



The Twenty-first and Twenty-second (Maritime) Sessions of the International Labour Conference: II¹

TWENTY-FIRST SESSION OF THE CONFERENCE (*cont.*)

PROTECTION OF SEAMEN IN CASE OF SICKNESS

ON this question a Blue Report had been prepared by the International Labour Office. It contained two proposed Draft Conventions, one on the individual liability of the shipowner towards sick or injured seamen, and the other on sickness insurance for seamen.

The Conference passed this report for consideration to a Committee of 32 members, of whom 16 were Government members, 8 Employers' members, and 8 Workers' members.² The Committee elected as its Chairman Miss Stenberg, Netherlands Government Adviser, and as Vice-Chairmen Mr. Haanebrink, Netherlands Employers' Adviser, and Mr. Bowden, British Workers' Adviser. It decided to deal first with the proposed Draft Convention concerning the individual liability of the shipowner, and it appointed as Reporter for that question Mr. Hohman, United States Government Adviser. As Reporter for the proposed Draft Convention on sickness insurance it elected Mr. Wackrill, British Government Adviser.

¹ For the first part of this article, containing an account of the agenda and composition of the Twenty-first Session, of the proceedings relating to credentials, and of the discussions and decisions of the Conference on the question of hours of work on board ship and manning, cf. *International Labour Review*, Vol. XXXV, No. 1, Jan. 1937, pp. 3-30.

² Cf. footnote ¹ on p. 13 of the first part of this article.

In this Committee, however, the proportion of Government members to Employers' or Workers' members being 2 : 1, each Government member had one vote and each Employers' and each Workers' member two votes.

In this article it is impossible to do more than summarise briefly, without going into technical details, the main decisions arrived at by the Committee during its 13 sittings.

Individual Liability of the Shipowner in case of Sickness, Injury, or Death of Seamen

The obligation of the shipowner or his representative to assist a seaman who falls sick or is injured during the voyage is a necessity imposed by the conditions of sea-faring life. It was recognised by the ancient customs of the sea and is clearly laid down in the legislation of every maritime country. The Committee had no hesitation in recognising the desirability—or even necessity—of international regulations concerning the shipowner's obligations, and it therefore proceeded immediately to discuss the substance of these regulations.

Scope.

Every person employed on board any vessel ordinarily engaged in maritime navigation, with the exception of ships of war, is entitled to claim the liability of the shipowner. This is the general rule that was accepted by the Committee, subject to a certain number of exceptions concerning either vessels or persons.

According to the decisions of the Committee, national laws or regulations may make exceptions in respect of persons employed on board vessels of public authorities when such vessels are not engaged in trade, on board coastwise fishing boats, on board boats of less than 25 tons gross tonnage, and on certain types of wooden ships of primitive build. Exceptions may also be made in respect of persons employed on board on behalf of an employer other than the shipowner, persons employed solely in ports, pilots, and members of the shipowner's family. In order to ensure that the international regulations would have the necessary uniformity, the Committee declined to accept any exceptions other than those mentioned, most of which had been proposed by the Office on the basis of the Governments' replies.

Risks Covered.

The definition of the risks for which the shipowner should be liable gave rise to an interesting debate. The Office text

referred to the risks of sickness and injury occurring between the commencement and the termination of the engagement and the risk of death resulting from such sickness or injury. The Committee considered that the shipowner should have no liability before the date stipulated in the articles of agreement for reporting for duty, and it therefore adopted an amendment submitted by the Employers' members to the effect that the liability of the shipowner should cover the risks of sickness and injury which occur from the date stipulated in the articles of agreement for reporting for duty until the termination of the engagement and the risk of death resulting from such sickness or injury. It would be left to national laws or regulations to make exceptions if desired in respect of injury incurred otherwise than in the service of the ship, injury or sickness due to the wilful act or misbehaviour of the seaman, and sickness or infirmity intentionally concealed when the engagement was entered into.

Assistance to be given by the Shipowner.

The shipowner must provide the sick or injured seaman with board and lodging and with medical treatment and the supply of proper and sufficient medicines and therapeutical appliances. This wording, which had been suggested by the Office, was accepted by the Committee.

With regard to the duration of the assistance to be given by the shipowner, the Office had submitted a proposal representing a combination of various methods applied by national laws : assistance should as a general rule be given until the cure of the sick or injured person or until the sickness was declared incurable or the incapacity permanent. It would have been left to national legislation to restrict the duration of the assistance to a period of not less than sixteen weeks from the day of the injury or the commencement of the sickness ; the law could also have provided that the liability of the shipowner should cease from the time at which the right to medical benefits commenced under a system of compulsory sickness insurance, compulsory accident insurance, or workmen's compensation.

This proposal linked up the shipowner's liability with social insurance and was intended to guarantee to sick or injured seamen the benefits of assistance at the shipowner's expense for a period of not less than sixteen weeks. It gave rise to long

discussion in the Committee and to several amendments, of which only the two most important need be mentioned here.

The first of these amendments proposed to terminate the shipowner's liability as soon as the sick or injured seaman returned to his port of repatriation, irrespective of whether or not he was then covered by accident or sickness insurance. In other words, a seaman employed on a foreign vessel would cease to be entitled to assistance at the employer's expense as soon as he was repatriated, for, according to the authors of the amendment, provision for seamen who had fallen sick or been injured during a voyage but were brought back to their own country should be left to the authorities of that country. After a full discussion the amendment was rejected by 25 votes to 14.

The purpose of the other amendment was to reduce from sixteen to twelve weeks the minimum period of assistance for which the shipowner should be liable. The Committee rejected this proposal, for it considered that sixteen weeks was the absolute minimum.

The question of the relationship between the shipowner's liability and social insurance was referred to a sub-committee, which reached the conclusion that the liability of the shipowner should cease from the time at which the sick or injured person was entitled to medical benefits under an insurance or compensation scheme, or would be so entitled if he were not excluded from the scheme for some reason other than a restriction affecting particularly foreign workers or workers not resident in the country to which the ship belongs. The Committee accepted this conclusion of its sub-committee, after rejecting an amendment to relieve the shipowner of his liability at the time prescribed by law for the grant of the medical benefits of the insurance or compensation scheme, even in the case of workers excluded from the scheme because they were not resident in the country to which the ship belonged.

Right to Wages.

Having thus determined the duration of the assistance to be given by the shipowner, the Committee proceeded to regulate in similar fashion the time during which wages should be paid to a seaman who was incapacitated as a result of sickness or injury. So long as the sick or injured seaman remains

on board his full wages must be paid by the shipowner. From the time when he is landed the seaman is entitled, if he has family responsibilities, to the payment of his wages in whole or in part until cure or until the incapacity is declared permanent. In this case also national laws may relieve the shipowner of his liability on the expiry of a period of not less than sixteen weeks from the day of the injury or the commencement of the sickness, just as they may terminate his liability from the time at which the sick or injured seaman is entitled to cash benefits under an insurance or compensation scheme, or would be so entitled if he were not excluded from the scheme for some reason other than a restriction affecting particularly foreign workers or workers not resident in the country to which the ship belongs.

Right to Repatriation.

The Committee had then to deal with the question of the right to repatriation at the shipowner's expense for any seaman landed during the voyage in consequence of sickness or injury. The Committee confirmed this right and rejected by 31 votes to 12 an amendment to delete all reference to repatriation on the ground that the subject was already covered by the Repatriation of Seamen Convention of 1926. After determining the place to which a seaman should be repatriated, the Committee decided that the expenses of repatriation should include all charges for the transportation, the accommodation, and the food of the seaman. The shipowner might, however, discharge his liability by providing the seaman, if capable of work, with suitable employment on board a vessel proceeding to a port recognised as a place of repatriation.

Other Decisions of the Committee.

The other decisions taken by the Committee concerned burial expenses to be paid by the shipowner and the protection of the property of a sick, injured, or deceased seaman.

Before taking a vote on the Draft Convention as a whole, the Committee decided to insert a clause proposed by several Government members, according to which the shipowner might be exempted from his liability concerning medical assistance, maintenance, repatriation, and burial expenses to the extent that that liability was taken over by the public authorities.

Finally, by 21 votes to 11, the Committee accepted the proposal of a Workers' member that the regulations in regard to benefits to sick and injured seamen should be interpreted and enforced so as to ensure equality of treatment to all seamen irrespective of nationality, residence, or race.

The whole Draft Convention was adopted by the Committee by 32 votes to 8.

The Vote in the Conference.

In the plenary sitting of the Conference, two amendments were proposed to the Committee's text. The first, submitted by the Finnish Employers' member with a view to cutting down the minimum period of sixteen weeks for the duration of the shipowner's liability, was rejected by 46 votes to 9. The second amendment, adopted by 53 votes to 3, was put forward by the United States Workers' member and provided that none of the provisions adopted should affect any law, award, custom, or agreement between shipowners and seamen which ensured more favourable conditions than those provided by the international regulations. As thus amended, the Draft Convention concerning the shipowner's liability was adopted on the preliminary vote by 64 votes to 11, and on the final vote by 70 votes to 14.

Sickness Insurance for Seamen

The risk of sickness to which seamen are exposed is in the first instance covered by the shipowner's liability. This liability is limited in time and has no reference to sickness contracted away from the ship. A seaman who is still sick when the shipowner's liability expires or who for some reason cannot claim benefits from the shipowner requires to be protected by insurance. Hence it is that many countries have decided to make sickness insurance compulsory for seamen.

At the outset the Committee recognised the necessity for supplementing the international regulations concerning the shipowner's liability by a Draft Convention concerning compulsory sickness insurance.

Scope.

According to the decisions of the Committee, sickness insurance should apply to every person employed as master

or member of the crew or otherwise in the service of the ship, on board any vessel, other than a ship of war, which is engaged in maritime navigation or sea fishing. This general rule, however, is not rigid, and national laws or regulations may make exceptions in respect of persons employed on board vessels of public authorities when such vessels are not engaged in trade, persons whose wages or income exceed a prescribed amount, persons who are not paid a money wage, and persons below or above prescribed age limits. These exceptions were accepted by the Committee without much discussion, as were also those for pilots and members of the employer's family.

There was, on the other hand, considerable discussion concerning the exception of persons not resident in the territory to which the ship belongs. Amendments to delete this exception were submitted by the Indian Employers' and Workers' members, who argued that a Convention containing such an exception would be valueless for seamen who did not reside in the country in which their vessel was registered. Several Government members pointed out, on the contrary, that it was impossible to give an international undertaking to pay benefits outside the territory for which sickness insurance was established. If the exception were not agreed to, seamen not resident in the country to which the ship belongs would be obliged to pay contributions without any guarantee of obtaining benefits outside that country. The Committee eventually rejected the amendments by 26 votes to 11 and agreed to the proposed exception by 23 votes to 2.

Sickness Benefit.

According to the Office proposals, which were accepted by the Committee with some slight modifications, a seaman who is rendered incapable of work and deprived of his wages by reason of sickness is entitled to a cash benefit for at least the first 26 weeks or 180 days of incapacity. This right may be made conditional upon the completion of a qualifying period, involving the payment of a certain number of contributions either from the date of first being insured or during a certain period immediately preceding the commencement of the sickness. The cash benefit may be withheld while the insured person is on board or abroad, but if an insured person has lost his right to his wages (whether previously payable in whole

or in part), the benefit must be paid in whole or in part to his family until his return to the country in which the insurance institution is established. The benefit may also be withheld so long as the insured person receives in respect of the same illness some compensation from another source to which he is entitled by law, or while he is maintained by the insurance institution or from public funds. In this case also, only a part of the benefit may be withheld if the insured person has family responsibilities. The cash benefit may be reduced or refused in the case of sickness caused by the insured person's wilful misconduct.

Medical Benefit.

Medical attendance is the main benefit granted by sickness insurance. The Committee unanimously decided that medical benefit, which includes treatment by a fully qualified medical practitioner and the supply of proper and sufficient medicines and appliances, should be granted without any qualifying period as from the commencement of the illness and at least until the period prescribed for the grant of sickness benefit expires. The insured person may be required to pay a part of the cost of medical benefit himself. When the insured person is on board or abroad or when he is ordinarily covered by the shipowner's liability, the insurance institution may withhold its benefits.

Other Insurance Benefits.

The other decisions of the Committee concerned the aid in kind or in cash to be given to members of the insured person's family in the event of sickness, and the maternity benefits to be given to an insured woman or the wife of an insured man. The payment of benefit on the death of an insured person was made compulsory only when there is no pension scheme in force for the survivors of deceased seamen.

Another decision of importance with regard to insurance benefits was that the right to benefits should continue even in respect of sickness occurring during a definite period after the termination of the last engagement, this period being so fixed as to cover the normal interval between successive engagements.

Financial Resources.

The Committee decided by 34 votes without opposition that the insured persons and their employers should share in providing the financial resources of the sickness insurance scheme and that national laws or regulations might provide for a financial contribution by the public authorities.

Self-Government of the Insurance Scheme.

The Committee was also unanimous in deciding that the sickness insurance scheme should be administered by self-governing institutions not carried on with a view to profit and working under the administrative and financial supervision of the public authorities.

Insurance institutions set up specially for seamen should be administered jointly by the insured persons and their employers. This proposal was accepted by the Committee by 30 votes without opposition, on the proposal of the Employers' members, who pointed out that if the shipowners were to share in providing the financial resources of the scheme they should have a share in its administration on the same footing as the insured persons.

Settlement of Disputes.

In order to guarantee the rights of the insured persons, the Committee provided that in the event of a dispute concerning benefits the insured persons should have a right of appeal. The procedure for dealing with disputes should be rendered rapid and inexpensive for the insured person either by means of special courts or by any other appropriate method.

The whole Draft Convention was adopted by the Committee by 33 votes to 6.

The Vote in the Conference.

After the Reporter of the Committee had explained the general structure of the Draft Convention, the Conference had to deal with an amendment submitted by the Indian Employers' and Workers' members to withhold from national laws the right to make exceptions in respect of seamen not resident in the country in which the vessel is registered. This amendment was rejected by 34 votes to 18, but the lengthy

discussion to which it gave rise made it clear that the general adoption of sickness insurance schemes for seamen in every maritime country was the only way out of the present difficulties.

With regard to the Article providing that the insured persons and their employers should share in providing the financial resources of the insurance scheme, a statement was made by the Government Member of the U.S.S.R. to the effect that, although he would vote in favour of this Article, he wished to make it clear that Soviet legislation was definitely superior and more favourable to the insured persons in that it absolved the workers from the necessity of paying contributions and made the undertakings pay the whole cost of the insurance.

The Conference made only one change in the Committee's draft text. At the suggestion of the United States Workers' member, the Conference adopted an Article stipulating that the international regulations should not affect any law, award, custom, or agreement between shipowners and seamen ensuring more favourable conditions than those provided in these regulations. With this amendment the Draft Convention concerning sickness insurance for seamen was adopted on the preliminary vote by 52 votes to 5, and on the final vote by 60 votes to 5.

PROMOTION OF SEAMEN'S WELFARE IN PORTS

This question gave the Conference the opportunity of advocating a series of measures for improving the conditions in which seamen have to spend their time ashore when their vessels are in port, and more particularly in foreign ports. The 1929 Session of the Conference, at which the first discussion of the question took place, had found that considerable amelioration of these conditions was required, especially in the case of seamen landing in a country other than their own, and that, while much was being done by Governments and private associations for seamen belonging to their own countries, much still remained to be done, chiefly for foreign seamen.

As the basis for its consideration the Conference had before it a draft Recommendation of some considerable length prepared by the Office with a view to the final discussion. This draft was referred by the Conference to a Committee of 21 members (9 Government representatives, 6 Employers' representatives,

and 6 Workers' representatives).¹ The officers of this Committee were : Chairman, Mr. Phocas, Greek Government Delegate ; Vice-Chairmen, Mr. Seager, British Employers' Adviser, and Mr. Pasquini, French Workers' Adviser ; and Reporter, Mr. Bryant, British Government Adviser.

The Office draft Recommendation consisted of a preamble and seven parts under the following heads : general organisation, regulation, health, accommodation and recreation, saving and remittance of wages, information of seamen, and financial organisation.

This draft had already, before the Conference was convened, attracted considerable attention among certain international associations, and national voluntary organisations in various countries, interested in different aspects of the problem of seamen's health and welfare in ports. On the occasion of the 1929 Conference the international associations in question, including the League of Red Cross Societies and the International Union against Venereal Disease, had convened a private conference in Geneva of their national sections and other voluntary organisations to discuss the problem, and had been given facilities for bringing the views of this meeting to the Seamen's Welfare Committee set up at the Maritime Conference. These same organisations, together with the International Mercantile Marine Officers' Association and the International Transport Workers' Federation, organised a similar conference of the voluntary organisations concerned on the occasion of the 1936 Conference. This meeting², which took place in Geneva on 5 October, discussed the Office draft Recommendation and made certain suggestions for amending it which were transmitted to and taken into consideration by the official Conference Committee. This Committee also admitted to its sittings as observers certain experts representing the voluntary meeting who were able to supply the Committee with further information as to the views of that meeting.

¹ Cf. footnote ¹ on p. 13 of the first part of this article.

² The delegates who attended the private conference included, in addition to representatives of the international organisations which convened it, representatives from the Health Section of the League of Nations, the International Labour Office, the Apostolatus Maris Internationale Concilium, and the International Council of Women, and from Belgium, Denmark, France, Germany, Great Britain, Greece, Japan, the Netherlands, Norway, Poland, and Sweden. Some of these representatives were delegates or advisers to the official Maritime Conference.

The Conference Committee made a certain number of amendments to the Office draft, mostly in the form of additions.

The preamble to the draft emphasised the special character of the seaman's calling, which often deprives him for long periods at a time of the advantages of family life, exposes him to special dangers and difficulties while in port, particularly foreign ports, and renders it difficult for him to have the benefit of national and local arrangements made to organise the spare time, promote the welfare, and safeguard the health of the general body of workers. It therefore affirmed the desirability of developing and co-ordinating nationally and internationally measures for his special help and protection in ports. The Committee adopted this text, but decided to add certain phrases to it in order to emphasise further that the object in view was to help foreign as much as national seamen and that no distinction of race should be made in the application of the measures to be recommended.

In Part I of the draft (General Organisation) it was proposed that in each important port a central seamen's welfare committee, of an official or officially recognised character and representative of all the interests concerned, should be set up to collect all useful information and suggestions on the conditions for seamen in the port, to advise other bodies interested in measures for improving these conditions, and to collaborate where necessary in carrying out such measures. A further provision in this section was that, with a view to keeping Governments informed and facilitating international co-ordination of action, each country should supply the Office every three years with all useful information on the experience acquired and the progress made in the promotion of seamen's welfare in ports.

The Committee adopted these provisions without amendment, after rejecting by 30 votes to 17 a proposal made by the Employers' members to delete any reference to the need for giving the port welfare committees an official or officially-recognised character.

In connection with this first part the Committee took note with much interest of a suggestion transmitted to it by Mr. Salvesen (Norway), one-time shipowner member of the Joint Maritime Commission, who has been actively concerned with the question of seamen's welfare in ports ever since it was first brought to the notice of the International Labour Office

some ten or more years ago. Mr. Salvesen's suggestion was that the preamble and the first part of the Office draft should be transformed into a Draft Convention requiring Governments to set up port welfare committees and to do all in their power to promote seamen's welfare measures, the rest of the draft remaining in the form of a Recommendation for their guidance. The Committee felt, however, that this proposal would involve certain difficulties, and that it would be preferable to wait till some experience had been gained of the results of the Recommendation as a whole.

In Part II of the draft (Regulation) it was proposed that the following measures should be taken, by laws or regulations, to protect seamen against certain dangers to which they may be exposed in dock areas : regulation of the sale of intoxicating liquor ; prohibition of the employment in public-houses of young persons of either sex under a certain age ; application of the provisions of existing international agreements limiting the sale and use of narcotics ; exclusion of undesirable persons from the docks and the harbour area ; fencing of the edges of wharves and quays and other dangerous parts of docks ; and adequate lighting and signposting of docks and their approaches. This part also advocated certain measures for supervising the enforcement of these measures, including supervision of public-houses, lodging-houses, taverns, etc., and of persons visiting ships, as well as adequate policing of harbour areas, and improved facilities for foreign seamen in getting into touch with their consuls.

On the Employers' proposal the Committee decided to delete in this part the methods of regulating the sale of intoxicating liquor specified in the draft (i.e. limiting the number of public-houses and fixing a closing time). The Committee rejected, however, further Employers' proposals to delete the recommendations concerning fencing, lighting, and signposting in dock areas. In connection with the prohibition of the employment in public-houses of young persons of either sex under a certain age, some doubt was expressed as to whether this proposal was not outside the scope of the Recommendation. It was suggested that the clause was in effect a question of the enforcement of the Conventions concerning the minimum age for entry into employment. The Committee maintained it, however, as indicating the special attention which should be given, in the interests of seamen as well as of young persons,

to the enforcement of these Conventions in refreshment houses in dock areas.

Part III of the draft (Health) recommended *inter alia* repression of soliciting and enticing in harbour areas, publicity among seamen as to the dangers, means of prevention, need and facilities for treatment of certain diseases to which they are exposed (more particularly, tuberculosis and tropical and venereal diseases), and extension of the local facilities for treatment to all seamen without distinction as to nationality or religious belief. In adopting these provisions the Committee added a clause concerning publicity among seamen as to the dangers of the habit of narcotics, and also a clause recommending provision as far as possible of arrangements designed to ensure, when necessary, continuation of treatment with a view to supplementing the medical facilities available to seamen.

Part IV of the draft (Accommodation and Recreation) urged the development of seamen's hostels and institutes, with the different material and social services which they can render, and the extension of recreational facilities (sports, excursions, etc.). To these provisions the Committee added a recommendation concerning the promotion by all possible means of the family life of seamen. This was intended to refer in particular to certain services which are already provided in some countries, such as the provision of cheap railway fares for seamen returning home on leave, special posting facilities for forwarding seamen's mail, etc.

Part V of the draft (Saving and Remittances) was adopted without amendment. This section dealt with means of helping seamen to save and transmit their savings to their families. With this object in view it recommended measures for enabling seamen, particularly in a foreign country, to deposit or remit the whole or part of their wages, and extension of the system of allotment of wages.

In the case of Part VI (Information of Seamen) the Committee approved with certain modifications, largely of a drafting character, the measures proposed by the Office for making known to seamen the welfare facilities available to them in the ports they visit. These measures included the distribution on shore and on board ship of pamphlets in the appropriate languages dealing with the port being visited or the next port of call, the establishment of information offices for seamen in the principal ports, and the inclusion in seamen's discharge books

(or, as the Committee added, in other documents habitually carried by seamen, or in notices posted in the crew's quarters) of some useful information for the physical well-being and general protection of seamen. To these proposals the Committee added provisions concerning the frequent publication of articles of general and educational interest for seamen in periodicals read by them, and also the use of the cinema for this purpose, and the distribution of information concerning the tariffs of local transport and places of interest and entertainment.

The last Part of the draft (Financial Organisation) advocated, as methods which might be considered for financing the various welfare measures recommended, grants or other material help from Governments or local authorities (e.g. for the purchasing of buildings or ground for seamen's hostels), contributions by social insurance or other institutions interested in the prevention of disease, and voluntary contributions from shipowners' and seamen's organisations, philanthropic institutions, etc. The Committee adopted these proposals, as well as a further provision of this part to the effect that seamen's welfare funds should not be administered solely for the benefit of seamen of a particular nationality, but as far as possible for the benefit of all seamen.

The draft Recommendation as adopted by the Committee was revised only on one point in the Plenary Conference. On the proposal of the Norwegian Employers' Delegate, supported by the Norwegian Workers' Delegate, the Conference, by 38 votes to 29, decided not to specify in the Financial Part of the Recommendation any methods of financing the seamen's welfare measures but to leave it to each country to adopt whatever methods it considered most suitable. With this deletion the Recommendation as a whole was adopted, on the preliminary vote, by 79 votes to 0, and on the final vote by 88 votes to 0.

MINIMUM OF PROFESSIONAL CAPACITY FOR MASTERS AND WATCH-KEEPING OFFICERS

The question which the Conference had to consider in this item on its agenda was the framing of international rules, in the interests of safety at sea, requiring masters, chief engineers, and navigating and engineer officers who take charge of a watch on board ship to be duly certificated as to their competence

for their important and responsible duties. It will be recalled that the question was originally brought to the notice of the International Labour Office by the International Mercantile Marine Officers' Association following on the international developments which took place as a result of the collision between the French liner "Lotus" and the Turkish collier "Bozkourt" in the Aegean Sea in August 1926.¹ It appeared in the course of the investigation into this collision that the master of the Turkish vessel was not certificated.

The Conference appointed a Committee of 21 members (9 Government representatives, 6 Employers' representatives, and 6 Workers' representatives)² to examine and report on the question. This Committee elected the following as its officers: Chairman, Mr. Kitaoka, Japanese Government Delegate; Vice-Chairmen, Mr. Somerville, British Employers' Adviser, and Mr. Coombs, British Workers' Adviser; and Reporter, Mr. Debats, French Government Delegate.

The Committee had to consider the proposed Draft Convention prepared by the Office on the basis of the replies of Governments to the Questionnaire drawn up after the first discussion at the 1929 Conference.

This draft consisted of six Articles, which applied to all sea-going ships, including fishing vessels and sailing vessels, and excluding only the following: ships of war; Government vessels, and vessels in the service of a public authority, not engaged in trade; pleasure yachts; and vessels below 200 tons gross in so far as national law considered it advisable to make exemptions or exceptions for vessels below this tonnage.

In respect of the ships thus covered, the draft laid down the rule that no one should be permitted to be engaged or to act on board as master, chief engineer, or navigating or engineer officer in charge of a watch unless he holds a certificate of competency for performing his duties issued by public authority. The only exceptions allowed to this rule were to be cases of *force majeure*.

The draft then stipulated that certain minimum conditions should be fulfilled before any certificate of competency was issued—a minimum age, a certain period of professional experi-

¹ For a short account of these developments, cf. *Brief Report on the Maritime Work of the International Labour Organisation, 1929-1936* (submitted by the Office to the Twenty-first Session of the Conference), pp. 32-33.

² Cf. footnote ¹ on p. 13 of the first part of this article.

ence, and the passing of one or more examinations organised and supervised by the competent authority for testing the qualifications of candidates for performing the duties in which they were to be employed. It did not, however, specify the details of application of these conditions but laid the obligation to do so on national law. At the same time, the draft allowed a transitional period of three years from ratification during which persons with sufficient practical experience and with no record of serious technical error against them might be certificated without having to fulfil the condition just referred to concerning the passing of one or more examinations.

The draft also dealt with the question of enforcement of these rules in respect both of national ships and of foreign ships, by requiring each country ratifying the Convention to set up an efficient system of inspection, to provide for the cases in which its own ships wrongfully carrying an uncertificated officer might be detained, and to inform the consul concerned in case of a breach of the Convention found on a ship of another country which had also ratified the Convention. Lastly, the draft required each country to prescribe penalties or disciplinary measures for breaches of the Convention, more particularly in the case of a shipowner, his agent, or the master wrongfully engaging an uncertificated person, of a master allowing such a person to perform duties for which a competency certificate is required, and of persons obtaining by fraud or forgery employment in a certificated position without holding the corresponding certificate.

The Conference Committee rejected nearly all the amendments proposed to this draft. It rejected, for example, a proposal made at the outset of the discussion by the Employers' members which in effect would have limited the Convention to imposing a general obligation on each country to establish a system of minimum requirements of professional capacity, controlled by the issue of certificates or similar documents, for masters and watch-keeping officers, but leaving it entirely open to national law to determine the exceptions to be allowed, the conditions and qualifications to be complied with for the obtaining of certificates, etc. It was considered by the majority of the Committee (by 35 votes to 19) that a Convention in such general and wide terms would have no practical value.

For the same reasons the Committee did not adopt a somewhat similar amendment proposed by the Japanese Govern-

ment member. This amendment would have allowed exceptions to the rule of certificates of competency not only in cases of *force majeure*, as provided for in the Office draft, but also for special circumstances as defined by national law. It would also have allowed national law to grant exemptions on the ground of the type of the ship, its tonnage, the horse-power of its engines, or the area in which it trades, provided that it carried certificated officers to supervise the duties of uncertificated officers. This amendment was rejected by 38 votes to 8.

The Committee also rejected most of the amendments proposed to the Article of the Office draft defining its scope as regards ships. The amendments thus rejected included proposals made by the Employers' members to exclude sailing vessels from the Convention, to include Government vessels and vessels in the service of a public authority not engaged in trade, and to permit national law to exempt vessels engaged upon voyages not extending further than the near-by ports of neighbouring countries within geographical limits defined by national laws or regulations. With reference to this last point, it was urged more particularly by the British Employers' member that, so far as his country was concerned, there was no evidence to show that there was any need in the interests of safety at sea to change the present practice of allowing uncertificated officers to take charge of watches in cargo ships employed in "home trade".¹ The majority of the Committee, however, took the view (by 34 votes to 11) that the short distance of the trade did not lessen the risks of marine casualties, and that to allow near-by trades to be exempted might result in inducing States which at present required certificated officers in these trades to discontinue this practice, to the prejudice of the professional interests of the officers concerned.

On the other hand, the Committee adopted a proposal of the Indian Government member to exclude from the Convention wooden vessels of primitive build such as dhows and junks, and also (by 38 votes to 10) a proposal of the Employers' members to include pleasure yachts, this proposal of course being subject to the general provision of the Office draft allowing each country to exempt any vessel below 200 tons. These, in fact, were the only amendments made by the Committee to the Office draft.

¹ Cf. footnote ¹ on p. 15 of the first part of this article.

Among other amendments rejected by the Committee were two proposals made by the Employers' members and the Japanese Government member respectively. The Employers' members wished to substitute five years for three years for the transitional period during which officers with sufficient practical experience of their duties and with no record of serious technical error against them can be certificated without having to pass an examination. And the Japanese Government member proposed to delete in the Articles concerning enforcement the provision requiring national laws or regulations to provide for the case in which a national ship wrongfully carrying an uncertificated officer might be detained, and also the clause specifying that the competent authority of a ratifying country is to inform the consul concerned in case of a breach of the Convention being found in a ship of another ratifying country.

The Office draft thus emerged from the discussions of the Committee with only the two small amendments just mentioned, concerning its scope as regards ships.

No further amendments were submitted to this text when it came before the Plenary Conference. The British Government representative, however, reiterated the objections he had made in Committee that on the grounds of safety no case had been made out for changing the present system in that country with reference to cargo vessels in "home trade", and said that he could therefore not vote for the Convention. The Draft Convention as submitted by the Committee was adopted on the preliminary vote by 53 votes to 8, and on the final vote by 80 to 9.

HOLIDAYS WITH PAY FOR SEAMEN

In dealing with this question the Conference had the opportunity of following up the important steps taken at its Twentieth Session in June 1936 towards establishing an international system of paid annual leave for the general body of workers. It will be remembered that at that Session the Conference adopted a Draft Convention (with a complementary Recommendation) providing for holidays with pay—at the rate of at least 6 working days a year—for all persons, whether salaried employees or manual workers, employed ashore in industrial, commercial, and similar undertakings or establishments. This Draft Convention specifically includes persons employed in "undertakings engaged in the transport of passengers or goods

by inland waterway"; it also covers the shore staff of maritime transport undertakings.¹ The Twenty-first Session was thus called upon to consider the application of similar measures to the sea-going personnel of these latter undertakings.

The proposals submitted by the Office as the basis for discussion consisted of a proposed Draft Convention with a complementary draft Recommendation. These drafts had been drawn up on the basis of the observations of Governments on the points suggested for their consultation by the Preparatory Technical Meeting of 1935.

The Office drafts were referred to a Committee of 35 members (15 Government representatives, 10 Employers' representatives, and 10 Workers' representatives).² The Committee elected as its Chairman Captain Fitzgerald, United States Government Adviser; as its Vice-Chairmen Mr. Deckers, Belgian Employers' Delegate, and Mr. Le Touzel, British Workers' Adviser; and as its Reporter Mr. Mörzer Bruyns, Netherlands Government Adviser.

In the course of a preliminary general discussion in the Committee it was objected from the Employers' side that, in view of the special conditions of the seamen's contract of employment, there were practical difficulties in the way of instituting holidays with pay for seamen as a general measure, and also that the problem was in effect a wage problem, which made its international regulation still more difficult. The British Government member also drew attention to the importance of not neglecting the interests of the large numbers of seamen who are not in regular employment with the same employer but frequently change their employer, and considered that a Recommendation, rather than a Draft Convention, would be more likely to achieve the object in view. The discussion as a whole, however, revealed that there was a considerable balance of opinion in favour of a Draft Convention covering all ranks and ratings in the mercantile marine.

Article 1 of the Office text of a proposed Draft Convention proposed that holidays with pay should be provided for the master, officers, and members of the crew, including wireless

¹ For an account of the results of the proceedings of the Twentieth Session of the Conference on the question of holidays with pay for workers other than seamen and agricultural workers, cf. *International Labour Review*, Vol. XXXIV, No. 2, Sept. 1936, pp. 301-304.

² Cf. footnote ¹ on p. 13 of the first part of this article.

operators in the service of a wireless telegraphy company, of all sea-going mechanically-propelled cargo and/or passenger vessels, excluding only the following: crews consisting entirely of members of the owner's or master's family, persons not remunerated for their services or remunerated only by a nominal salary or wage or exclusively by a share of profits, and persons working exclusively or mainly on their own account.

Among the restrictive amendments proposed to these provisions the Committee rejected a proposal of the Employers' members to exclude masters from the scope of the draft on the ground that holidays with pay for them should be a matter for individual arrangement. The Committee also rejected, by 51 votes to 20, a more far-reaching proposal of the Japanese Government member, supported by the Indian Government member, to limit the Draft Convention to officers and to exclude subordinate personnel. The Committee agreed, however, to exclude from the draft persons employed in wooden ships of primitive build such as junks and dhows, and also persons whose duties are connected solely with the cargo carried on board and who are not in fact in the employment either of the shipowner or of the master. This latter exclusion referred to such persons as cattlemen, supercargoes, etc.—persons whom the Office had not in any case intended to include because they are not really members of the crew.

On the other hand, the Committee enlarged to some extent the scope of the Office draft by deciding not to confine it to mechanically-propelled ships but to include also sailing ships, and also by deleting the exclusion of crews consisting entirely of members of the master's family.

The Committee also made a number of amendments to Article 2 of the Office draft, which consisted of four paragraphs and was discussed at considerable length.

Paragraph 1 proposed that for all ranks and ratings the qualifying service for a holiday should be one year's continuous service, and that the holiday to be granted in respect of each such period of service should be at least 12 working days for masters, officers, and wireless operators, and at least 6 working days for other personnel. The amendments submitted to this paragraph included proposals to make the period of qualifying service six months or to compute the holiday on the basis of each month or even every 15 days of service, and also proposals to increase the length of the holiday. Most of these amendments

were not adopted, and the Committee maintained the system of computing the holiday on the basis of a year's continuous service. By 42 votes to 33, however, in response to a proposal of the Workers' members, the Committee made an important change in the length of the holiday for subordinate personnel, by deciding in favour of 9 working days instead of 6.

The Committee then adopted paragraph 2 of article 2, which provided that "continuous service" should include service off articles as well as on articles, and that short interruptions of service not due to the act or fault of the employee and not exceeding a total of six weeks should not be deemed to break the continuity of the periods of service preceding and following them. The Employers' members would have preferred to reduce this allowance for short interruptions of service to four weeks, but this view was rejected by 42 votes to 30. At the same time, the Committee transferred from the Office draft Recommendation to the Convention a clause specifying that continuity of service would not be deemed to be interrupted by any change in the management or ownership of the vessel or vessels in which the employee concerned has served.

The Committee approved paragraph 3 of Article 2, without change. This provided that public and customary holidays, interruptions of service due to sickness, and any time off allowed in compensation for weekly rest days and public holidays worked at sea should not count as part of the holiday period.

Paragraph 4 was also approved, with a certain drafting alteration. The paragraph provided that, in special circumstances and subject to prescribed conditions, the annual holiday might be allowed to be divided into parts, or to be accumulated with a subsequent holiday, or to be replaced by an equivalent cash payment in lieu of the actual holiday. On this last point, the Committee added certain words to the draft with the object of further emphasising that the holiday should actually be granted and taken, and that a cash payment in lieu thereof was only to be permitted in exceptional cases when the special needs of the service so required. In any case, the draft required any cash payment in lieu of the holiday to be not less than the cash amount to which the employee would have been entitled if he had actually taken the holiday due to him.

The other Articles of the proposed Draft Convention were adopted without much discussion. These dealt with the rate of remuneration during the holiday (defined as the employee's

“usual remuneration” plus a “suitable subsistence allowance”); prohibition of any contracting out of the right to a holiday; authorising national laws or regulations to deprive an employee of his pay during a holiday if he engages in paid employment; liquidation of outstanding claims to holidays on leaving or being discharged from the service; obligation on employers to keep records for facilitating application of the Convention, and on each country to establish a system of sanctions to ensure its enforcement; and the safeguarding of more favourable conditions than those provided by the Convention.

The chief amendment submitted to these Articles, by the Employers' members, proposed to delete the requirement to pay a subsistence allowance, in addition to wages, during the holiday. The amendment, however, was rejected by 46 votes to 27.

The Committee, however, made an important addition to the Office draft by transferring to a new Article certain proposals contained in the draft Recommendation to the effect that the annual holiday should be given at one or other of certain specified ports (e.g. the port of engagement, the port of final destination, etc.) in the home country of the ship and that the holiday could be given in a port abroad only by mutual consent. To this new Article a clause was also added to the effect that the holiday is to be given by mutual agreement at the first opportunity as the requirements of the service allow.

Lastly, following the example of the Draft Convention on hours of work and manning, the Committee inserted a clause in the proposed Draft Convention making its coming into force dependent on ratification by five of the countries possessing more than a million tons gross of sea-going merchant shipping.

In the case of the Office draft Recommendation, the Committee, having, as has been noted above, transferred some of its provisions to the Draft Convention, decided by 64 votes to 4 not to take the rest of it into consideration.

When the Draft Convention as amended by the Committee was reported to the Plenary Conference, the latter adopted two amendments to it. The first, proposed by the Netherlands Employers' Delegate, specifically excluded “travelling dockers” from the scope of the Convention, for similar reasons to those already noted for their exclusion from the Draft Convention on hours of work and manning. The second, a drafting amend-

ment proposed by the Norwegian Employers' Delegate, specified, what in any case had been understood in the Committee, that the one year's continuous service required to qualify for a holiday meant service "with the same undertaking".

On the other hand, the Conference rejected the following proposed amendments: to exclude masters from the Convention (Belgian Employers' Delegate); to exclude persons employed in sailing ships (Finnish Government Delegate); to reduce the annual holiday for subordinate personnel from 9 to 6 working days (United States Government Delegate); and to substitute for the system of computing the holiday on the basis of a year's continuous service a system by which the employee would be entitled to *pro rata* holidays for less than a year's service, computed per month of service for officers or per 40 days of service for other personnel (French Government Delegate). In proposing this last amendment the French Government Delegate expressed the fear that by insisting on a year's continuous service with the same undertaking as the qualifying period the Draft Convention would confer no benefit on the large numbers of seamen who would not be able to comply with this condition.

As amended by the Conference the Draft Convention as a whole was adopted on the preliminary vote by 48 votes to 15, and on the final vote by 60 votes to 15.

RESOLUTIONS

The Twenty-first Session of the Conference was asked to consider seven draft resolutions submitted by certain delegates not less than seven days before the opening of the Session, as required by the Standing Orders. In accordance with the usual procedure, these draft resolutions were first referred to the Resolutions Committee, which had to examine them and suggest to their authors any amendments which it might consider would facilitate their adoption by the Conference.

This Committee consisted of 16 members (8 Government representatives, and 4 Employers' and 4 Workers' representatives). It appointed Sir Firoz Khan Noon, Indian Government Delegate, as its Chairman and Reporter, and Mr. Andersson, Finnish Employers' Delegate, and Mr. Tudehope, Australian Workers' Delegate, as its Vice-Chairmen. The Committee transmitted all the seven draft resolutions to the Conference after making certain changes in some of them in agreement with their authors.

The first resolution, submitted by the Japanese Workers' Delegate, proposed that the Governing Body should be invited to consider the desirability of placing the following questions on the agenda of the next Maritime Session of the Conference : provision of compensation for accidents to seamen ; and provision of benefit or allowances for seamen involuntarily unemployed. The resolution pointed out that Conventions on these questions had already been adopted by previous Sessions of the Conference for workers employed on shore in industry, commerce, and agriculture, and emphasised the need for similar international Conventions for the protection of seamen. The resolution was adopted by the Conference without opposition.

The Conference also adopted without opposition the second resolution, also proposed by the Japanese Workers' Delegate, and supported in this case by the Japanese Employers' Delegate. This resolution emphasised that the existence of trade restrictions in their various forms was preventing economic recovery and constituted a special handicap to the shipping industry, with consequential adverse effects on the employment of seamen. It accordingly invited the Governing Body to use its best endeavours to facilitate the holding of an international Economic Conference or Conferences, under the auspices of the League of Nations, such as had been advocated in a resolution adopted by the Twentieth Session of the Conference (June 1936)¹, for the purpose so far as possible of removing trade restrictions.

The third and fourth resolutions were proposed by the Chinese Workers' Delegate and were also adopted without opposition. The first of these asked the Governing Body to consider placing the question of equality of treatment for national and foreign seamen on the agenda of the next Maritime Session of the Conference with a view to a Draft Convention. Among the reasons given in the resolution for this request it was urged that, in the absence of an International Convention regulating equality of treatment, employers in countries where a higher standard of treatment exists could resort to employing workers from countries with a lower standard of treatment in order to gain advantages in international competition.

The other resolution proposed by the Chinese Workers' Delegate was concerned with the " Contractor System " of

¹ For an account of this resolution, cf. the article on the Twentieth Session of the International Labour Conference, in *International Labour Review*, Vol. XXXIV, No. 3, Sept. 1936, p. 332.

employing Chinese seamen and requested that the Governing Body should consider the desirability of investigating and reporting on this matter at an early date with a view to the abolition of the system. The preamble to this resolution mentioned *inter alia* that, in spite of the measures taken by the Chinese Government to prohibit the "Contractor System", because of the oppression of the seamen which it involved, great difficulty had been experienced in inducing foreign shipping companies, especially those in China, to abandon the system.

The fifth resolution was proposed by the British Workers' Delegate. It requested the Governing Body to consider the advisability of undertaking a study of the conditions of construction of cargo vessels, their life-saving appliances, and the accommodation on board for their crews, and of examining whether international regulations can be introduced and reciprocal agreements concluded between the different countries on these questions. The resolution pointed out that the International Convention for the Safety of Life at Sea does not apply to cargo vessels so far as its provisions regarding construction and life-saving appliances are concerned, and urged that such provisions as well as legal stipulations concerning accommodation are matters of paramount importance to the life and health of seamen. In the Conference it was maintained by the Netherlands and British Government Delegates that the construction and life-saving equipment of cargo ships (the British Government Delegate also included accommodation) were very technical questions which would more suitably be dealt with by the same machinery as was used for the Safety of Life at Sea Convention than through the International Labour Organisation. The Netherlands Government Delegate accordingly proposed to delete the references in the resolution to questions of construction and life-saving appliances. This amendment having been accepted by the British Workers' Delegate, the resolution was adopted, without opposition, with reference only to crew accommodation on board all ships.

The sixth resolution dealt with the periodic collection and compilation by the Office, in the interests of equitable competitive conditions in international shipping, of information on the wages of seamen currently employed on sea-going merchant vessels of the principal maritime countries. This resolution, which was proposed by the Government delegation of the United

States of America, referred to the beginning made by the Office in this matter in the publication of its *Maritime Statistical Handbook*, and asked that its work in this direction should be extended. In the Conference the authors of this resolution accepted a proposal of the Norwegian Employers' Delegate that the resolution should refer, in addition to wages, to "all other matters relating to competitive conditions", and the resolution was adopted with this expansion.

The last resolution, proposed by the Indian Workers' Delegate, asked the Governing Body to consider instituting an immediate enquiry into the system under which Indian seamen have to obtain employment and the conditions under which they work at sea, with a view to reporting on the matter to the next Maritime Session of the Conference and making proposals for removing the difficulties of Indian seamen in respect of their conditions of employment and wages. Following on observations in the Conference between the Indian Workers' Delegate and the Indian Government Delegate on this resolution, the author of the resolution withdrew it.

Following the usual practice, the resolutions adopted by the Conference will be submitted to the Governing Body for consideration of the effect to be given to them.

RENEWAL OF THE JOINT MARITIME COMMISSION

In accordance with its Standing Orders, the Joint Maritime Commission of the Office is composed as follows: Chairman (*ex officio*): the Chairman of the Governing Body; representatives of the Governing Body: one representative each of the Employers' and Workers' Groups respectively of the Governing Body; shipowners' and seamen's representatives: seven regular members, and two deputy members, for each side. The number of shipowners' and seamen's representatives has been as just noted since the Maritime Session of the Conference in 1926: previously the number of regular members on each side was five.

In further accordance with the Standing Orders of the Commission, the Shipowners' and Seamen's representatives on the Commission are selected by the Shipowners' and Seamen's Groups respectively at a Maritime Session of the Conference. The last elections for this purpose took place at the Maritime Conference in 1926.

Having regard to this long interval and also to certain changes that have taken place during the last few years in the membership of the Organisation, in particular the joining of the Organisation by two additional maritime countries, the United States of America and the U.S.S.R., the Governing Body, in fixing the programme of the Twenty-first Session of the Conference, decided that advantage should be taken of the opportunity thus offered to the shipowners' and seamen's delegations to review their representation in the Commission. The Governing Body also directed the Conference, in proceeding to the new appointments, to take account of a resolution which the Governing Body adopted in March 1927, following on the 1926 elections, to the effect that—

In order that the Commission should be truly representative of maritime employers and workers in all parts of the world, at least four of the fourteen regular members shall, from the date of the next elections, be nationals of non-European countries.

In the result the Employers' and Workers' Groups of the Conference nominated nine regular members for the shipowners and seamen respectively, with four deputy members for the shipowners and five deputy members for the seamen. Two of the regular members nominated on each side belong to non-European countries (Japan, the United States of America), while three of the deputy members for the shipowners also belong to these countries (Australia, Canada, India) as well as all the seamen's deputy members (Argentina, Australia, Canada, China, India).¹

The number of members nominated thus exceeds the composition of the Commission as at present constituted. This was the result of an agreement between the Employers' and Workers' Groups at the Conference that it would be desirable to allow for a wider representation of the two sides on this basis for the future. It lies with the Governing Body to approve this enlargement of the Commission, which of course involves certain financial consequences for the Office, but it is hardly likely that this joint proposal of the two parties, which allows for increased representation of nationals from non-European countries, will not be confirmed.

¹ The European members nominated on each side belong to the following countries : Shipowners : regular members : Belgium, France, Great Britain, Greece, Italy, the Netherlands, Norway ; deputy member : Denmark ; Seamen : regular members : Belgium, Denmark, France, Great Britain, the Netherlands, Norway, Sweden.

TWENTY-SECOND SESSION OF THE CONFERENCE

REVISION OF THE MINIMUM AGE (SEA) CONVENTION, 1920

As has already been noted, the Twenty-second Session of the Conference had on its agenda only one item, viz :

Partial revision of the Minimum Age (Sea) Convention, 1920.¹

The Conference was asked to consider the revision of this Convention on the two following points :

(1) The raising of the minimum age from 14 to 15 years and any related revision of the exceptions provided in the Convention; and

(2) Substitution for Articles 5-12 of the 1920 Convention of the standard Articles included in the Draft Conventions submitted to the Conference at its Twenty-first Session.

The inclusion of this question in the agenda of the Twenty-second Session arose out of certain action taken by the Conference at its Nineteenth Session in 1935. On that occasion the Conference adopted a Recommendation concerning unemployment among young persons which included a clause providing that " the minimum age for leaving school and being admitted to employment should be fixed at not less than 15 years, as soon as circumstances permit ". With reference to this clause of the Recommendation, the Nineteenth Session of the Conference also adopted, on the proposal of its Committee on unemployment among young persons, a resolution inviting the Governing Body of the Office to consider urgently the desirability of placing on the agenda of an early session of the Conference the revision of the Minimum Age Conventions for employment in industry (1919), at sea (1920), in agriculture (1921), and in non-industrial employment (1932), " with a view to raising the age from 14, as laid down in those Conventions, to 15 years ".

In pursuance of this resolution, and after having proceeded to a consultation of Governments as required by its Standing Orders, the Governing Body at its meeting in June 1936 decided, on the one hand, to place the revision of the 1919 (industry) and 1932 (non-industrial employment) Conventions on the

¹ This Convention had been ratified up to 15 September 1936 by the following 31 countries : Argentina, Australia, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Cuba, Denmark, the Dominican Republic, Estonia, Finland, Germany, Great Britain, Greece, Hungary, the Irish Free State, Italy, Japan, Latvia, Luxembourg, the Netherlands, Nicaragua, Norway, Poland, Rumania, Spain, Sweden, Uruguay, Yugoslavia.

agenda of the 1937 Session of the Conference and, on the other hand, to submit the partial revision of the Convention relating to employment at sea to the Maritime Session of the Conference to be held in 1936.¹ The reasons why this last question could not be considered at the Twenty-first Session but had to be referred to the Twenty-second Session have already been explained.

The Twenty-second Session of the Conference appointed, for considering the question on its agenda, a Committee of 15 members (5 Government representatives, 5 Employers' representatives, and 5 Workers' representatives). The officers of this Committee were the following: Chairman, Mr. Bruere, United States Government Delegate; Vice-Chairmen, Mr. Filmer, Australian Employers' Delegate, and Mr. Reed, British Workers' Adviser; and Reporter, Mr. Dennys, British Government Adviser.

The Committee took as the basis of its discussions the draft amendment to Article 2 of the 1920 Convention which had been prepared by the International Labour Office. This Article provides as follows: "Children under the age of 14 years shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed." The Office draft simply proposed to substitute 15 for 14 years.

The principle of the raising of the minimum age from 14 to 15 met with no opposition. A statement was, however, made on behalf of the Employers' Group to the effect that, in the opinion of this Group, no country should in fact apply a Convention raising the minimum age for employment at sea unless and until it applied a similarly revised Convention relating to land industries. Other members of the Committee expressed their disagreement with this attitude. The Office draft, however, was adopted without opposition.

The Committee then had to consider an amendment proposed by the British Government member for allowing certain exceptions to the general principle. The author of the amendment explained that it was not intended to provide for exceptions of a general character, but solely to permit exceptions in special cases where a public authority—an educational or other appropriate authority designated by national laws or regulations—is satisfied that the employment proposed will be beneficial

¹ The question of the revision of the Minimum Age Convention for employment in agriculture was adjourned by the Governing Body to its following meeting.

for the future of the child and will not be prejudicial to his health. This amendment was adopted by 9 votes to 1.

As regards the modification of the standard Articles referred to in the second part of the question on the agenda, this was carried out by the Conference Drafting Committee, which was the competent committee for dealing with this matter. On the request of the Committee on the revision of the Convention, the Drafting Committee also included in the standard Articles a clause to the effect that the revised Convention was not to come into force until after the adoption by the Conference of Draft Conventions revising the existing Conventions dealing with the minimum age for employment in industry and in non-industrial employment. The inclusion of this clause in the revised Convention gave effect to a wish expressed by the shipowners' members of the Joint Maritime Commission when this Commission was consulted by the Governing Body in November 1935 as to the desirability of raising the minimum age for employment at sea.

In the Plenary Conference the report of the Committee gave rise to no discussion and the revised Convention was adopted on the preliminary vote by 54 votes to 0, and on the final vote by 81 votes to 0.

CONCLUSIONS

Maritime Sessions of the International Labour Conference have always been few and far between, although the industry with which they are concerned has a particularly international character. International not merely geographically or with reference to the international regulation in one form or another to which various technical or economic aspects of the activities of shipping have been increasingly subjected since the war, but also in the sense that since the creation of the International Labour Organisation shipowners', officers', and seamen's organisations in a large number of countries have combined to form important international associations for promoting their respective interests in the discussion and negotiation of labour problems. At the same time, the very international character of the industry tends to create, between the shipping departments of Governments in different countries, more direct and frequent contacts than usually exist between departments dealing with shore industries.

These considerations perhaps largely explain the fact that in the circles which they directly concern in different parts of the world Maritime Sessions of the Conference have always evoked a keen and special interest.

Certainly, the Twenty-first and Twenty-second Sessions—which for practical purposes were really one combined Session—were no exception in this respect: on the contrary. In the history of the Organisation perhaps no Session, with the possible exception of the First, held at Washington in 1919, has opened with such high hopes and expectations of the workers concerned intensely focussed upon it. These hopes and expectations were born of sixteen years' waiting for the day when the failure at Genoa of the attempt to settle the question of hours of work on board ship could be retrieved, and seven years' waiting for the opportunity to liquidate the other questions on which the first steps towards the working out of international agreements were taken by the 1929 Conference. It is hardly surprising that during these intervening seven years the seamen at times seemed likely to lose their patience and their faith in the Organisation.

The lapse of this unusually long interval, however, had had very important compensating advantages. During these seven years the scope of the agenda of the Conference had been greatly enlarged by the addition of the questions of manning and of holidays with pay for seamen. Further, the atmosphere in which the final discussions were to take place had been immeasurably improved as compared with that at previous Maritime Sessions, thanks to the unanimous agreement reached between shipowners and seamen in the Joint Maritime Commission as to the procedure to be followed. The spirit of conciliation in which this agreement was arrived at had continued to prevail at the Preparatory Maritime Meeting in 1935, and there was every reason to believe that it would be maintained at the Conference itself. The Preparatory Meeting, too, had given grounds for a certain amount of optimism as to the final outcome. But the efflux of time had brought about still other favourable conditions. Two additional maritime countries, the United States of America and the U.S.S.R., had joined the Organisation some two years ago and could be expected to use their influence in favour of satisfactory international agreements. In certain other countries, e.g. the Scandinavian countries, the Governments had been for some time desirous

of improving the provisions relating to hours of work in their merchant fleets, and had only been waiting for some minimum international bases to be laid down by the Conference before taking definite action. In Great Britain, too, during the twelve months preceding the Conference there had been a big departure from the previous policy of not regulating hours of work at sea by collective action : for the first time in the history of the National Maritime Board national collective agreements were concluded between shipowners and seamen dealing with the problem of hours of work as a whole for subordinate personnel employed in " foreign-going " ships, and on the basis of these agreements the Government had expressed its readiness to co-operate in working out an International Convention. Lastly, whereas 1929 was the year which saw the beginning of the economic crisis, with the consequential effects it was to have on shipping for a number of years, the situation of the industry in 1935-1936 in many countries had taken a distinct turn for the better—to such an extent, in fact, in one or two countries that complaints were even being heard of difficulties in obtaining sufficient personnel, at any rate in certain ratings, to man the ships being once more put into commission.

In spite of these improved circumstances, however, the Conference, as the President remarked at the opening sitting, was big with responsibility for the future of the Organisation in which the seamen had for so long maintained their confidence. There could hardly be any foregone conclusion as to the measure of its ultimate success.

But, as the foregoing pages have shown, the Conference succeeded in no uncertain way. It successfully liquidated each item on its agenda. By large majorities in each case it adopted six Draft Conventions and two Recommendations providing for something more than mere a mere minimum of social protection. It is probable that the nature of these results exceeded the expectations which were entertained in many minds when the Conference opened. That they were obtained was due not only to the new factors in the general situation which have been referred to above. They were also due to certain circumstances which marked the proceedings of the Conference as a whole and which happily distinguished it in no small degree from previous Maritime Sessions : a determination shared by the great majority of the delegates that the Conference should not fail, a broad spirit of accommodation which was actuated

by this determination, and the fact that even those who did not agree with some of the important decisions taken did not for that reason withhold their help or their advice in endeavouring to make the Conventions and Recommendations workable instruments.

In the Draft Convention which it adopted on hours of work on board ship and manning the Conference produced, as the report of the Committee observed, "a document of great social importance". On the hours side of this problem it arrived at provisions which at long last meet the claims that merchant marine officers and seamen have pressed for years to have their hours of work regulated internationally on similar principles to those laid down since the Washington Conference in 1919 for workers employed in industry ashore. It definitely established the 8-hour day, and consequently the 3-watch system, as the international rule to be applied to deck, engine-room, and stokehold personnel, both officers and other ratings, in the great bulk of the sea-going merchant tonnage of the world. For the catering and clerical departments, too, for which it has hitherto been found specially difficult both nationally and internationally to frame a clear-cut system of regulation, the Conference succeeded in framing definite limitations of hours of work which, though they do not yet apply the 8-hour day principle at sea, nevertheless constitute substantial and effective progress. These hours provisions as a whole represent a considerable advance on the conditions at present operating in the "foreign-going" ships of the great majority of countries.

Similarly, on the manning side of the problem, on which considerable difficulties might well have been anticipated because of the complicated nature of the question, the Conference succeeded in arriving at definite numerical rules for the deck and engine-room departments which are also in advance of the present conditions in a large number of countries. These rules not only tend to promote greater safeguards for life at sea but also furnish the definite guarantee of the effective observation of the regulations concerning hours of work.

To supplement these provisions of the Draft Convention the Conference made a very valuable Recommendation to Governments to investigate, in the light of the rules of the Convention, the conditions obtaining in the ships of their countries not covered by it, and to take the necessary measures to prevent overwork or insufficient manning.

On the question of the protection of seamen in case of sick-

ness, the Conference, in addition to prescribing the minimum obligations to be discharged by the shipowner towards members of his crew who fall ill or are injured on board during the voyage, also provided for the establishment in each maritime country of a regular system of sickness insurance for seamen similar to the system already laid down by previous Conventions for the general body of workers employed on shore. In the Draft Convention which it adopted on this latter part of the problem on its agenda the Conference has taken the first—and a very important—step towards extending to seamen the benefit of the international regulation of social insurance as a whole which it has already embodied in a large number of Conventions in favour of other sections of workers.

In the case of the question of the promotion of seamen's welfare in ports the comprehensive series of measures which the Conference advocated in the Recommendation on this subject in favour of foreign no less than national seamen is calculated to add considerably to the amenities and facilities of the life of the seaman during his temporary stays in port, to minimise the dangers to which he is sometimes exposed ashore, particularly in foreign ports, and to make some compensation to him for the material, social, and other disadvantages of his nomadic life.

On the question of the minimum requirement of professional capacity, the Conference affirmed, with very few and minor exceptions, the necessity of ensuring that persons in command of a ship or in charge of a navigational or engine-room watch have been duly certificated beforehand by public authority for the performance of these duties.

In the case of holidays with pay—a question which is to some extent linked up with the problem of hours—the Conference endorsed the claim of officers and seamen to be treated in this matter no less favourably than other workers, and extended to them, in some respects with improved conditions, the international regulations on this subject adopted at its Twentieth Session (June 1936) in favour of workers ashore in industry, commerce, etc.

Lastly, the Conference raised the minimum age for employment on board ship from 14 to 15 and thus prepared the way for the extension of this reform at the 1937 Session of the Conference to employment in industrial and commercial occupations.

These six Draft Conventions and two Recommendations

are certainly a notable achievement. They constitute a seamen's charter of the greatest value. They have demonstrated beyond doubt the capacity of the Organisation to produce solid results on seamen's questions no less than on questions affecting other workers, and the Organisation may justly be proud of them. They have, moreover, made to seamen the *amende honorable* for the apparent delay in dealing with their problems during previous years.

But the Conference also laid certain foundations for continuing and developing the further work of the Office on maritime questions. It re-elected the Joint Maritime Commission, and, with a view to providing the International Labour Office with still more effective help in this department of its work, it proposed to enlarge the Commission by associating with it a larger number of non-European members. It also adopted a number of resolutions proposing certain lines along which the future maritime work of the Office should be directed. It proposed, for example, that the Office should investigate such important questions as crew accommodation on board ship, seamen's compensation for accidents, and unemployment benefit or allowances for seamen, and should extend its work in collecting and publishing information on seamen's wages and other matters affecting competitive conditions in the operation of ships.

In brief, if the mere convening of the Conference after the long interval since 1929 was in itself evidence of the vitality and persistence of the Organisation in maritime questions, the achievements of the Conference undoubtedly made it not only the most important of the Maritime Sessions so far held under the auspices of the Organisation but also an outstanding landmark in the history of the International Labour Conference as such.