is permissible. It also treats of dangerous and unhealthy work, laying down provisions for avoiding the evils incident to such work as far as may be possible, and further, it is concerned with the general questions of hygiene and safety which arise in connection with all employment, apart from the particular dangers associated with what are more specifically the dangerous and unhealthy occupations.

The Committee considered that, in addition to this primary function of the inspectorate, certain additional duties might very well be entrusted to it (as indeed they are in practice), but on the condition that such duties should be allied in character to the primary functions and should not be of a nature to impede their efficient exercise; and further that any additional duties should not be such as would be likely to impair that complete impartiality which is so important a desideratum in any inspectorate or that authority which should attach to it.

The nature of these additional duties the Committee considered would depend upon the needs and customs of each particular state, and it therefore declined to enumerate them. One point which led to considerable debate in the Committee is worthy of note. The draft prepared by the Office had suggested that one of the accessory duties of an inspectorate might be the examination of plans for proposed factories and workplaces from the point of view of ensuring the health and safety of the workers who



might be employed therein. This suggestion was based, of course, on the information furnished by a number of Governments in reply to the Questionnaire. The proposal was made that this should even be considered to be one of the fundamental duties of the inspectorate, but the Committee did not see its way to accept this, and contented itself with indicating in its report the importance which a number of its members attached to the matter. The same question arose, in another connection, during the debates of the Third Committee, when the great value of this duty, which in a number of countries is now allotted to the factory inspectors, was vigorously stressed.

The report finally submitted to the Conference by the chairman of the First Committee recommended therefore what should be the principal end to be aimed at by inspection, namely, the supervision of the application of legislation relating to the conditions of work and the protection of the workers, and under what conditions other duties related to but not strictly speaking comprised within this end might be confided to the inspecting staff.

### *The Functions and Powers of Inspectors.*

To the Second Committee, which elected Mr. de Michaelis, Italian Government delegate, as its chairman, was entrusted the consideration of the powers with which inspectors should be endowed in order that the general aims discussed by the First Committee should be attained. As has been stated, the discussion of these powers in relation to the specific question of safety was allotted to the Third Committee; the decisions therefore of the Second Committee were of a general nature.

The Committee's decisions provided, in brief, for the "right of entry"; the right to question, without witnesses, members of the staff of establishments inspected and to examine registers or other documents which are required by law to be kept in such establishments; to bring cases of breach of the law directly before the competent judicial authorities (subject to such reference to superiors as may be considered necessary); and, when immediate action is necessary to bring an installation or plant into conformity with the law, to make an order (or to apply to the competent authorities for an order) requiring that action to be taken. A further clause provides that the knowledge of manufacturing secrets or of working processes which inspectors may acquire in the course of their duties must not, "on pain of legal penalties or suitable disciplinary measures", be disclosed.

These are of course the normal powers and duties confided to inspectors. They nevertheless provided what were probably the most highly controversial points touched upon in the whole course of the discussions on the questions before the Conference. The knot of the controversy was one which has frequently given difficulty in attempts to secure international agreement; it lay in the

theoretically complete separation between the administrative and the judicial functions of government which is held to exist under the British constitution and others which may be more or less modelled upon it. It was claimed that to give to factory inspectors power to issue orders which must be obeyed as such, subject to recourse on the part of the employer to the Courts, was incompatible with law and custom in Anglo-Saxon countries.

Similarly the exact judicial value to be placed upon the reports drawn up by inspectors concerning breaches of the law varies under different judicial systems. Under some, if not most, of the Continental systems the documents addressed to the Courts by the inspectors are considered to establish the facts stated in them in default of proof to the contrary. Under English laws, however, the onus of proof lies upon the inspector, as upon any other prosecutor, who must himself appear before the Court and produce his evidence. In general when the prosecutor is a public official, however, the onus of proof lies, under Continental systems of law, upon the defendant. To the Continental mind, therefore, the adoption of a clause suitable for the British system would have resulted in the weakening of the present position of the inspector before the Continental courts, and would have distinguished him in an unfavourable manner from other public officials, from policemen upwards, who may in the course of their duties act as prosecutor. Moreover, the necessity of the presence of the inspector in the Court appears in Continental eyes to be a pure waste of the inspector's time, which might otherwise be employed in the pursuance of his inspection duties properly so-called; but the protagonists of the British system held firmly to their point, which involved the maintenance of the famous principle that every man should be considered innocent until he had been proved guilty, and the Conference inserted verbal amendments to the Committee's text on these two points which were intended to make it applicable to all judicial systems.

### *Safety*

To the Third Committee, as has been stated, fell the consideration of the relations of inspection to the problems of safety, a term interpreted in a wide sense, to include not only accident prevention but the maintenance of health and the avoidance of unnecessary fatigue. With regard to accidents, the Committee recommended the procedure of obligatory notification and subsequent investigation, and stressed the importance of investigation in cases of accidents which happen frequently. Even when these are of a trivial nature, investigation into their causes may be well worth while. National practice as to what accidents are to be notified to the authorities varies much; a suggested criterion was the length of the victim's absence from work as a result of the accident, but this period,

as the chairman, Mr. Armand Julin, Belgian Government delegate, pointed out, varied enormously. The Committee therefore left the matter to be decided by national legislation.

Regulation and legislation have been found by experience, however, to be inadequate as a means of preventing accidents, and the well-known "Safety-First Movement" has, in the United States and Great Britain more particularly, come splendidly to their aid. It was stated during the Committee's discussions that probably over seventy per cent. of the accidents that take place in factories are not preventible by any safety devices, but are due to psychological reasons, to momentary inattention, or to carelessness bred of familiarity, and that consequently most progress in the reduction of the number of accidents is to be looked for from personal care rather than mechanical changes. This hypothesis is of course the basis of the Safety-First movement, the advantages reaped from which were strongly pressed by certain of the members. The movement calls for the collaboration of workers, managing staff, and employers, and the Committee, considering that inspectors could vitally aid such collaboration by their experience and counsel, inserted a clause to the effect that their encouragement and aid should be given. Further clauses emphasise the importance of the inspector as adviser. They are inspired by the marked development of the character of inspection which has taken place during recent years, and which tend to make of the inspector a peripatetic technical counsellor to workmen and employers alike, rather than an agent whose approach is to be feared (and, be it said, prepared against, if possible). Strong emphasis was rightly laid upon this aspect of the inspectors' vocation, which indicates the true line of progress.

### *Organisation of the Inspectorate*

Reference has already been made to early experiments in the creation of an inspecting staff. It is not too much to say that on the quality, moral and technical, of that staff, the whole efficiency of inspection, and therefore of the application of legislation, depends. In connection with the choice of the personnel and their training, their effective distribution, their position relative to local and central authorities, as well as the methods of carrying out their duties, the Fourth Committee, under the guidance of Sir Malcolm Delevingne, British Government delegate, as chairman, found that a large number of general principles can now be deduced from the successful practice of the industrial nations. As regards the personnel, the Committee urged that it is essential that inspectors should possess, in addition to advanced technical training and good general education, those qualities of character which will gain the confidence of all the classes with whom they may be called upon to deal. These qualities, it may be recalled, though now often taken for granted in experienced

States, are, if history has anything to teach on the point, not always easily procurable in the first instance. It is on record that, in the attempt to secure analogous qualities in the first regular police force established in England, the changes in the personnel during the first year amounted to 800 per cent. of the total force! And the demands made upon inspectors require a higher degree of impartiality, tact, independence, and conciliatory aptitude than those required of the policeman. The general principles laid down in this connection are therefore of special importance.

Independence and impartiality, it is recommended, are best secured by placing the inspectorate, enrolled on a permanent basis and not influenced by political changes of government, directly under a central authority, and removing it from all control by local authorities, which may be and often are influenced by considerations which have little or no connection with the work and the aims of inspection. Incidents were known to all the delegates which demonstrated, sometimes amusingly, sometimes tragically, the necessity of liberating the inspectorate from the trammels of such consideration, and there is little doubt that the decision of the Conference will give real support to the governments in their efforts to create an independent and impartial inspecting body.

Of the technical qualifications which inspectors should possess, it may be said that whilst a minimum may be prescribed, it is impossible under modern conditions that any one person should be adequately trained for all inspectorial purposes. Specialisation has already become fairly highly developed, more particularly in regard to the use of dangerous materials, atmospheric problems such as those associated with humidity, dust, and gases, and electrical equipment. The Fourth Committee considered that this specialisation is essential, and that experts having adequate medical, engineering, electrical or other necessary scientific training should be employed by each state for dealing with these matters.

High standards of qualification for the ordinary inspectorate and even higher ones for the specialist experts do not of course preclude the employment of women, which is particularly noted in the Treaties of Peace themselves as being desirable, and the Committee recommended that they be admitted to the inspectorate on precisely the same terms as men, the same qualifications being demanded and the same conditions accorded. This clause gave opportunity, when the matter was discussed in the Conference, for expressions of high approval from the women delegates, who particularly welcomed a declaration from one of the Japanese Government delegates to the effect that the employment of women inspectors was being considered in his country.

But whilst the Committee's insistence on high qualification places no impediment in the way of the employment of qualified women, how does it affect the possibility of the employment of

men and women who are or have been themselves industrial workers, and whose qualifications, gained by their experience at the loom or at the coal-face, are indeed high, but are of different nature from those apparently indicated in the text of the Recommendation? In some countries (Austria, Belgium, Czechoslovakia, Germany, Italy, the Netherlands, Poland, Switzerland, and perhaps others), the practice exists of recruiting a class of assistant inspectors from the ranks of the workers themselves. An amendment urging this course was moved when the Fourth Committee's report came before the Conference and its movers and supporters declared that the results gained in their respective countries were highly satisfactory. It was pointed out, however, by the Chairman of the Committee that similar experiments made in Great Britain over a period of thirty years had not given satisfaction either to the authorities or to the assistant inspectors themselves, and on his recommendation the Conference rejected the amendment by 55 votes to 26.

### *Methods of Inspection*

The Fourth Committee considered also the methods of inspection and included in their report a number of clauses concerning the periodical visitation of factories and work-places which lay down a standard for the normal practice in this matter. On the co-operation of employers and workers with the inspectorate the Committee made two recommendations. In the first place, the right of the workers (or their representatives) to complain in case of abuses, and the necessity for treating such complaints in a confidential manner, was emphasised, and in the second place, the Committee referred to the desirability that the inspectorate should confer from time to time with representatives of the employers' and workers' organisations with a view to considering the best measures to be taken for promoting a high standard in regard to the conditions affecting the health and safety of the workers.

### *Inspectors' Reports*

The reports which should be made by inspectors were the subject of discussion in the Fifth Committee, under the chairmanship of Mr. François Sokal, Polish Government delegate, which agreed upon clauses asking that these reports should be regularly communicated to the central authorities, and should be framed on uniform lines. The central authority should then compile and publish an annual report, which should comprise in the first place a list of the laws and regulations relating to conditions of work adopted during the year covered, and in the second place statistical information giving as far as possible the strength and organisation of the inspecting staff, a classification of the establishments covered by the laws and regulations, with the number of

workers (men, women, young persons, and children) employed, the number of visits of inspection made for each class of establishment, the number of establishments visited more than once during the year, the number and nature of the breaches of the law brought before the competent authorities with the statistics of the convictions recorded, and finally, the number, nature, and cause of accidents and occupational diseases notified, tabulated according to the classes of establishments.

All this of course, or nearly all this, is given in the annual inspection reports of most of the advanced industrial states. The value of reports so constituted, not only from the national point of view in securing efficient inspection and the progressive improvement of conditions, but also internationally, is incontestable. Nations do not yet sufficiently benefit by each other's experience, and one of the objects of the International Labour Organisation is to assist them in this direction. Hence the desire that the annual reports should be as far as possible internationally comparable.

#### THE RECOMMENDATION

As has been indicated, the reports of the five committees dealt respectively with one aspect or another of the subject before the Conference, and made a number of recommendations in each case. The Conference examined the reports and the recommendations "in a first reading" and after in some cases, the more important of which have been indicated, amending their texts, sent them to a Drafting Committee to be established in the form of a Recommendation. It will be recalled that the more important decisions of the Conference take the form of either a Draft Convention or a Recommendation, and that it had been considered that the latter form was more suitable for the present case. The Drafting Committee therefore assembled and co-ordinated the work of the five committees and submitted to the Conference for its final approval a single Recommendation comprising the various proposals of the committees. In accordance with the Treaties of Peace, such a Recommendation must be agreed upon by a two-thirds majority; the record vote, taken when the Drafting Committee's proposal was placed before the Conference, revealed unanimity, 105 delegates voting for the Recommendation and none against.

#### OTHER WORK OF THE CONFERENCE

To round off the whole subject of factory inspection, the Conference adopted unanimously a resolution which, by its nature, could not form part of a Recommendation addressed to the Governments of the States Members of the Organisation. As has

been stated, the clauses of the Recommendation concerning inspectors' reports represent an attempt to make a certain progress towards their international comparability; the task of making that comparison can be entrusted only to the International Labour Office, and the Conference, by a special resolution adopted unanimously, invited the Office to publish annually a general report based upon the annual national reports, and further, to make every endeavour to secure the highest possible degree of uniformity in their presentation, more especially as concerns their statistics.

A second resolution, put forward by the Third Committee and again adopted unanimously by the Conference, called attention to a special device made use of in certain countries in order to obtain a reduction in the number of accidents. This device is simply the offer of accident insurance at reduced premiums to those employers who have taken approved measures for the safety of their workers. Evidence of the success of this plan was put forward by certain members of the Committee, and the resolution asks for an enquiry into the matter to be carried out by the Office.

Still in connection with the subject of accidents, a third resolution, put forward by Mr. Schürch, the Swiss workers' delegate, called upon the Governing Body to enquire into the need for an international agreement upon the use of automatic couplings for the rolling-stock of railways. Before the war, it is to be noted, some six or seven hundred persons were injured and twelve or fifteen killed annually in coupling operations on British railways.

Finally, Mr. Uno, the Japanese workers' delegate, asked the Conference to consider the possibility of the inspection of labour conditions in the merchant marine, and the Conference agreed.

These resolutions dealt with matters closely related to the general subject discussed at the session; one other matter, not so related, formed the subject of a further resolution unanimously adopted. The Workers' Group drew attention to certain conditions affecting the workers in the Saar Basin. It may be recalled that the Treaty of Versailles provides with regard to this area, that "in fixing the conditions and hours of labour for men, women, and children, the Governing Commission is to take into consideration the wishes expressed by the local labour organisations, as well as the principles adopted by the League of Nations". It was pointed out that the "principles" referred to can only be those laid down in the Labour Part of the Treaty and the decisions of the International Labour Conference. The resolution called therefore upon the Governing Body to consider whether relations should be entered into with the League of Nations in order that means of satisfying the local organisations might be considered, as well as the manner in which the International Labour Office might place itself at the disposal of the Governing Commission in order to secure the adoption of the

'principles' mentioned. The Workers' Group, in putting forward the resolution, referred to a memorial addressed by the trade unions of the Saar to the International Labour Office. It should be mentioned, in addition, that the President of the Governing Commission of the Saar had himself made, to the President of the Governing Body and to the Director of the Office, proposals similar to those contained in the resolution.

### THE DIRECTOR'S REPORT

One other question occupied the attention of Conference during its short session. It will be remembered that the Director of the International Labour Office, in accordance with the Standing Orders, presented to the sessions of 1921 and 1922 detailed reports upon the working of the Organisation and the Office during the preceding year. On this occasion, in view of the circumstances to which reference has been made, the report was relatively short, confining itself first to a tabular statement concerning the progress made in the ratification of the Conventions adopted at previous sessions of the Conference and in the adoption of measures in pursuance of the Recommendations, and secondly to the publication of the annual reports which, by the terms of Article 408 of the Treaty of Versailles, are to be forwarded to the International Labour Office by the Governments of States which have ratified any of the Conventions<sup>(2)</sup>.

The discussions on the Director's Report which have taken place during three successive sessions of the Conference have centred, for the most part, on the extent of the ratification and application of the decisions of the Conference. Opportunity seems to be taken by Government delegates to explain the intentions of their particular Governments in regard to those decisions, to use, in short, the Conference as an international platform for the enunciation of their difficulties and their aims. Similarly, the workers' delegates show a tendency to bring to the bar of public international opinion, through the medium of the Conference, the shortcomings which they allege to exist in their own countries.

In any case, these discussions give an opportunity of estimating year by year the progress made in the field of international labour legislation. They further show the close and permanent bond between the Conference, regarded, under the Peace Treaty, as a parliament holding an annual session, and the administrative body, the International Labour Office. Finally, it is as a result of these discussions that the Conference can adopt resolutions affecting the general work of the Organisation, in accordance with the powers given it by Article 396 of the Peace Treaty.

---

(2) It may be noted that the number of ratifications registered or authorised is now 127 as compared with 85 a year ago.



## CONCLUSION

Because the subject discussed at the Fifth Session did not lend itself to controversy, it would be a mistake to suppose that it was for that reason of secondary importance. To pass such a judgment would be to adopt the prevailing tendency of dismissing anything which is not sensational as negligible. Those who took part in the Conference were convinced that their time had been well spent and good results produced. Countries which have as yet no system of factory inspection, or an inadequate system (and there are still many such), will be strongly influenced by a clear international expression of opinion as to the nature and necessity of a good inspection system and the part which it is called upon to play in industrial civilisation. If this leads, as there is every reason to think it will, to a higher standard of enforcement of labour legislation, to fewer accidents and to better health protection, the 1923 Conference will have played its part. Incidentally, the Conference benefited considerably from the work of the Fourth Conference in connection with the Standing Orders, which resulted in increased speed and efficiency in the mechanism of the Conference. Otherwise it would hardly have succeeded in compressing into eight days an amount of work which, in previous sessions, would probably have occupied twice the time.

There were, no doubt, some who regretted that the Conference was not occupied with any question of a more controversial character. But no one seeks disputes for their own sake, and if the 1921 Conference proved that excellent results may often come from the clash of opinions, the 1923 Conference may be held to have shown that not less valuable work can be done where there is no sharp collision of interests to excite the delegates or to stir the general public.

## APPENDIX

RECOMMENDATION ADOPTED AND RESOLUTIONS ADOPTED OR APPROVED  
AT THE FIFTH SESSION OF THE INTERNATIONAL LABOUR CONFERENCE,  
GENEVA, 22 TO 29 OCTOBER 1923

**Recommendation concerning the General Principles for the Organisation of  
Systems of Inspection to secure the Enforcement of the Laws and Regu-  
lations for the Protection of the Workers.**

The General Conference of the 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 Fifth Session on 22 October 1923, and

Having decided upon the adoption of certain proposals with regard to the general principles for the organisation of factory inspection, the question forming the agenda of the Session, and

Having determined that these proposals should take the form of a recommendation,

adopts, this twenty-ninth day of October of the year one thousand nine hundred and twenty-three, the following Recommendation, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of Part XIII of the Treaty of Versailles and of the corresponding Parts of the other Treaties of Peace :

Whereas the Treaty of Versailles and the other Treaties of Peace include among the methods and principles of special and urgent importance for the physical, moral, and intellectual welfare of the workers the principle that each State should make provision for a system of inspection, in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the workers ;

Whereas the resolutions adopted at the First Session of the International Labour Conference concerning certain countries where special conditions prevail involve the creation by these countries of an inspection system if they do not already possess such a system ;

Whereas the necessity of organising a system of inspection becomes specially urgent when Conventions adopted at Sessions of the Conference are being ratified by Members of the Organisation and put into force ;

Whereas while the institution of an inspection system is undoubtedly to be recommended as one of the most effective means of ensuring the enforcement of Conventions and other engagements for the regulation of labour conditions, each Member is solely responsible for the execution of Conventions to which it is a party in the territory under its sovereignty or its authority and must accordingly itself determine in accordance with local conditions what measures of supervision may enable it to assume such a responsibility ;

Whereas, in order to put the experience already gained at the disposal of the Members with a view to assisting them in the institution or re-organisation of their inspection system, it is desirable to indicate the general principles which practice shows to be the best calculated to ensure uniform, thorough and effective enforcement of Conventions and more generally of all measures for the protection of the workers ; and

Having decided to leave to each country the determination of how far these general principles should be applied to certain spheres of activity ;

And taking as a guide the long experience already acquired in factory inspection ;

The General Conference recommends that each Member of the International Labour Organisation should take the following principles and rules into consideration :

# I. SPHERE OF INSPECTION

1. That it should be the principal function of the system of inspection which should be instituted by each Member in accordance with the ninth principle of Article 427 of the Treaty of Versailles to secure the enforcement of the laws and regulations relating to the conditions of work and the protection of the workers while engaged in their work (hours of work and rest ; night work ; prohibition of the employment of certain persons on dangerous, unhealthy or physically unsuitable work ; health and safety, etc.).

2. That, in so far as it may be considered possible and desirable, either for reasons of convenience in the matter of supervision or by reason of the experience which they gain in carrying out their principal duties, to assign to inspectors additional duties which may vary according to the conceptions, traditions, and customs prevailing in the different countries, such duties may be assigned, provided :

(a) that they do not in any way interfere with the inspectors' principal duties ;

(b) that in themselves they are closely related to the primary object of ensuring the protection of the health and safety of the workers ;

(c) that they shall not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

## II. NATURE OF THE FUNCTIONS AND POWERS OF INSPECTORS

*A. General*

3. That inspectors provided with credentials should be empowered by law :

(a) to visit and inspect, at any hour of the day or night, places where they may have reasonable cause to believe that persons under the protection of the law are employed, and to enter by day any place which they may have reasonable cause to believe to be an establishment, or part thereof, subject to their supervision ; provided that, before leaving, inspectors should, if possible, notify the employer or some representative of the employer of their visit ;

(b) To question, without witnesses, the staff belonging to the establishment, and, for the purpose of carrying out their duties, to apply for information to any other persons whose evidence they may consider necessary, and to require to be shown any registers or documents which the laws regulating conditions of work require to be kept.

4. That inspectors should be bound by oath, or by any method which conforms with the administrative practice or customs in each country, not to disclose, on pain of legal penalties or suitable disciplinary measures, manufacturing secrets, and working processes in general, which may come to their knowledge in the course of their duties.

5. That, regard being had to the administrative and judicial system of each country, and subject to such reference to superior authority as may be considered necessary, inspectors should be empowered to bring breaches of the laws, which as certain, directly before the competent judicial authorities ;

That in countries where it is not incompatible with their system and principles of law, the reports drawn up by the inspectors shall be considered to establish the facts stated therein in default of proof to the contrary.

6. That the inspectors should be empowered, in cases where immediate action is necessary to bring installation or plant into conformity with laws and regulations, to make an order (or, if that procedure should not be in accordance with the administrative or judicial systems of the country, to apply to the competent authorities for an order) requiring such alterations to the installation or plant to be carried out within a fixed time as may be necessary for securing full and exact observance of the laws and regulations relating to the health and safety of the workers ;

That in countries where the inspector's order has executive force of itself, its execution should be suspended only by appeal to a higher administrative or judicial authority, but in no circumstances should provisions intended to protect employers against arbitrary action prejudice the taking of measures with a view to the prevention of imminent danger which has been duly shown to exist.

*B. Safety*

7. Having regard to the fact that, while it is essential that the inspectorate should be invested with all the legal powers necessary for the performance of its duties, it is equally important, in order that inspection may progressively become more effective, that, in accordance with the tendency manifested in the oldest and most experienced countries, inspection should be increasingly directed towards securing the adoption of the most suitable safety methods for preventing accidents and diseases with a view to rendering work less dangerous, more healthy, and even less exhausting, by the intelligent understanding, education, and co-operation of all concerned, it would appear that the following methods are calculated to promote this development in all countries :

(a) that all accidents should be notified to the competent authorities, and that one of the essential duties of the inspectors should be to investigate accidents, and more especially those of a serious or recurring character, with a view to ascertaining by what measures they can be prevented ;

(b) that inspectors should inform and advise employers respecting the best standards of health and safety ;

(c) that inspectors should encourage the collaboration of employers, managing staff and workers for the promotion of personal caution, safety methods, and the perfecting of safety equipment ;

(d) that inspectors should endeavour to promote the improvement and perfecting of measures of health and safety, by the systematic study of technical methods for the internal equipment of undertakings, by special investigations into problems of health and safety, and by any other means ;

(e) that in countries where it is considered preferable to have a special organisation for accident insurance and prevention completely independent of the inspectorate, the special officers of such organisations should be guided by the foregoing principles.

### III. ORGANISATION OF INSPECTION

#### *A. Organisation of the Staff*

8. That, in order that the inspectors may be as closely as possible in touch with the establishments which they inspect and with the employers and workers, and in order that as much as possible of the inspectors' time may be devoted to the actual visiting of establishments, they should be localised, when the circumstances of the country permit, in the industrial districts.

9. That, in countries which for the purposes of inspection are divided into districts, in order to secure uniformity in the application of the law as between district and district and to promote a high standard of efficiency of inspection, the inspectors in the districts should be placed under the general supervision of an inspector of high qualifications and experience. Where the importance of the industries of the country is such as to require the appointment of more than one supervising inspector, the supervising inspectors should meet from time to time to confer on questions arising in the divisions under their control in connection with the application of the law and the improvement of industrial conditions.

10. That the inspectorate should be placed under the direct and exclusive control of a central State authority and should not be under the control of or in any way responsible to any local authority in connection with the execution of any of their duties.

11. That, in view of the difficult scientific and technical questions which arise under the conditions of modern industry in connection with processes involving the use of dangerous materials, the removal of injurious dust and gases, the use of electrical plant and other matters, it is essential that experts having competent medical, engineering, electrical or other scientific training and experience should be employed by the State for dealing with such problems.

12. That, in conformity with the principle contained in Article 427 of the Treaty of Peace, the inspectorate should include women as well as men inspectors ; that, while it is evident that with regard to certain matters and certain classes of work inspection can be more suitably carried out by men as in the case of other matters and other classes of work inspection can be more suitably carried out by women, the women inspectors should in general have the same powers and duties and exercise the same authority as the men inspectors, subject to their having had the necessary training and experience, and should have equal opportunity of promotion to the higher ranks.

#### *B. Qualifications and Training of Inspectors*

13. That, in view of the complexity of modern industrial processes and machinery, of the character of the executive and administrative functions entrusted to the inspectors in connection with the application of the law and of the importance of their relations to employers and workers and employers' and workers' organisations and to the judicial and local authorities, it is essential that the inspectors should in general possess a high standard of technical training and experience, should be persons of good general education, and by their character and abilities be capable of acquiring the confidence of all parties.

14. That the inspectorate should be on a permanent basis and should be independent of changes of Government; that the inspectors should be given such a status and standard of remuneration as to secure their freedom from any improper external influences and that they should be prohibited from having any interest in any establishment which is placed under their inspection.

15. That inspectors on appointment should undergo a period of probation for the purpose of testing their qualifications and training them in their duties, and that their appointment should only be confirmed at the end of that period if they have shown themselves fully qualified for the duties of an inspector.

16. That, where countries are divided for the purposes of inspection into districts, and especially where the industries of the country are of a varied character, it is desirable that inspectors, more particularly during the early years of their service, should be transferred from district to district at appropriate intervals in order to obtain a full experience of the work of inspection.

### *C. Standard and Methods of Inspection*

17. That, as under a system of State inspection the visits of the inspectors to any individual establishment must necessarily be more or less infrequent, it is essential:

(a) That the principle should be laid down and maintained that the employer and the officials of the establishment are responsible for the observance of the law, and are liable to be proceeded against in the event of deliberate violation of or serious negligence in observing the law, without previous warning from the inspector;

It is understood that the foregoing principle does not apply in special cases where the law provides that notice shall be given in the first instance to the employer to carry out certain measures.

(b) That, as a general rule, the visits of the inspectors should be made without any previous notice to the employer.

It is desirable that adequate measures should be taken by the State to ensure that employers, officials, and workers are acquainted with the provisions of the law and the measures to be taken for the protection of the health and safety of the workers, as, for example, by requiring the employer to post in his establishment an abstract of the requirements of the law.

18. That, while it is recognised that very wide differences exist between the size and importance of one establishment and another, and that there may be special difficulties in countries or areas of a rural character where factories are widely scattered, it is desirable that, as far as possible, every establishment should be visited by an inspector for the purposes of general inspection not less frequently than once a year, in addition to any special visits that may be made for the purpose of investigating a particular complaint or for other purposes; and that large establishments and establishments of which the management is unsatisfactory from the point of view of the protection of the health and safety of the workers, and establishments in which dangerous or unhealthy processes are carried on, should be visited much more frequently. It is desirable that, when any serious irregularity has been discovered in an establishment, it should be revisited by the inspector at an early date with a view to ascertaining whether the irregularity has been remedied.

### *D. Co-operation of Employers and Workers*

19. That it is essential that the workers and their representatives should be afforded every facility for communicating freely with the inspectors as to any defect or breach of the law in the establishment in which they are employed; that every such complaint should as far as possible be investigated promptly by the inspector; that the complaint should be treated as absolutely confidential by the inspector and that no intimation even should be given to the employer or his officials that the visit made for the purpose of investigation is being made in consequence of the receipt of a complaint.

20. That, with a view to securing full co-operation of the employers and workers and their respective organisations in promoting a high standard in

regard to the conditions affecting the health and safety of the workers, it is desirable that the inspectorate should confer from time to time with the representatives of the employers' and workers' organisations as to the best measures to be taken for this purpose.

#### IV. INSPECTORS' REPORTS

21. That inspectors should regularly submit to their central authority reports framed on uniform lines dealing with their work and its results, and that the said authority should publish an annual report as soon as possible and in any case within one year after the end of the year to which it relates, containing a general survey of the information furnished by the inspectors; that the calendar year should be uniformly adopted for these reports.

22. That the annual general report should contain a list of the laws and regulations relating to conditions of work made during the year which it covers.

23. That this annual report should also give the statistical tables necessary in order to provide all information on the organisation and work of the inspectorate and on the results obtained. The information supplied should as far as possible state:

(a) The strength and organisation of the staff of the inspectorate;

(b) The number of establishments covered by the laws and regulations, classified by industries and indicating the number of workers employed (men, women, young persons, children);

(c) The number of visits of inspection made for each class of establishment with an indication of the number of workers employed in the establishments inspected (the number of workers being taken to be the number employed at the time of the first visit of the year), and the number of establishments inspected more than once during the year;

(d) The number of and nature of breaches of the laws and regulations brought before the competent authorities and the number and nature of the convictions by the competent authority;

(e) The number, nature, and the cause of accidents and occupational diseases notified, tabulated according to class of establishment.

#### Resolutions

##### I. *Resolution concerning safety work.*

That in view of the importance of safety work, this Committee recommends that the International Labour Office be instructed to proceed to a survey of measures already in force in certain countries which through the reduction of insurance premiums for accident compensation, and other means, tend to encourage improvement of health conditions and the reduction of the number of accidents.

##### II. *Resolution concerning the publication of a general report based upon the annual inspection reports.*

The Conference invites the International Labour Office to publish each year on the basis of the annual inspection reports issued in the different countries a general report summarising the results obtained in the different States and to endeavour to secure the largest measure of uniformity possible in the presentation of the reports of the different countries and especially in the compilation of statistical tables, in order to allow of more exact comparison.

##### III. *Resolution concerning the publication of a report on the comparability of inspectors' reports.*

The Committee, considering that the International Labour Office has prepared a detailed documentary report on the comparability of inspectors' reports in the various countries, and that this report, not being printed,

cannot be given sufficient publicity, expresses the wish that the Conference request the International Labour Office to proceed, so far as its financial resources will permit, to publish and distribute this document.

*IV. Resolution concerning the question of automatic couplings.*

The Fifth Session of the International Labour Conference, considering the importance for the safety of railway workers of questions relating to automatic couplings, requests the Governing Body to obtain information from Governments and from international technical and industrial organisations upon the question of automatic couplings, in order to decide whether an international agreement in the matter is desirable in the interests of the workers.

*V. Resolution concerning the institution of a special inspection service for the mercantile marine.*

The Conference requests the Governing Body to consider the possibility of inscribing on the Agenda of a forthcoming Session of the Conference the institution of a special inspection system for the mercantile marine distinct from the industrial inspection system.

*VI. Resolution concerning the conditions of labour in the Saar Basin.*

The Conference,

After having taken note of Article 23, paragraph 4, of Chapter II of the Annex to the Section of the Treaty of Versailles concerning the Saar Basin, which provides that "in fixing the conditions and hours of labour for men, women, and children, the Governing Commission is to take into consideration the wishes expressed by the local labour organisations, as well as the principles adopted by the League of Nations",

Considering that this paragraph can only refer to the principles laid down in the Preamble of Part XIII and in Article 427 of the said Treaty of Peace, and that it is the duty of the International Labour Organisation to work for the realisation of these principles :

Request the Governing Body to consider whether relations should be entered into through the Secretary-General with the Council of the League of Nations in order to consider by what measures satisfaction can constitutionally be given to the local organisations of the Saar and how the International Labour Office can place itself at the disposal of the Governing Commission in order to secure the application of "the principles adopted by the League of Nations".

---