A Decade of Labour Legislation in India, 1937-1948: II [1]

WAGES

IN THIS sphere, the Payment of Wages Act, 1936 [2], was slightly amended in 1937 (Act XXII) in order to empower employers to withhold wages in the case of a "sitdown" strike, and again by an Ordinance (III) of 1940 to permit deductions from wages for the purpose of investing in war-savings schemes approved by the appropriate Government. These, however, were minor amendments which added very little to the substance of the protection enjoyed by labour. The real achievements in the sphere of wages legislation during the decade 1937-1948 were the progressive extension of the provisions of the Payment of Wages Act to cover new classes of wage earners employed in industrial establishments, and the adoption of a Minimum Wages Act in 1948, which, for the first time in India, provided for the statutory fixation of minimum rates of wages in a number of employments.

The Payment of Wages Act

In 1938, the provisions of the Payment of Wages Act were extended by the Government of the Central Provinces and Berar to establishments engaged in bidi making, shellac manufacture and leather tanning in certain districts of the province to which the Central Provinces Unregulated Fac-

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[1] For the first part of this article, see *International Labour Review*, Vol. LIX, No. 4, April 1949, pp. 394-424. It should be recalled that the term India, as used in this article, refers, unless otherwise specified, to what was known as British India before 15 August 1947; where, however, the information given relates to the period subsequent to that date, the term refers only to the Dominion of India.

[2] For a summary of the main provisions of the Act, see INTERNATIONAL LABOUR OFFICE, Studies and Reports, Series A, No. 41: *Industrial Labour in India* (Geneva, 1938), pp. 97-99.

tories Act, 1937, is applicable.[1] In 1942, Madras, Orissa and Sind extended the Act to all industrial establishments employing ten or more workers. More recently, the provisions of the Act have been extended during the last two years to coal mines by the Government of India (January 1948)[2], to plantations by the Governments of Assam (December 1947)[3] and Madras (February 1947)[4], to tramways and motor omnibus services by the Governments of Madras (February 1947)[5] and West Bengal (September 1948) and to motor transport by the Governments of Orissa (February 1948)[6] and Bihar (March 1948). Proposals similarly to extend the provisions of the Payment of Wages Act to persons employed in motor transport and docks in Assam are at present under consideration by the provincial Government.

By virtue of the provisions of the Pakistan (Adaptation of Existing Pakistan Laws) Order, 1947, the Payment of Wages Act, 1936, like all other labour laws enacted by the Government of India prior to 15 August 1947, continues to be in force in Pakistan ; and by a Notification dated 7 July 1948 the Government of Pakistan recently extended the provisions of the Act to cover the payment of wages to persons employed in coal mines and oilfields.[7] The practical importance of these extensions of the Act can be gauged from the fact that in 1945 more than 294,000 workers were employed daily in coal mines in (undivided) India ; the plantations in Assam normally employ over 500,000 wage earners and those in Madras about 110,000.

The Payment of Wages Act, however, seeks only to ensure the regular payment of wages and to prevent the exploitation of the wage earner by arbitrary deductions and fines ; it does little to help the worker with no bargaining power to secure a living wage. This gap has recently been filled by the Minimum Wages Act, 1948, which may rightly be described as a new landmark in Indian labour legislation.

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[1] See Part I of this article, p. 408.

[2] *Gazette of India*, 3 January 1948, Part I, section 1, p. 44.

[3] *Assam Gazette*, 3 December 1947, Part II, p. 969.

[4] Press communiqué issued by the Government of Madras on 26 February 1947.

[5] *Fort St. George Gazette*, 11 February 1947, Part I, p. 86.

[6] *Orissa Gazette*, 6 February 1948, Part I, p. 68.

[7] *Gazette of Pakistan*, 16 July 1948, Part I, p. 337.

The Minimum Wages Act

The question of establishing statutory wage-fixing machinery in India was discussed at the third meeting of the Standing Labour Committee of the Tripartite Organisation in May 1943, and at successive sessions of the Tripartite Labour Conference in September 1943, October 1944 and November 1945. The last of these approved in principle the enactment of minimum wages legislation. On 11 April 1946, Dr. B. R. Ambedkar, then Labour Member in the Government of India, introduced a Minimum Wages Bill, but the passage of the Bill was considerably delayed by the constitutional changes in India. It reached the statute book, after substantial amendment during its passage through the legislature, only in March 1948.

The Minimum Wages Act (XI) of 1948 covers all the provinces of India. It applies to a number of employments which are listed in a schedule appended to the Act and may be extended by the appropriate Government, Central or provincial as the case may be, to any employment in respect of which it is of opinion that minimum rates of wages should be fixed under the Act. The following employments are listed in part I of the schedule appended to the Act:

> ... employment in any woollen carpet making or shawl weaving establishment; employment in any rice mill, flour mill or *dal* [pulses] mill; employment in any tobacco (including bidi making) manufactory; employment in any plantation growing cinchona, rubber, tea or coffee; employment in any oil mill; employment under any local authority; employment on road construction or in building operations; employment in stone breaking or stone crushing; employment in any lac factory; employment in any mica works; employment in public motor transport; and employment in tanneries and leather factories.

Employment in agriculture constitutes part II of the schedule. The Act applies not only to regular employees, but also to outworkers in the scheduled employments to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person.

The Act requires the appropriate Government to fix, before the expiry of three years from the commencement of the Act[1]

[1] The Act came into force on 15 March 1948.

in the case of employment in agriculture, and of two years in any other case, the minimum rates of wages payable to employees employed in all scheduled employments. It further requires the appropriate authority to review at such intervals as it may think fit, but not exceeding five years, the minimum rates of wages fixed and to revise them if necessary. Where in respect of any scheduled employment the appropriate Government has fixed and notified minimum rates of wages, the employer is bound by law to pay every employee engaged in the scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employee in that employment.

As regards the machinery for fixing minimum rates of wages, in the initial fixation of such minimum rates in respect of any employment, the appropriate Government may, if it considers desirable, appoint a committee to hold enquiries and advise it, with such subcommittees for different localities as it may deem expedient to appoint to assist such committee. For the revision of such minimum rates, however, the appointment of and prior consultation with advisory committees and advisory subcommittees is obligatory on the Government. For the purpose of co-ordinating the work of the committees, subcommittees, advisory committees and advisory subcommittees which are appointed to help in the fixation and revision of minimum rates of wages and generally to advise the Government in the matter of fixing and revising minimum rates of wages, the appropriate Government is required to appoint an advisory board. The Act further requires the central Government to set up a Central Advisory Board for the purpose of advising the central and provincial Governments in matters relating to the fixation and revision of minimum rates of wages and the co-ordination of the work of the advisory boards. In all the various committees, subcommittees, advisory committees, advisory subcommittees and the advisory boards envisaged in the Act, employers and employees in the scheduled employments are to be represented by an equal number of members, and independent persons also are to be nominated, their number not to exceed one third of the total number of members.

In regard to any scheduled employment in respect of which minimum rates of wages have been fixed under the Act, the

appropriate Government is also empowered *(a)* to fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals; *(b)* to provide for a day of rest in every period of seven days, which shall be allowed to all employees or to any specified class of employees, and for the payment of remuneration in respect of such days of rest; and *(c)* to provide for payment for work on a day of rest at a rate not less than the overtime rate.

Finally, the Act empowers the central Government to give directions to a provincial Government to supervise the enforcement in the province of the provisions of the Act.[1]

It will take another three to five years for the practical effects of the Act to be clearly visible. But as the above summary of its provisions shows, if properly administered and enforced, the Act may well play a decisive part in upgrading the levels of wages in India's unorganised industries, particularly agriculture, where labour's bargaining power is weak, and thus help to initiate an era of rising incomes and prosperity.

Trade Unions and Trade Disputes

Trade Union Legislation

Throughout the period under review the Trade Unions Act (XVI) of 1926 continued to be the basic enactment for the regulation of trade unions in India.[2] However, while it provided for the registration of trade unions complying with various specified requirements, it imposed no obligation on employers to recognise and deal with such registered unions. The Royal Commission on Labour in India, which reported in 1931, deprecated such an obligation and pleaded for the recognition of unions by employers in the spirit as well as in the letter. But throughout the 'thirties the question of recognition proved to be a recurring cause of friction between employers and organised labour, and the advisability of amending the Trade Unions Act, with a view to imposing on employers a statutory obligation to recognise and deal with trade unions satisfying certain prescribed conditions, figured

[1] *Gazette of India*, Extraordinary, 15 March 1948, Part IV, pp. 37-47.

[2] For a summary of the main provisions of this Act, see *Industrial Labour in India, op. cit.*, pp. 109-111.

prominently on the agenda of successive Labour Ministers' Conferences held in 1940 and 1941 and of meetings of the Tripartite Organisation in 1944. The result was the adoption of the Indian Trade Unions (Amendment) Act (XLV) of 1947, which provided for the compulsory recognition by employers of representative trade unions by order of a labour court.

The amending Act provides that a registered trade union which has applied to an employer for recognition, but has failed to obtain this within a period of three months, may apply in writing to the labour court (to be set up under the Act) for recognition by the employer, setting out such particulars as may be prescribed. If after due investigation the labour court finds that the trade union concerned satisfies the conditions for recognition laid down in the Act and is fit to be recognised by the employer, it must issue an order directing such recognition. The Act confers on the executive of a recognised trade union the right to negotiate with employers in respect of matters connected with the employment or non-employment, terms of employment and conditions of work of all or any of its members. Finally, the Act defines certain practices as unfair on the part of a recognised trade union and certain others as unfair on the part of an employer, and requires both to desist from such practices under threat of withdrawal of recognition on application to the labour court by the registrar or the employer in the case of the former, and a fine of up to 1,000 rupees in the case of the latter. [1]

It is too early as yet to formulate any conclusions on the actual working of compulsory recognition, and rules providing for such recognition have as yet been framed only by the Government of Bombay [2]; but it is hoped that the new Act will contribute substantially to the strengthening of the trade union movement in India. A new trend, of considerable significance for the future of the movement, may be seen in the recent trade disputes legislation enacted in Bombay and the Central Provinces and Berar, described below.

[1] Cf. *L.S.*, 1947—Ind. 4.

[2] The Bombay Trade Unions (Recognition) Regulations, 1948, were published on 16 July 1948. Cf. *Bombay Government Gazette*, Extraordinary, 16 July 1948, Part IV A, pp. 284-296.

Trade Disputes Legislation

In 1937 two important labour enactments were in force in India dealing with trade disputes. The first of these was the Trade Disputes Act, 1929, a central Government measure which applied to the whole of British India, and the second was the Bombay Trade Disputes Conciliation Act, 1934, which was a provincial Act applying only to the province of Bombay. The Trade Disputes Act, 1929 [1], as subsequently amended, provided for the establishment, on an *ad hoc* basis, of courts of enquiry and of boards of conciliation with a view to investigating and settling trade disputes, respectively. It prohibited strikes or lockouts without notice in public utility services; it also made illegal any strike or lockout which had any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or the employers locking out were engaged, and which was designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel the Government to take or abstain from any particular course of action. It should be noted that this Act, which empowered the Government concerned, central or provincial, to refer any existing or apprehended trade dispute to a court of enquiry or a board of conciliation, made no provision whatsoever for the amicable settlement of disputes in the event of the failure of conciliation proceedings. The Bombay Trade Disputes Conciliation Act, 1934 [2], which applied in the first instance only to the textile industry in Bombay City and suburbs, was a more positive enactment. It named the Commissioner of Labour *ex officio* Chief Conciliator of the Province, empowered the Government to appoint suitable persons as special or assistant conciliators and authorised the conciliators to initiate conciliation proceedings in cases where a trade dispute either existed or was apprehended. The Act further provided for the appointment of a Government labour officer to look after the interests of labour in the industry, to promote closer contact between employers and workers, and to act, under specified conditions, as a delegate on behalf of workers.

[1] Cf. *L.S.*, 1929—Ind. 2; 1932—Ind. 2.

[2] *Idem*, 1934—Ind. 4.

Since 1937 the scope of trade disputes legislation has been considerably extended both at the centre and in a number of provinces, and substantial progress has been made in the building up of permanent machinery for the speedy and amicable settlement of industrial disputes. The more important among the new principles which have been incorporated in the legislation are the following : compulsory arbitration in public utility services, including the enforcement of arbitration awards ; prohibition of strikes and lockouts during the pendency of conciliation and arbitration proceedings and of arbitration awards enforced by Government order ; the prescription of specific time limits for the various stages of conciliation and arbitration proceedings to eliminate delays ; the imposition of an obligation on employers to recognise and deal with representative trade unions which satisfy certain conditions relating to their constitution and membership, prescribed by law ; and the setting up of joint works committees to provide machinery for mutual consultation between employers and workers.

Central Legislation.

The Trade Disputes Act, 1929, was amended by the Government of India by Act XVII of 1938 [1] to provide that the Government concerned may appoint conciliation officers charged with the duty of mediating in or promoting the settlement of trade disputes. The amending Act also extended the term " trade disputes " to cover differences between employers and employees, included water transport and tramways under public utility service, and made the provision concerning illegal strikes and lockouts less restrictive. Suggestions further to amend the Act were made at the first and second sessions of the Labour Ministers' Conference in 1940 and 1941, but the law relating to trade disputes remained unchanged until January 1942, when the imperative need to prevent the war effort from being held up by industrial strife forced the Government to introduce a more definitive method for the settlement of industrial disputes than that provided by the 1929 Act.

[1] Cf. *L.S.*, 1938—Ind. 1.

In January 1942 the Government of India by a Notification added Rule 81A to the Defence of India Rules in order to restrain strikes and lockouts. This empowered it to make general or, to suit local requirements, special Orders to prohibit strikes or lockouts, to refer any dispute for conciliation or adjudication, to require employers to observe such terms and conditions of employment as might be specified and to enforce the decisions of adjudicators. In May of the same year, another Notification was issued, vesting much the same powers in the provincial Governments, and in August an Order was promulgated prohibiting strikes and lockouts without fourteen days' previous notice.[1] Strikes and lockouts were also prohibited when a trade dispute was referred to a statutory enquiry or for conciliation or adjudication, during the entire period of the proceedings and for two months thereafter. In April 1943, the Defence of India Rules were further amended, and concerted cessation of work or refusal to work by a body of persons in a place of work, except in furtherance of a trade dispute with which they were directly connected, was prohibited. Provincial Governments were empowered to take all necessary measures to prevent such cessation of work in establishments in which 100 or more persons were employed and to open and work all such establishments which had been closed down for reasons other than those relating to a trade dispute in them.

The emergency war legislation outlined above ceased to be operative from 30 September 1946[2]; wartime experience of the working of the rule, however, had convinced the Government that the rule was extremely useful and that its incorporation in the permanent labour law of the country would do much to check the industrial unrest which was gaining momentum owing to the stress of post-war industrial readjustments. The main provisions of the Defence of India Rule 81A, in so far as they related to public utility service, were therefore retained intact in the Industrial Disputes Act (XIV) of 1947, which on 1 April 1947 replaced the Trade Disputes Act of 1929.

While retaining most of the provisions of the earlier law, the new Act introduced two new institutions for the prevention

[1] *Idem*, 1942—Ind. 4.

[2] Pending the enactment of the Industrial Disputes Act, the provisions of the Defence of India Rule 81A were kept in force for a further period of six months by the Emergency Provisions (Continuance) Ordinance, 1946.

and settlement of industrial disputes : works committees consisting of representatives of employers and workers ; and industrial tribunals consisting of one or more members possessing qualifications ordinarily required for appointment as judge of a High Court. Power is given to the appropriate Government to require works committees to be constituted in every industrial establishment employing 100 workers or more, in order to remove causes of friction between employer and workers in the day-to-day working of the establishment and to promote measures for securing amity and good relations between them. A reference to an industrial tribunal will lie where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, up to a maximum of one year.

The Act also seeks to give a new orientation to the entire conciliation machinery. Prior resort to the conciliation machinery provided under the Act is made obligatory in all disputes in public utility services, and is optional in the case of other disputes. With a view to expediting conciliation proceedings, time limits have been prescribed for their conclusion—fourteen days in the case of conciliation by a conciliation officer, and two months in that of conciliation by a board of conciliation, reckoned from the date of notice of strike. A settlement arrived at in the course of conciliation proceedings will be binding for such period as may be agreed upon by the parties ; where no period has been agreed upon, it will be binding for a period of six months, and thereafter until revoked by two months' notice given by either party to the dispute.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings, of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate Government. Finally, the Act empowers the appropriate Government to declare, if public interest or emergency so requires, any of the following industries to be a public utility service for the purposes of the Act, for a period not exceeding six months :

transport (other than railways) for the carriage of passengers or goods, by land, water or air ; coal ; cotton textiles ; foodstuffs ; and iron and steel.[1]

Rules, orders or notifications requiring the larger industrial establishments to set up works committees have already been issued by the Government of India, and the Governments of Assam, Bihar, Bombay, Central Provinces and Berar, Madras, Orissa and West Bengal. It is interesting to note that provincial Governments have already made considerable use of the powers granted to them under the Act to declare specified industries to be public utility services for specified periods.

Provincial Legislation.

Besides Bombay, which has amended its legislation, two other provinces—the Central Provinces and Berar, and the United Provinces—have recently adopted trade disputes laws to supplement the provisions of the central Act of 1947.

Bombay. The Bombay Trade Disputes Conciliation Act of 1934 was replaced in 1938 by a much more comprehensive Act, the Bombay Industrial Disputes Act (XXV).[2] This Act, which was applied to the cotton textile industry throughout the province and to the silk and woollen textile and hosiery industries in specified areas, made it obligatory on the parties to a dispute to endeavour to obtain a settlement by conciliation before resorting to a strike or lockout. Every employer coming under the provisions of the Act was required to submit for the approval of the Commissioner of Labour standing orders relating to the discipline and working of his establishment. An employer who desired to make a change in the standing orders or in working conditions had to give notice to the competent authorities and to the " representative of employees ". Employees desiring changes had similarly to give notice to the employer through the representative of employees, who was required to forward a copy of the notice to the Government authorities. In case the parties did not agree and the official conciliator failed to settle the dispute, the Government could refer the dispute to a board of conciliation, consisting of a chairman and an equal number of members

[1] Cf. *L.S.*, 1947—Ind. 1.

[2] *Idem*, 1939—Ind. 1.

selected from panels representing the interests of the employers and the employees respectively. Machinery was provided for the settlement of disputes by arbitration when both parties agreed to such arbitration, and a Court of Industrial Arbitration was created to decide, *inter alia*, questions of law and to determine appeals in various cases arising out of the operation of the Act. Finally, the Act contained a novel provision for the registration of unions which had been recognised by the employers concerned or which fulfilled certain requirements as regards membership, and conferred upon them various rights in connection with representation on behalf of the workers.

Three amending Acts modifying the provisions of the above Act were passed between 1938 and 1947. Those of 1941 (X) and 1942 (XVI) were emergency measures designed to meet the wartime need for unrestricted production. The first of these empowered the Government to refer an industrial dispute to the Court of Industrial Arbitration if it considered that the dispute would lead to serious outbreaks of disorder, adversely affect the industry concerned, or cause prolonged hardship to a large section of the community ; the second exempted the employers from notifying changes regarding hours of work and rest periods which were authorised by the Government as a war measure. A third amending Act (XIX of 1945) gave the labour officer appointed by Government power to convene a meeting of the workers on the premises where they were employed, and required the employer, if he was ordered to do so by the labour officer, to affix a written announcement of the meeting at such conspicuous places in his premises as were specified in the order.[1]

In 1947 the entire Act was repealed and replaced by the Bombay Industrial Relations Act (XI) of 1947 [2] with a view to providing for the quicker and more efficient disposal of industrial disputes and giving a greater impetus to labour to organise itself.[3] The most important changes introduced by this new Act were : *(a)* the creation of a new class of " ap-

[1] *Bombay Government Gazette*, 3 November 1945, Part IV, pp. 170-171.

[2] *Idem*, 15 April 1947, Part IV, pp. 52-100. See also *International Labour Review*, Vol. LVII, Nos. 1-2, January-February 1948, pp. 67-72.

[3] " Statement of Objects and Reasons ", *Bombay Government Gazette*, 6 September 1946, Part V, pp. 161-210.

proved " unions, which are invested with substantial privileges in return for their undertaking a set of corresponding obligations, the most important among these being an obligation to submit disputes for arbitration upon the failure of conciliation and not to sanction or resort to a strike until the provisions of the Act have been exhausted and a majority of its members have voted in favour of such a strike ; *(b)* the setting up, for the first time in India, of labour courts to ensure quick and impartial decisions in references regarding illegal changes in standing orders or conditions of work ; and *(c)* provision for the setting up of joint committees consisting of equal numbers of employer and employee representatives, in the various occupations and undertakings in an industry.

The Act applies to all industries covered by the 1938 Act and was extended by a Notification of 8 January 1948 to the sugar industry.[1] Its object is to regulate all matters included in relations between employer and employees, and it defines accordingly the status of trade unions, establishes schedules of industrial matters controlled by standing orders and collective bargaining and sets up comprehensive facilities for the settlement of industrial disputes by means of negotiation between the representatives of employers and employees, conciliation authorities, labour courts, voluntary arbitration, and, in some instances, compulsory arbitration. Agreements, settlements reached through conciliation, and arbitration awards are declared to be binding, and protective measures are provided to safeguard the rights of employees engaged in legitimate trade union activity.

The protective provisions of the Act have recently been strengthened still further by an amending Act (XLIII of 1948) which received the assent of the Governor-General of India on 13 May 1948. This confers additional powers on the provincial Government and empowers it to set up wage boards for different industries in the province and a provincial wage board for all the industries together, and to direct the constitution of a joint committee for an undertaking or occupation even without the employers' consent when the registered trade union for the industry for the local area concerned asks for such a joint committee. Another new provision introduced by the amending Act

[1] *Idem*, Extraordinary, 9 January 1948, p. 163.

seeks to facilitate the speedy settlement of disputes by enabling a registered union which is representative of the employees and the rules of which provide that it shall neither sanction nor resort to a strike unless all the methods available under the Act for the settlement of an industrial dispute have been exhausted, to drop the intermediate stage of conciliation altogether and apply direct to the Industrial Court for arbitration.[1]

Central Provinces and Berar. The Industrial Disputes Settlement Act (XXIII) of 1947, of this province, which applies to such area or industry and on such date as may be specified by the Government by notification, is a much less comprehensive measure than the Bombay Industrial Relations Act, but contains the same basic features. It makes provision for the compulsory framing of standing orders by employers, requires either party desiring a change, whether in the standing orders or in other industrial matters specified in a schedule to the Act, to give fourteen days' prior notice to the other and, if they disagree, to desist from a strike or a lockout during the pendency of conciliation proceedings. It provides for the constitution of permanent conciliation machinery consisting of conciliators, special conciliators, a Chief Conciliator for the province, district industrial courts and a Provincial Industrial Court and for the appointment of labour officers to act as representatives of the employees under certain conditions. Arbitration under the provisions of the Act is available to any employer and a representative of employees who have voluntarily agreed to refer " any present or future industrial dispute or any class or classes of such disputes " to arbitration ; the provincial Government is also empowered by the Act, at any time, to refer on its own initiative any industrial dispute to the arbitration of the Provincial Industrial Court, if it is satisfied that serious disorder or a breach of the public peace or serious or prolonged hardship to a large section of the community is likely to be caused, or that the industry concerned is likely to be seriously affected and employment curtailed by reason of the continuance of the dispute.[2]

[1] *Idem*, 24 March 1948, Part V, pp. 182-194.

[2] *Central Provinces and Berar Gazette*, Extraordinary, 2 June 1947, pp. 167-183. This Act was amended in 1948, but the provisions in question relate only to a minor matter of detail.

Acting under these provisions, the Government of the Central Provinces and Berar has already set up an Industrial Court for the entire province and a district industrial court for each of the revenue districts of Nagpur, Wardha, Amraoti, Akola, Niwar, Jubbulpore and Raipur.[1]

United Provinces. The Industrial Disputes Act, 1947, which came into force in this province on 1 February 1948 replaced two successive ordinances promulgated earlier, in May and October 1947. Unlike the Bombay or the Central Provinces enactments, it contains no complex provisions creating special classes of unions or setting up a chain of agencies for conciliation and arbitration, but it gives the provincial Government power to prohibit strikes and lockouts, to refer industrial disputes to conciliation or adjudication, to enforce adjudication awards on the parties to disputes and to exercise control over any public utility service for achieving one or more of the following objects : (1) securing public safety or convenience ; (2) maintenance of public order or supplies and services essential to the life of the community ; and (3) maintenance of employment.[2]

Under orders issued by the Government early in May 1948, a number of officers belonging to the provincial Labour Department have been appointed conciliators in respect of specified areas, and a chain of regional and provincial conciliation boards and of industrial courts has been set up to deal with industrial disputes in respect of the textile, sugar, leather, glass, electricity and engineering industries in the province.[3]

Social Security

In this as in most other fields of labour legislation, the period under review has been marked by substantial progress. The main achievements may be summarised broadly as : *(a)* a steady extension of maternity protection to new areas and to new classes of wage earners ; *(b)* the enactment in 1948 of the Employees' State Insurance Act, 1948, and the formulation for the first time in India, and most probably

[1] *Idem*, 23 January 1948, Part I, p. 53.

[2] *Government Gazette of the United Provinces*, 10 January 1948, Part VII-A, pp. 1-4.

[3] *Idem*, Extraordinary, 1 May 1948, pp. 3-6.

in Asia, of an integrated scheme of insurance against sickness, maternity and employment injury, applicable initially to workers in non-seasonal factories but capable of being extended progressively, as more experience is gained, to workers in other classes of establishments—industrial, commercial, agricultural or otherwise; and *(c)* the inauguration, again for the first time in India, of a scheme of compulsory provision for old age for colliery workers.

Maternity Benefit

In 1937 statutory provision for the grant of maternity benefits to women workers existed in British India only in the provinces of Bombay, the Central Provinces and Madras and in the Chief Commissioners' provinces of Ajmer-Merwara and Delhi [1]; and such legislation as was in force applied only to a restricted group of women workers, namely, those employed in factories.[2] Since then, however, Maternity Benefit Acts have been enacted in almost all the other provinces, and today only Orissa in the Dominion of India and the North-West Frontier Province in the Dominion of Pakistan have no maternity benefit legislation of their own. Moreover, plantations and mines have been brought within the scope of the legislation.

In 1938 the United Provinces adopted a Maternity Benefit Act (IV)[3], followed in 1939 by Bengal (Act IV), in 1943 by the Punjab (Act VI), in 1944 by Assam (Act I), and in 1945 by Bihar (Act III).[4] The essential features of these Acts are similar to those of the earlier provincial Acts, the principal differences being as follows. The Assam Act applies to plantations as well as factories. The maximum period for which benefit is available is thirty days preceding and thirty days following confinement in the Punjab (eight weeks in the other provinces, except Madras, where it is seven weeks).

[1] For a statement of the position as regards maternity benefit legislation in 1937, see *Industrial Labour in India, op. cit.*, pp. 94-97.

[2] The Madras Maternity Benefit Act (Act VI of 1935) was still more restricted in scope as it applied only to non-seasonal factories.

[3] Cf. *L.S.*, 1938 — Ind. 3.

[4] This measure, which was enacted by the Governor of Bihar in exercise of the special powers conferred on him by a proclamation dated 3 November 1939, has since been replaced by an Act of the Bihar Legislature containing identical provisions—the Maternity Benefit Act of 1947.

The amount of benefit in the United Provinces, Bengal, the Punjab and Bihar is at the average rate of the woman's daily earnings calculated on the basis of the wages earned during a specified period, or at the rate of 8 to 12 annas per day, whichever is greater (under the earlier Acts : whichever is less) ; in Assam, on plantations, it is 1 rupee per week before and 1 rupee 4 annas after the day of delivery, but not less than 14 rupees in all, and, in employments other than on plantations, at the average rate of wages, subject to a minimum of 2 rupees per week before and after the day of delivery. In Assam, the qualifying period entitling a woman to claim benefit is 150 days of previous service during the twelve months immediately preceding the date on which notice of absence is given ; the period is six to nine months of previous service in the other provinces. Under the Assam Act, the employment of a woman is forbidden during the four weeks immediately preceding the day of delivery (except on such light work as may be recommended by the medical practitioner) and during the four weeks following, whereas under the other Acts prohibition from such employment is confined to the four weeks immediately following childbirth.

The Madras Act was amended by Act XVI of 1939 with a view to tightening up its provisions. When Sind became a separate province with the coming into force of the Government of India Act, 1935, the Bombay Act applicable there was amended in 1939 (Act XIX) in order to extend its application, in the first instance, to all factories regulated by the Indian Factories Act, 1934 ; the Act also increased the benefits to average wages or 8 annas per day, whichever is greater, instead of whichever is lower as in the Bombay Act.

More recently, maternity protection has been extended to plantation workers in West Bengal (India) by the Bengal Maternity Benefit (Tea Estates) Bill, 1948, which was passed by the provincial legislature on 8 September 1948.[1] The first session of the tripartite Industrial Committee on Plantations, which met at New Delhi early in January 1947, had recommended that women workers on plantations should be granted maternity benefit at the same rate and for the same period as provided in the Employees' State Insurance Bill for workers

[1] *Calcutta Gazette*, Extraordinary, 16 March 1948, pp. 289-296.

in factories, and the Bengal Act mainly gives effect to this recommendation. This Act, which is to come into force on a date notified by the provincial Government, prohibits the employment of women in a tea factory or plantation during the six weeks immediately following childbirth. It further grants to every woman worker in such a factory or plantation who satisfies the prescribed conditions, including 150 days' employment in the factory or plantation during the twelve months immediately preceding childbirth, the right to secure from her employer maternity benefit at the rate of 5 rupees 4 annas a week for a maximum total period of twelve weeks (six weeks preceding and six weeks following childbirth).

The regulation of labour in mines, as stated earlier in this article, is a central subject, and provision for the grant of maternity benefits to women workers in mines in India was first made by the Mines Maternity Benefit Act enacted by the Government of India in 1941. This Act (XIX of 1941) came into force on 28 December 1942. It prohibited the employment of women workers in mines in British India during the four weeks following the day of delivery of a child, and provided for the payment to them of maternity benefit at the rate of one half rupee per day for a period of up to four weeks of absence before and four weeks after delivery. The qualifying period entitling a woman to claim benefit was fixed at six months' service preceding the day of delivery. Dismissal on the ground of pregnancy was prohibited.[1] A major amending Act (X) of 1945 [2] stepped up the rate of maternity benefit to 12 annas per day and provided for the grant of maternity protection on a much more liberal scale to women workers employed on underground work in mines. Thus, the employment of women below ground in a mine is prohibited during the twenty-six weeks following confinement, and during the next ten weeks they may not be employed on work below ground for more than four hours in a day unless a crèche is provided in the mine. In the case of women workers employed on work below ground, maternity benefit is to be paid at a special rate of 6 rupees per week for the ten weeks immediately preceding and six weeks following

[1] Cf. *L.S.*, 1941 — Ind. 1.

[2] A minor amending Act (XVIII) of 1943 sought merely to remove certain ambiguities in the wording of the provisions of the Act of 1941.

delivery.[1] These special provisions relating to women employed below ground in mines had some value during the period of war emergency when the ban on the employment of women on underground work in mines had been temporarily lifted[2], but with the reimposition of the ban on 1 February 1946 they have ceased to have any practical importance.

The main provisions of the various Maternity Benefit Acts referred to above will be superseded by the Employees' State Insurance Act, 1948, described below, in the undertakings to which that Act applies.

Workmen's Compensation

Besides the Maternity Benefit Acts in a few of the provinces of India, the only legislative enactment providing a measure of social security to wage earners in India in force in 1937 was the Workmen's Compensation Act, 1923, as amended.[3] This Act has been amended since 1937 in respect of certain minor details by a series of amending Acts (Acts VII of 1937, IV of 1938, XIII of 1939, I of 1942 and I of 1946). The first of these was necessitated by the separation of Burma from India and the consequent need for the transfer of payments relating to workmen's compensation from India to Burma ; the second and the third removed certain ambiguities and drafting defects in the Act; and the 1942 amendment took away from Indian seamen the right to claim compensation under the Act when they were entitled to compensation under special war compensation schemes.[4] Finally, the 1946 amendment extended the scope of the Act to workers on monthly wages not exceeding 400 rupees, as against the earlier limit of 300 rupees per month and below.[5] Despite these numerous amending Acts, however, the structure of the Act and its main provisions have remained unchanged.

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[1] Cf. *L.S.*, 1945 — Ind. 2.

[2] The ban was lifted in 1943 as an emergency measure in the coal mines of the Central Provinces and Berar, Bengal, Bihar and Orissa.

[3] For a summary of the position in 1937, see *Industrial Labour in India*, *op. cit.*, pp. 103-109.

[4] *Gazette of India*, 7 March 1942, Part IV, pp. 1-2.

[5] *Idem*, 9 March 1946, Part IV, p. 1.

The Employees' State Insurance Act, 1948

Neither the various Maternity Benefit Acts nor the Workmen's Compensation Act introduced the principle of social insurance in India. They were merely measures of social assistance, placing entirely on the employers the responsibility for the payment of maternity benefits and compensation for employment injuries. The migratory character of the labour force and the extremely low level of earnings were held to be adverse factors making it difficult to introduce any scheme of social insurance involving the regular collection of contributions from the workers, and until the late 'thirties the environment was considered unfavourable for the introduction of any of the more complex forms of provision for social security, such as health and unemployment insurance. During the years following 1940, however, there has been a marked change in official as well as public opinion as regards the feasibility of making a beginning in the field of social insurance. The Employees' State Insurance Act which received the assent of the Governor-General of India on 19 April 1948 marks the first attempt to introduce an integrated system of health, maternity and accident insurance.

Three provincial labour enquiry committees, in Bihar, Bombay and the United Provinces, which reported between 1938 and 1940 had all agreed that the introduction of some form of sickness insurance, at least for industrial workers, was not only desirable but also practical in India; and the second Labour Ministers' Conference, held at New Delhi in January 1941, agreed that the central Government should be requested to undertake an actuarial investigation of the sickness risk in certain large industries and then to draft a scheme providing for contributions from employers and workers. At the third Labour Ministers' Conference, at New Delhi in January 1942, both workers' and employers' representatives agreed in principle to a scheme of sickness insurance financed by regular contributions from the workers, the employers and the State. In March 1943 the Government of India appointed an officer on special duty to prepare a scheme of health insurance for industrial workers. The scheme so prepared was modified in the light of the suggestions made by two officials of the International Labour Office who visited India in 1945 at the

invitation of the Government to advise on the matter; they recommended mainly the extension of the scheme to all perennial factories covered by the Factories Act and the insurance of the risks of sickness, childbirth and employment injury under a single scheme in the interests of economy and administrative efficiency. These proposals emerged finally in the form of the Workmen's State Insurance Bill, 1946, which reached the statute book in April 1948 as the Employees' State Insurance Act (XXXIV) of 1948.[1]

The Act, which inaugurates a new era in the field of social insurance legislation in India by providing for the compulsory insurance of a specified class of wage earners against the risks of sickness, maternity and employment injury, is to come into force on such date or dates as may be specified by the Government of India [2]; but different dates may be fixed for different provisions of the Act and for different provinces. Its main provisions may be summarised as follows.

The Act applies initially to all perennial factories and covers about two million industrial workers, but the appropriate Government may, in consultation with the Employees' State Insurance Corporation and the approval of the Government of India, extend all or any of its provisions to other types of establishments, industrial, commercial or agricultural. Persons earning more than 400 rupees a month, however, are excluded from its provisions.

To administer the scheme of insurance introduced by the Act provision is made for the setting up of an Employees' State Insurance Corporation, consisting of representatives of Government, employers and workers, the medical profession and the central Legislature. The affairs of the Corporation are to be administered by a Standing Committee, constituted from among its members; and a Medical Benefit Council is to be set up to advise on matters relating to the administration of the benefits. The activities of the Corporation are to be financed by the Employees' State Insurance Fund, derived mainly from contributions from employers and workers.

[1] *Gazette of India*, Extraordinary, 19 April 1948, Part IV, pp. 161-192. Cf. *Industry and Labour*, Vol. I, No. 3, 1 February 1949, p. 118.

[2] The provisions of the Act relating to the setting up of an Employees' State Insurance Corporation, Standing Committee and Medical Benefit Council have already been brought into force by a Notification dated 31 August 1948 (*Gazette of India*, Extraordinary, 1 September 1948, p. 417).

During an initial period of five years, however, the Central Government will contribute two thirds of the administrative expenses of the Corporation.

Every employer and worker coming under the scope of the Act is required to make, for each week during the whole or part of which the worker is employed, weekly contributions to the Fund according to a scale prescribed in the Act, the total weekly contribution (employee's and employer's) rising from 7 annas in the case of employees whose average daily wages are below 1 rupee to 3 rupees 12 annas in the case of those whose daily average wages are 8 rupees and above. Employees whose average daily wages are below 1 rupee are, however, exempted from contributing to the Fund out of their wages, the entire contribution in their case being recoverable from the employers.

The Act grants to all insured workers five types of benefits : sickness benefit, maternity benefit, disablement benefit, dependants' benefit and medical benefit. Sickness benefit is payable for not more than 56 days in any continuous period of 365 days, at a rate equal to about half the average daily wage, provided weekly contributions have been paid in respect of the beneficiary for not less than two thirds the number of weeks during which he was available for employment within the preceding twenty-six weeks or six months, and subject to a minimum of twelve contributions. Closely connected with sickness benefit is medical benefit, which is to be given mainly in the form of out-patient treatment or treatment as in-patient in a hospital, according to a certain prescribed standard. Medical benefit can be claimed not only during the period for which sickness benefit or maternity benefit may be claimed, but during any week for which contributions are payable, and therefore starts even before a person becomes entitled to sickness benefit. Maternity benefit is payable to insured workers satisfying the prescribed condition, at the fixed rate of 12 annas a day for a total period of twelve weeks of which not more than six may precede confinement. Disablement and dependants' benefits at the weekly rates prescribed in the Act are payable in lieu of the compensation or damages to which the worker is at present entitled under the Workmen's Compensation Act. The periodical payments prescribed under the Employees' State Insurance Act are

considered to be a far more suitable method of protection than the lump-sum payments under the Workmen's Compensation Act, as lump-sums are apt to be squandered without regard to future requirements.

Finally, the Act requires provincial Governments to constitute Employees' Insurance Courts to decide disputes and adjudicate on claims. An appeal lies to the High Court from an order of the Employees' Insurance Court if it involves a substantial question of law.

In pursuance of this new measure, the Government of India has already appointed a Director-General of Employees' State Insurance and set up the Employees' State Insurance Corporation. On 6 October 1948, when the Corporation was inaugurated, the Labour Minister rightly claimed that it " was the cornerstone of a great edifice which a free country seeking its economic salvation must build ".[1]

Proposed Schemes

Side by side with the enactment of the Employees' State Insurance Act, steps have also been taken during the past three years to examine the practicability and to work out the details of a corresponding scheme of social insurance for Indian seamen. A joint report on the subject by Professor Adarkar of the Government of India and an official of the International Labour Office, published early in 1947, is now under consideration by the Government of India.[2] It outlines a scheme of social insurance for seamen, with the following main features : (1) unified sickness, employment injury and old-age and survivors' insurance for seafarers, plus insurance for " waiting pay " on condition that adequate measures are taken to organise recruitment and employment in sea service ; (2) continuation of shipowners' liability to provide medical care, maintenance and wages until the seafarer returns to his port of recruitment, if he falls ill during the voyage ; (3) provision of medical care while the seafarer stays in port, and also in his village if and when medical facilities become available, during a free insurance period following discharge, such care

[1] GOVERNMENT OF INDIA, PRESS INFORMATION BUREAU : communiqué of 6 October 1948.

[2] Cf. *International Labour Review*, Vol. LVI, No. 4, October 1947, pp. 436-441.

to be provided at seafarers' clinics and provincial hospitals; (4) provision of cash benefits in case of sickness and injury, mainly in the form of maintenance in approved hostels and of some payment to the seafarer's family; (5) provision of old-age benefit commencing at an age at which seafarers normally become incapable of efficient service, and consisting of a pension after long-service record or, in the absence of long-service record, of a refund of contributions on the attainment of pensionable age or at death, such benefit to be in every case proportionate to the length of service; and (6) financing of seafarers' insurance by contributions of shipowners and employees, the State to bear the cost of administration and any deficit of seafarers' insurance in general and to provide hostels.[1]

Another important step which has been taken recently in the field of social security is the proposal to institute a compulsory provident fund for colliery workers with a view to providing for the miner in his old age. Reference has already been made elsewhere in this article to the constitution by the Government of India of a tripartite Industrial Committee on Coal Mining.[2] This Committee, at its meeting in January 1948, considered a proposal for the establishment of a central compulsory provident fund for coal miners, to implement one of the recommendations of the board of conciliation which the Government had appointed early in March 1947 in connection with trade disputes in the Bengal and Bihar coalfields. Following these discussions, the Government of India promulgated on 23 April 1948 the Coal Mines Provident Fund and Bonus Schemes Ordinance (VII of 1948) empowering the central Government to frame a Provident Fund Scheme and a Bonus Scheme for persons employed in coal mines in India.[3] This Ordinance has now been replaced by an Act bearing a similar title (XLVI of 1948)[4], which received the assent of the Governor-General of India on 3 September 1948.

By notification in the official gazette, the Government may frame a Coal Mines Provident Fund Scheme and specify, *inter alia*, the coal mines to which the Scheme shall apply,

[1] *Indian Labour Gazette*, May 1947, pp. 506-509.
[2] See Part I of this article, p. 420.
[3] *Gazette of India*, Extraordinary, 23 April 1948, pp. 623-626.
[4] *Idem*, 3 September 1948, Part IV, pp. 207-211.

the employees or class of employees who shall join the Fund and the conditions under which they may be exempted, and the rate, time and manner of payment of contributions by employers and workers. It may further provide for the levy of a charge, payable by the employer, to meet the cost of administering the Scheme. A Board of Trustees may be formed consisting of nominees of the central Government and representatives of employers' and employees' organisations, to manage the Provident Fund, subject always to the condition that the number of representatives of employees on the Board shall not be less than the number of the representatives of employers.

The Government has recently framed a scheme which applies to all colliery workers in Bihar, the Central Provinces and Berar, Orissa and West Bengal who earn 300 rupees or less per month. The workers contribute, monthly or weekly, approximately one anna per rupee of their basic wage, and the employers contribute an equal amount.[1] Once such a scheme is operating successfully in the collieries, it is considered not unlikely that it will be rapidly extended to other important classes of wage earners. Thus the Coal Mines Provident Fund and Bonus Schemes Act, 1948, may well prove to be an important landmark in the evolution in India of a system of statutory provision for the wage earner during his old age.

Wartime Labour Legislation

It is necessary before concluding this review of recent labour legislation in India to refer to two important events which have naturally affected considerably the course of labour legislation in India: the second World War; and the transfer of power by the United Kingdom on 15 August 1947 to the two independent Dominions of India and Pakistan.

Following the outbreak of the war, and more particularly of hostilities in the Pacific in December 1941, India rapidly emerged as the main supply base of the Allies in the Far East, and numerous emergency measures had to be taken with the object of utilising the country's vast resources, human and

[1] *Gazette of India*, Extraordinary, 11 December 1948.

material, to the maximum advantage for the prosecution of the war. The more important of these measures in the field of labour legislation were :

(1) the promulgation on 29 June 1940 of the National Service (Technical Personnel) Ordinance (II of 1940) in order to control the employment and distribution of technical personnel including managerial staff, supervisory staff and skilled and semi-skilled employees, classified under 64 heads [1];

(2) the Essential Services (Maintenance) Ordinance (XI of 1941) promulgated on 20 December 1941 to make provision for the maintenance of certain essential services during the wartime emergency [2];

(3) the relaxation, for the duration of the wartime emergency, of the ban imposed in 1937 on the employment of women in underground work in coal mines ;

(4) the relaxation, again temporarily for the duration of the war, in factories and railways, of the maximum limit on hours of work set by the provisions of the Factories Act and the Hours of Employment Regulations ;

(5) the enactment in 1943 of the War Injuries (Compensation Insurance) Act (XXIII) with the object of imposing on industrial employers an obligation to pay compensation in respect of war injuries to workers in their employ, and the introduction in 1942 of a War Injuries Scheme providing for the grant of relief to gainfully occupied persons over the age of fifteen who sustained war injuries and to civil defence volunteers injured in the discharge of their duties as volunteers (or in cases of fatal injuries, their dependants) ; and

(6) the framing of a new regulation under the Defence of India Rules (Rule 81A) empowering the Government to prohibit strikes or lockouts, to refer any dispute for conciliation

[1] Cf. *L.S.*, 1942 — Ind. 1. The 1940 Ordinance was amended with regard to details by a number of amending ordinances issued during the years 1940-1944. For a summary of the provisions of this Ordinance as well of other wartime labour legislation, see Bulletins of Indian Industries and Labour, No. 74 : *Labour Legislation in India since 1937* (Delhi, Manager of Publications, 1945), pp. 12-15, and INTERNATIONAL LABOUR OFFICE, Studies and Reports, New Series, No. 2 : *Wartime Labour Conditions and Reconstruction Planning in India* (Montreal, 1946), Chapters IV, V and VI.

[2] Cf. *L.S.*, 1942 — Ind. 2. This Ordinance, too, was amended several times during the war years.

or adjudication, to require employers to observe such terms and conditions of employment as might be specified and to enforce the decisions of adjudicators.

All these wartime statutes and notifications, with the exception of the last, have today either been withdrawn or have ceased to have any practical effect. The main provisions of the Defence of India Rule 81A, however, have been incorporated in the Industrial Disputes Act, 1947, and form today part of India's permanent labour code.[1]

There is one sphere, however, in which the war may be said to have left a permanent mark on the evolution of labour policy in India—that of joint consultation between Governments, employers and workers in matters of common interest. The Tripartite Labour Organisation set up in 1942 to promote uniformity in labour legislation, to formulate a procedure for the settlement of industrial disputes and to serve as a platform for the discussion of all matters of all-India importance as between employers and employees, has taken firm root. Indeed, its work has proved to be such a stimulating example of what can be achieved by regular consultations of this kind that the principle of tripartite collaboration has been steadily extended to individual industries, and tripartite industrial committees have recently been set up for the cotton textile, plantation, coal mining and cement industries.

The Effects of Independence

The complete transfer of power in India on 15 August 1947 to independent Governments responsible to the Indian electorate, and in no way subject to the control of the British Government or Parliament, and the partition of India into the two new Dominions of India and Pakistan have naturally also had an effect in the field of labour legislation.

Pakistan [2] today is an independent Dominion with its own Executive and Legislature, and the laws made by the Indian

[1] See above, p. 514.

[2] The Dominion of Pakistan comprises the provinces of East Bengal (which includes the Sylhet district of pre-partition Assam), West Punjab, Sind, the North-West Frontier Province and Baluchistan, and the Indian States contiguous to these provinces, such as Bhawalpur and Kalat.

Legislature subsequent to 15 August 1947, such as the Trade Unions (Amendment) Act, 1947, the Minimum Wages Act, 1948, the Employees' State Insurance Act, 1948, the Factories Act, 1948, the Coal Mines Provident Fund and Bonus Schemes Act, 1948, and the Dockworkers (Regulation of Employment) Act, 1948, therefore do not apply there. But all the central and provincial enactments which were in force in India prior to 15 August 1947 (including those relating to labour), continue to be in force in Pakistan by virtue of the provisions of the Pakistan (Adaptation of Existing Laws) Order, 1947, promulgated on 14 August 1947.

A second important development in India since August 1947, particularly significant from the point of view of labour legislation, has been the rapid integration with the Dominion of India of almost all the smaller Indian States, and the resultant automatic extension of the scope of the labour laws enacted by the Indian Legislature to areas hitherto outside the scope of such all-India legislation. Thus, between August 1947 and June 1948, 219 Indian States, with a total area of 84,774 square miles and a combined population of over 12 million, were merged with the adjoining Indian provinces, and another 22 States, with an area of 19,061 square miles and a population of 1.4 million, were consolidated into units directly administered by the Government of India.

In other cases, States adjacent to each other have been integrated to create new viable units covering a larger territory and thus facilitating better administration. By June 1948, 294 States including the well-known States of Gwalior and Indore, covering a total area of 150,400 square miles and having a combined population of over 23.1 million, had thus been consolidated into six unions, each with a common legislature and executive. A significant provision in the covenants setting up the Madhya-Bharat Union and the Patiala and East Punjab States Union gives the Indian Dominion Legislature power to make for these unions laws in respect of all matters listed in the concurrent list of the Government of India Act of 1935 [1]; and it can be reasonably assumed that in all the Unions, the labour laws enacted by the Government of India will soon have the same force as in the provinces.

[1] GOVERNMENT OF INDIA: *White Paper on Indian States*, July 1948.

One class of Indian States, however, still remains outside the direct jurisdiction of the Indian Legislature in respect of labour legislation, namely, the larger States, such as Mysore, Travancore and Baroda, which have directly acceded to India and have been allowed to continue as separate entities. The exact nature of the constitutional relationship between these States and the Indian Dominion has yet to be determined by the Constituent Assembly of India, but here again it may reasonably be assumed that in respect of labour legislation the position in these States also will by degrees correspond to that in the provinces. For the first time, therefore, the prospects of a uniform labour code applying throughout the territory of the Dominion of India—States as well as provinces —are very bright.

Conclusion

The main achievements of the period 1937-1948 in the field of labour legislation may now be conveniently summed up. These are, briefly, the Minimum Wages Act of 1948, which provides for the statutory fixation and periodical revision of minimum rates of wages in a number of employments ; the introduction for factory workers of a forty-eight-hour week and annual holidays with pay, and a thorough overhaul of the Factories Act with a view to strengthening its provisions relating to young persons, health, safety and welfare measures in factories ; a steady extension of social security measures in the shape of *(a)* maternity benefits for women workers in factories, plantations and mines, *(b)* an integrated scheme of compulsory insurance against the risks of sickness, maternity and employment injury, applicable in the first instance to workers in India's perennial factories and *(c)* a compulsory provident fund for coal miners ; a new emphasis on adequate welfare measures as exemplified by the Coal Mines and Mica Mines Labour Welfare Fund Acts and the new and comprehensive provisions relating to welfare measures in factories included in the Factories Act of 1948 ; the enactment of a series of Shops Acts regulating conditions of work in shops, commercial establishments, restaurants and theatres in the more important urban areas ; the building up of a full-

time and permanent machinery composed of labour officers, conciliation officers, conciliation boards and industrial tribunals for the prevention and peaceful settlement of industrial disputes, particularly in public utility enterprises; the promotion of sound industrial relations by imposing on the employers a legal obligation to frame standing orders applicable uniformly to all workers in their establishments, to recognise and deal with representative trade unions and to form works committees; and the beginnings of a scheme of registration of dock workers in India, with a view to securing for this important class of wage earners, whose greatest disability hitherto has been extremely irregular employment, longer periods of continuous and regular employment.

Of even greater importance than these impressive additions to India's labour code is the evolution of a regular tripartite machinery for frequent consultations between Government, employers and workers on matters of all-India importance, and the establishment of tripartite industrial committees for the country's major industries—coal, plantations, cotton textiles, cement, and tanning and leather goods.

The advent of independence and the establishment of a popular responsible Government have naturally been accompanied by an increasingly sympathetic approach by Government to the problem of labour, an acuter realisation by the Government of its responsibility for promoting measures designed to ensure social justice and rising living standards for workers, and a new insistence on the recognition of labour, not as a junior partner in industry entitled merely to a "living wage", but as an equal partner with capital in the field of production entitled to an equitable share in the out-turn of industry. No better evidence of this new spirit which pervades governmental labour policies in India today can be cited than the following "Directives of Social Policy" which the Constituent Assembly has decided to incorporate in the Constitution it is now framing for India:

30. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice—social, economic and political—shall inform all the institutions of the national life.

31. The State shall, in particular, direct its policy towards securing—

(i) that the citizens, men and women equally, have the right to an adequate means of livelihood ;

(ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good ;

(iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment ;

(iv) that there is equal pay for equal work for both men and women ;

(v) that the strength and health of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength ;

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment.

32. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, and other cases of undeserved want.

33. The State shall make provision for securing just and humane conditions of work and for maternity relief.[1]

It thus seems justifiable to expect, during the next few years, a steady extension of statutory protection to new classes of wage earners, such as handicraft workers and agricultural labourers, a progressive widening of the scope of social security measures to cover all the more important categories of the gainfully employed population, and a systematic raising of standards of labour protection, bringing them into closer conformity with the provisions of the International Labour Code.

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[1] " The Draft Constitution ", in *Gazette of India*, Extraordinary, 26 February 1948, pp. 149-150.