HOUSE OF THE PEOPLE

THE LABOUR RELATIONS BILL, 1949

(REPORT OF THE SELECT COMMITTEE)

PARLIAMENT SECRETARIAT
NEW DELHI.

Dec, 1950

List of Reports of Select Committees presented to Parliament in 1950.

S.No.	Short title of the Bill.	Date of presentation.	Date of publication.
1.	The Industrial Disputes (Appellate Tribunal)Bill,1949.	10.2.50	25.2.50
2.	The Mines Bill, 1949.	10.2.50	25.2.50
3.	The Industries(Development and Control)Bill, 1949.	10.2.50	25.2.50
4.	The Banking Companies (Amendment)Bill,1949.	16.2.50	25.2.50
5.	The Army Bill, 1949.	21.3.50	1.4.50
6.	The Air Force Bill,1949.	21.3.50	1.4.50
7.	The Insurance(Amendment) Bill, 1949.	24.3.50	1.4.50
8.	The Finance Bill, 1950.	27.3.50	1.4.50
9.	The Road Transport Corporations Bill, 1949.	15.11.50	18.11.50
10.	The Labour Relations Bill, 1950.	1.12.50	16.12.50
11.	The Trade Unions Bill,1950.	1.12.50	16.12.50
12.	The Reserve Bank of India (Amendment) Bill, 1950.	13.12.50	23.12.50

THE LABOUR RELATIONS BILL, 1950.

REPORT OF THE SELECT COMMITTEE.

We the undersigned members of the Select Committee to which the Bill to provide for the regulation of the relationship between employers and employees, for the prevention, investigation and settlement of labour disputes and for certain matters incidental thereto, was referred, have considered the Bill, and have now the honour to submit this our report, with the Bill as amended by us annexed thereto.

Upon the changes proposed by us, which are not formal or consequential, we note as follows:—

Clause 1.—We consider that there may be practical difficulties in some States in applying this Act at once to all the industries or classes of establishments. Provision has accordingly been made to enable the Government to bring this Act into force in any State by stages. We are, however, of opinion that the Act should be brought into force in all the States within one year of its commencement.

Clause 2

Clause 2(2).—We think that the Central Government should be the appropriate Government in relation to any establishment in which more than 50 per cent. of the total capital is provided by the Central Government. This provision has been made in part (x), and other changes are merely drafting changes.

Clause 2(3).—This is merely a drafting change.

Clause 2(8).—The concept of civil servant is a little complicated, and the definition has been redrafted to make the meaning more clear. We, however, think that when the appropriate Government, by notification, amends the definition of "civil servant", such notification should be placed before Parliament or the Legislature of the State, as the case may be. A proviso to this effect has been added to this clause.

Clause 2(9).—We consider that collective agreement should cover not only the terms and conditions of employment but also those of non-employment. Provision has accordingly been made.

Clause 2(14).—Under the existing definition, civil servants are excluded from the category of employees. We are of opinion that persons who are employed primarily in a managerial or other administrative capacity drawing a pay of Rs. 350/- or more as also apprentices should be excluded from the definition of "employee".

It is common experience that sometimes employees of firms or companies are employed as domestic servants. There seems to be no justification for excluding such persons, though they are employed as domestic servants, from the category of employees.

The definition of "employee" has been redrafted to give effect to the above decisions.

Clause 2(15).—Under the existing definition, a contractor would have been the employer in relation to the persons employed by him. It often happens that such employees cannot enforce their rights against the contractors. Provision has accordingly been made that, under certain circumstances, the contractor's labourers can enforce their rights either against the contractor or against the ultimate employer who engages the contractor. This clause has been modified accordingly and other changes are formal changes.

Provision has also been made in clause 112 to indemnify an employer who has to make any payment which is really payable by the contractor.

Clause 2(19).—We are of opinion that the dismissal of an employee should not be taken out of the purview of a labour dispute. We, however, feel that a dispute should not arise until after the employee has actually been dismissed. The proviso to this clause has accordingly been omitted and the definition has been redrafted.

We have elsewhere in clause 84 provided that when such a dispute is referred to a Tribunal, the Tribunal shall only consider if the dismissal is for proper and sufficient cause and in accordance with the provisions of this Act.

Clause 2(20).—The definition of "lock-out" has been modified so as to include within its scope any lock-out which is declared to help another employer to put pressure on his employees.

Clause 2(22).—The definition has been slightly modified.

Clause 2(26).—The definition of "strike" has been modified so as to include within its scope any strike which is declared to help the employees of another establishment to put pressure on their employer.

Clause 2(28).—We consider that profit bonus or profit-sharing or any contribution paid by the employer for the benefit of the employees under any other law should not be included in the definition of wages. The definition has accordingly been modified.

Clause 2(30).—Certain Acts, namely, the Indian Penal Code, the Criminal Procedure Code, etc., referred to in this Act are not yet in force in Part B States. We have inserted this new clause to provide that references to such enactments not in force in Part B States shall be construed as references to the corresponding law in force in those States.

Clause 5.—We think that a Works Committee may be constituted either for the whole establishment or any part of such establishment. Provision has accordingly been made.

Clauses 7 and 8.—For holding conciliation proceedings, there are Conciliation Officers, Boards of Conciliation and Standing Conciliation Boards. In order to expedite conciliation proceedings, it is necessary to provide that the same dispute should not be taken up by all these authorities one after the other. We have accordingly provided that where a Conciliation Officer takes any steps, the dispute cannot be referred to a Board unless the parties to the dispute agree. Similarly, where Standing Boards are constituted, the disputes arising within their jurisdiction cannot be referred to a Board.

Clauses 10, 11 and 12.—For adjudication of disputes, the authorities are Labour Courts, Labour Tribunals and the Appellate Tribunal. We think that these authorities should be manned as far as practicable by judicial officers. In the case of Tribunals, we have provided that executive officers should not be appointed to the Tribunal. In the case of Labour Courts, however, we have provided that an executive officer may be appointed if only he has special experience in labour matters.

We are of opinion that a person who has been the presiding officer of a Labour Court for not less than three years should be eligible for appointment as a member of a Tribunal.

We further hold that when disputes affecting banking or insurance companies, which are credit institutions, come up to a Tribunal or the Appellate Tribunal, one person having special knowledge and experience in banking or insurance should be appointed as a member of the Tribunal or the Appellate Tribunal hearing the dispute or appeal.

We consider that in order to ensure the independence of Labour Courts, Tribunals and the Appellate Tribunal, appointments to these authorities, except in the case of High Court Judges and retired High Court Judges, should not be made without the approval of the High Court or the Supreme Court. In order further to ensure the independence of the members of the Appellate Tribunal, we have provided that they should ordinarily hold office for a fixed term of five years and that the salary of a member should not be varied to his disadvantage after his appointment.

These clauses have been modified accordingly.

Clause 15.—In this clause we have inserted a few words to make it clear that in order that the provisions relating to standing orders may be applicable to an establishment, the persons employed therein should be employed in connection with the normal work of the establishment.

Clause 16.—We think that when standing orders are already in force in any establishment, the employer should not be compelled to submit fresh standing orders but may apply to have the standing orders modified to bring them in conformity with this Act. We have made this provision by adding a new sub-clause (5).

Clause 18.—We consider that a time limit of two months should be fixed for disposing of any case before the registering officer. The clause has been modified accordingly.

Clause 19.—We are of opinion that an appeal from a registering officer should lie not to the Chief Conciliation Officer but to a Tribunal. The clause has been modified accordingly.

Clause 20.—We have added a new sub-clause (*2*) to provide that where standing orders are already in force in any establishment such standing orders should continue to be in force till they are modified or substituted by fresh standing orders.

Clause 21.—We have inserted this new clause to make special provision relating to model standing orders.

Clause 23 (*original clause 22*).—We consider that standing orders should be posted either in English or Hindi. The clause has been modified accordingly.

Clause 27 (*original clause 26*).—When a labour dispute arises, an employer or employee has the option to serve notice on the other party. We are of opinion that in respect of certain important matters, it should be obligatory on the part of an employer to serve such notice. We have specified such matters by inserting a new Schedule—the Third Schedule—and have added a proviso to sub-clause (*1*).

Clauses 28 and 29 (*original clauses 27 and 28*).—We think that there is no justification for making any distinction between disputes which arise in public utility services and other disputes. We have done away with this distinction.

Clauses 30 and 32 (original clauses 29 and 31).—We think that a time limit should be fixed within which the Conciliation Officer has to submit his report. These clauses have been modified accordingly.

Clauses 34 to 36 (original clauses 32 to 35).—Under the existing clauses, only one bargaining agent could be appointed in respect of any establishment or class of establishments. Such bargaining agent would have authority to bargain collectively on behalf of all the employees employed in that establishment or class of establishments. We have carefully considered this question. We are of opinion that in any undertaking there may be special or distinctive classes of employees whose problems are different from those of the general body of employees. We also think that each undertaking has problems of its own which cannot be properly handled by a bargaining agent for the whole industry. We have accordingly provided for three categories of bargaining agents. A general bargaining agent for the whole industry would deal with general problems affecting the whole industry. A special bargaining agent would deal with matters which are of exclusive concern to the particular class of employees it represents. A local bargaining agent would deal with problems peculiar to a particular undertaking.

We are conscious that some conflicts are likely to arise among these various categories of bargaining agents in respect of their jurisdiction. We have accordingly empowered Labour Courts to resolve such jurisdictional conflicts.

We have also provided for the respective rights of these various categories of bargaining agents when they are appointed.

Clauses 39, 44 and 46 (original clauses 38, 43 and 45).—The changes made in these clauses are similar to those made in the corresponding clauses under Chapter IV.

Clause 47 (original clause 46).—We have substituted the words "is of opinion" for the words "is satisfied". We have omitted the first proviso to sub-clause (*1*) and inserted a new proviso. These are merely consequential amendments.

Clause 52 (original clause 51).—We are of opinion that the appropriate Government should not be vested with powers to withdraw any case after it has been referred to a Board, Commission or Tribunal. The clause has been modified accordingly.

Clause 61 (original clause 60).—It is always difficult to specify precisely when a labour dispute actually arises. To remove difficulties that may arise, we have provided that a dispute for the purposes of this clause shall be deemed to have arisen when notice of such dispute is served under section 27 or section 39.

Clause 62 (original clause 61).—We have added a new sub-clause (*6*) to provide that an order of a Labour Court should be published within fifteen days of its pronouncement.

Clause 64 (original clause 63).—We are of opinion that Tribunals should not submit their awards to the appropriate Government. Awards should be pronounced in open court, like all judicial pronouncements. Necessary amendments have been made.

Clause 65 (original clause 64).—We have redrafted this clause. The purpose of publication of an award should be only to give information to the parties concerned.

Clause 66 (original clauses 65 and 66).—We are of opinion that the appropriate Government should not have the right to interfere with the awards pronounced by Tribunals. We have accordingly omitted the original clause 65 and also the proviso to sub-clause (*1*) of clause 66 and sub-clause (*2*) thereof. We,

wever, feel that when the appropriate Government is a party to the dispute and there are practical difficulties in giving effect to the award, it may place the award before the Legislature whose decision thereon shall be final.

Original clause 67.—This clause has been omitted.

Clause 67 (original clause 68).—Under the existing clause, an appeal lies to a Tribunal from an order of a Labour Court only on a question of law. We, however, think that in relation to orders passed by a Labour Court under Chapter V, an appeal should lie both on questions of fact as also of law. We have inserted a proviso to give effect to this decision.

Clause 68 (original clause 69).—We are of opinion that a Tribunal should be empowered to stay the order of a Labour Court when it is satisfied that the appeal would be infructuous unless the stay order is made. The clause has been modified accordingly.

Clause 69 (original clause 70).—We are of opinion that before dismissing an appeal summarily, the Tribunal should give an opportunity to the appellant of being heard. The clause has been modified accordingly.

Clause 72 (original clause 73).—In accordance with the modification of the definition of "wages", this clause has also been modified. We have also provided that an appeal would lie to the Appellate Tribunal in respect of any matter relating to retrenchment which arises out of any scheme of rationalisation, standardisation or improvement of plant or technique.

Clause 74 (original clause 75).—We have added two provisos to sub-clause (*2*) to provide that where an appeal involves any dispute affecting any banking or insurance company, the bench should include a person having special knowledge and experience in banking or insurance. In order to expedite the disposal of stay applications, we have further provided that such applications may be heard by one member only.

Clauses 77, 78 and 79 (original clauses 78, 79 and 80).—The changes made in these clauses are on the same lines as those made in clauses 68, 69 and 70.

Clauses 82 to 91.—We have inserted a new Chapter X relating to dismissal and retrenchment of employees. We have laid down the procedure for dismissal and the powers of Tribunals dealing with disputes arising out of dismissal of an employee. We have also laid down the procedure to be followed by an employer when he retrenches his employees as a result of the introduction of any scheme of rationalisation, standardisation or improvement of plant or technique. We have also laid down the conditions which must be fulfilled before an employee can be retrenched, and have also laid down the procedure for retrenching employees and re-employing retrenched employees.

Clause 93 (original clause 84).—We are of opinion that proceedings before the various authorities under this Act should be disposed of as quickly as possible. It is not necessary that they should follow the elaborate procedure of the ordinary civil courts. They may follow a simpler procedure which may be laid down either by rules or by the Appellate Tribunal. The clause has been modified accordingly.

Clauses 94 and 95 (original clauses 85 and 86).—A collective agreement or award should not remain in operation for any period exceeding three years. These clauses have been modified accordingly.

Clause 98 (original clause 89).—We are of opinion that a legal practitioner should not be allowed to appear in any proceeding under this Act unless both parties agree and permission is given by the authority before whom the proceeding is pending. This, however, should not debar an officer of any employer, trade union or association of employers who is a legal practitioner from representing a party. We also think that it should be clearly laid down that an employee

or employer may personally represent his case before any of the authorities under this Act. We have modified the clause accordingly.

Clause 100 (original clause 91).—We are of opinion that when an employer wants to alter the conditions of service of his employees in respect of any matter specified in the Third Schedule, he should not only give notice to the employees but should not make any change until 30 days have elapsed from the date of such notice. We have inserted a new sub-clause to provide for this matter.

The existing clause prohibits an employer from altering the conditions of service of any employee during the pendency of any proceeding under this Act except with the express permission of the authority concerned. This may occasionally cause hardship. We have, therefore, provided that an employer may suspend an employee for misconduct not connected with the dispute if the employee is paid full wages during the pendency of such proceeding. Other changes are consequential.

Clause 105 (original clause 96).—Under the existing clause, strikes or lock-outs were prohibited for any reason whatsoever during the pendency of any proceeding under this Act or during the period in which any settlement, agreement or order or award is in operation. We are of opinion that strikes or lock-outs should be prohibited only in respect of disputes which are either pending before any authority or are covered by any settlement, etc.

We are also of opinion that the right to strike or declare a lock-out should not be denied if a proceeding before a Tribunal or the Appellate Tribunal continues for a very long period. We have accordingly provided that there should be no right to strike or declare a lock-out during a period of eight months from the date on which the proceeding before the Tribunal commenced or during the pendency of any proceeding before any Tribunal or the Appellate Tribunal, whichever is shorter.

We have omitted the proviso to sub-clause (*1*) and amended sub-clause (*1*) accordingly.

Clause 107 (original clause 98).—The existing clause prohibited all sympathetic or general strikes. We are of opinion that sympathetic or general strikes within the same industry, trade or class of establishments should be allowed. Parts (*d*) and (*e*) of sub-clause (*1*) have accordingly been modified.

Original clause 99.—We think that this clause should be omitted.

Clause 108 (original clause 100).—We think that the wages payable to an employee for the period of an illegal lock-out should be reduced from twice the average pay to 1½ times the average pay.

We are of opinion that when an illegal strike or lock-out is called off within 48 hours of its commencement, the employees or employer, as the case may be, should not be made to bear all the consequences of such illegal strike or lock-out. In such a case, the employee should only lose his wages for the period of the strike and the employer should pay wages and other contributions to the employees as if they had been on duty during the period of the lock-out. The employee or employer should not be made liable for any other penalty of illegal strike or lock-out under this Act. In order that the parties may not frequently resort to such strikes or lock-outs, we have further provided that any illegal strike or lock-out, though called off within 48 hours of its commencement, shall not cease to be illegal for any purpose whatsoever if it is declared or commenced within six months from the date of another illegal strike or lock-out. We have made this provision by adding a new sub-clause (*3*).

New clause 112.—We have added this new clause to indemnify employers against contractors or agents.

Clause 114 (*original clause 105*).—We have added a new sub-clause (*2*) to provide that where a trade union loses its registration or recognition or its certification as a bargaining agent for failure to comply with the terms of any settlement, etc., all the rights which such a trade union loses should be restored to the trade union if the trade union can satisfy the competent authority that it has fulfilled all the terms and conditions which it failed to comply with.

New clause 128.—We have inserted this new clause to provide for penalty for retrenching employees in contravention of the provisions of this Act.

Clause 130 (*original clause 120*).—We think that when a company commits an offence, to hold every director, manager, secretary or officer responsible for such offence may cause hardship. We have substituted a new clause for the existing clause.

Original clauses 121 and 122.—We have omitted these clauses.

Clause 132 (*original clause 124*).—We consider that any person aggrieved by any contravention made under this Act should be entitled to institute a case directly in the courts without the intervention of the appropriate Government. This clause has been modified accordingly.

Clause 138 (*original clause 130*).—Changes made are consequential.

Clause 140 (*original clause 132*).—We have amended this clause to make it clear that the laws in force in any State should be repealed only to the extent to which this Act is brought into force in that State.

The Second Schedule.—The changes made are more or less consequential. We think that "Retrenchment of employees" should be inserted in this Schedule.

The Third Schedule.—We have inserted this new Schedule with reference to the provisos to sections 27 and 39.

2. The Bill was published in Part V of the Gazette of India dated the 25th February, 1950.

3. We think that the Bill has not been so altered as to require circulation under Rule 77(4) of the Rules of Porcedure and Conduct of Business in Parliament and we recommend that it be passed as now amended.

M. ANANTHASAYANAM AYYANGAR
JAGJIVAN RAM
B. R. AMBEDKAR
*SARANGDHAR DAS
*KHANDUBHAI K. DESAI
*HARIHAR NATH SHASTRI
*M. R. MASANI
*SUCHETA KRIPALANI
*SADIQ ALI
*R. VELAYUDHAN
SITA RAM S. JAJOO
SATYENDRA NARAYANA SINHA
*PRABHU DAYAL HIMATSINGKA
*T. A. RAMALINGAM CHETTIAR
*V. C. KESAVA RAO
**GOKULBHAI DAULATRAM BHATT
P. S. DESHMUKH
**B. L. SONDHI
**H. V. KAMATH

NEW DELHI;
The 1st December, 1950.

*Subject to a minute of dissent.
**Subject to minutes of dissent,

MINUTES OF DISSENT

I

I am in disagreement with the point of view of the majority of the members of the Committee on a number of important and fundamental questions. I shall indicate in this note only the more important points of disagreement.

I am opposed to the principle of compulsory adjudication as it will severely restrict the fundamental right of the workers to strike, universally recognised as such in all democratic countries of the world. Compulsory adjudication hampers collective bargaining and weakens the trade union movement.

What the legislation should really provide is an impartial, efficient and a simple arbitration machinery which can inspire confidence in the minds of both the parties—the employees as well as the employers—so that they may voluntarily agree to refer their disputes to it for arbitration. The machinery as provided in the Bill is very complicated and would involve protracted proceedings before the Conciliation Officer, the Tribunal or the Appellate Tribunal as the case may be and delay the quick settlement of industrial disputes.

The percentage of membership fixed for certification of trade unions as bargaining agents is too high in the present state of the trade union movement. It is likely that in some undertakings comprising the unit for collective bargaining under the Bill the certified bargaining agent may have little or no membership. It would have been more appropriate to use the democratic method of secret ballot and permit all the workers in the unit, or the undertaking, as the case may be, to elect the bargaining agent.

A large number of workers have been excluded from the operation of the Bill. The definition of "civil servants" is quite involved and complicated. It would have been desirable to permit civil servants drawing a salary of less than Rs. 350/- to be covered by the Bill. There is no justification for excluding domestic servants.

SARANGDHAR DAS.

NEW DELHI;
The 1st December, 1950.

II

We are in general agreement with the Bill, as reported by the Select Committee. In its present revised form, the Bill registers a distinct improvement on the original Bill which was open to some serious objections from labour viewpoint. Our support to the Bill, however, is subject to the observations made in this note.

In the definition chapter, our opposition was mainly directed against, clause 8, relating to civil servants. Civil servants are destined to play an important part in the stability of the State and efficient administration of the country and they are entitled to adequate protection in regard to their service conditions. In the Select Committee, we had expressed the view that there was no justification why any discrimination should be made to their detriment and why they should be denied a legitimate channel for the redress of their grievances. An assurance was given to the Committee on behalf of the Government, that while for practical reasons civil employees were kept out of the purview of this Bill, the Home Ministry were contemplating to bring at an early date a separate Bill to provide suitable machinery for dealing with the grievances of civil servants. In view of that assurance we waived our original objection in regard to putting civil servants on a separate footing from other classes of workers.

Our other objection in regard to clause 8 referred to above, was that certain classes of workers, who to all practical purposes were considered as industrial workers, were included in the category of civil servants. In such a list came the postal employees including telegraphists and telephone operators. The reason advanced on behalf of the Government for inclusion of these employees in the category of civil servants was, that they were fully governed by civil service rules and enjoyed all the privileges to which civil servants of the Government were entitled. We drew their attention to the fact that there was a large number of employees in postal section who were not governed by civil service rules. It was conceded by the Government that such employees would come under the purview of the Labour Relations Bill.

Another set of employees who were put in the category of civil servants were those employed in the offices of Railway Board or General Managers and in those of Director-General of Ordnance Factories. We saw no justification for excluding them from the purview of this legislation by bringing them under the definition of civil servants. Unlike postal employees, a large section of these employees were not governed by civil service rules and so there was no reason why in the absence of any protection as afforded to civil servants, they should be kept out of the purview of this Bill. While we pressed this point in the Select Committee, the weight of the argument was appreciated and it was unanimously resolved that a recommendation should be made to the Government to extend all the rules and privileges enjoyed by civil servants, to these categories of employees. Our concurrence on this point is clearly on this clear understanding, that by the time this Bill is finally considered by the Parliament, the Government will announce their decision to place these workers on the level of civil servants in regard to service conditions. In absence of any such undertaking, we reserve our right to re-insist that these workers should be excluded from the category of civil servants as defined in this Bill.

In clause 11, a new provision has been added by the Select Committee to the effect that where a dispute relating to Banking or Insurance concerns is referred to a Tribunal, a person having special knowledge of or experience in banking or insurance, shall be appointed a member of the Tribunal. Similar provision is made in clause 74 dealing with Appellate Tribunals. We fail to agree with this principle. Every industry in the country has its special importance as significant as that of banking or insurance and a distinction like this, is, in our opinion uncalled for. Our opposition is based on another ground also. In our view, machinery of adjudication can inspire respect and confidence only, if it is manned by persons who work with a judicial mind and whose integrity may not be open to question because of their particular associations. Instead of making any such provision in the Bill, the best course would be, to include in tribunals, a judge who has had knowledge of or experience in dealing with commercial cases, in his judicial career.

While we are in general agreement with the clauses relating to dismissal and retrenchment, as embodied in Chapter X of the Bill, which register a remarkable improvement on the original Bill, we regret to record our strong dissent from a discriminating provision in clause 84, putting bank employees on a separate footing from workers in other industries, in cases of victimization. We fail to appreciate why such an invidious distinction should be made to the detriment of employees in the banking concerns.

In the same chapter, clause 83 lays down that no employee who has been in continuous employment under an employer for not less than six months shall be dismissed from service for any misconduct, without reasonable opportunity being given to him to show cause against the action proposed to be taken against him. As it is, this clause is liable to be used to the detriment of seasonal employees, whose period of continuous service may be less than six

months at a stretch. We suggested to the Select Committee that the term "continuous" should be so defined as to cover the period of off-season in case of seasonable employees. The Select Committee appreciated the weight of our argument. But our attention was drawn to clause 138 wherein it is laid down that the Central Government may by notification make rules to provide for certain matters including "meaning of continuous employment for the purposes of sections 83 and 88". An assurance was given to the Committee on behalf of the Government that our viewpoint would be fully borne in mind when rules would be framed by the Government.

KHANDUBHAI K. DESAI
HARIHAR NATH SHASTRI
H. V. KAMATH
R. VELAYUDHAN
SUCHETA KRIPALANI
SADIQ ALI
V. C. KESAVA RAO
GOKULBHAI DAULATRAM BHATT

NEW DELHI;
The 1st December, 1950.

III

I generally agree with the separate note of Shri Khandubhai Desai and others.

I am not in agreement with that part of the note relating to clauses 11 and 74 wherein suitable provision is made to include a person having special knowledge of Banking and Insurance as a member of the Tribunal.

GOKULBHAI DAULATRAM BHATT.

NEW DELHI;
The 1st December, 1950.

IV

Besides the points of disagreement indicated in the minute of dissent which I have signed jointly with some of my colleagues on the Select Committee, I have to briefly mention a few other somewhat fundamental issues on which I am constrained to differ from the majority.

2. While stating that a *via media* as regards "employee" and "civil servant" has been suggested in the joint minute of dissent, I must say that the definition of "employee" and the consequent exclusion of such categories of workers as the "civil servants", and of various public utilities from the benefits of this labour legislation entails a denial of the fundamental right of association or union, as provided for in the Constitution. The exclusion of, perhaps, a still larger number of more helpless workers *viz.*, domestic servants, from the purview of this measure is also objectionable.

3. The provisions in the Bill regarding Collective Bargaining, and the appointment of a certified bargaining agent, militate against the effective functioning of a real, working industrial democracy. These provisions will tend to make only such unions prevail, and such bargaining agents appointed, as

are acceptable to the employer, or favoured by the party in power, and thus deny real freedom to the majority of workers to choose their own bargaining agent.

4. The multiple machinery of conciliation, adjudication and appeal is likely to make the process of workers seeking effective redress of their grievances protracted and expensive. This may so operate as to exhaust the slender resources of even the best organized unions, and thus handicap employees in their disputes with employers.

5. Under the socio-economic system as it exists and functions today, the worker has, unfortunately, a dread of compulsory adjudication or arbitration. The provisions of this Bill in that behalf are, in effect tantamount to such a system of compulsion.

6. The provisions relating to restrictions on the right of strike—the workers' only weapon against continued injustice and exploitation—add to the objectionable features of this measure. The Chapter on Directives of State Policy in the Constitution has promised to provide work, and a living wage for every citizen able to work. No arrangement has, however, so far been made to make good this constitutional promise and provide work for everyone; and so long as gainful employment cannot be provided for every worker, denial of or drastic restriction on the right to strike would take away from the worker the only means in his power to obtain some measure of relief from injustice and exploitation.

7. The power to declare strikes illegal, and the wide scope given to "essential services", combine to create yet another handicap against the organised worker, and so prevent him from seeking and obtaining substantial redress of his grievances.

8. If the provisions of the Bill referred to above are suitably modified, this important measure can still assist in the vital task of promoting the solidarity of the working class, strengthening the labour movement, and progressively building up social peace and national unity.

H. V. KAMATH.

NEW DELHI;
The 1st December, 1950.

V

Clauses 115 to 120 dealing with the special provisions for exercising control by the appropriate Government with regard to certain undertakings should be deleted as they are really outside the scope of this Bill, which is primarily meant for the purpose of prevention, investigation and settlement of labour disputes. Government's power to take over an undertaking as a controlled undertaking should be prescribed, if at all, by a separate Act, such, for instance, as the Industries (Control) Bill. The opposition aroused by that Bill should however be a pointer to the fact that such measures are not feasible.

The Labour Relations Bill provides sufficient penalties against employers who do not comply with the terms of an award; penalties sufficient to make them comply with the award. Furthermore, there is no guarantee that when Government controls the undertaking it would be in a position to implement all the terms of the award made by the Tribunal. Government will be taking on a responsibility which they may not be able to fulfil. Indigenous as well

as foreign capital would be hesitant to invest in industrial undertakings if such provisions are allowed to stand, and it is likely that in the long run even the interests of Labour itself may be prejudiced.

T. A. RAMALINGAM CHETTIAR
B. L. SONDHI
M. R. MASANI

NEW DELHI;
The 1st December, 1950.

VI

I regret I do not agree with the majority with regard to some of the provisions. It should be borne in mind that undue extension of the provisions of the Labour Relations Bill to various calling professions and occupations other than connected with trade, business, manufacture and industry may lead to very undesirable consequences and a lot of administrative difficulties. But in any case if it is proposed that the Bill should cover the various classes of establishments, then establishments owned or managed by the Government or by private enterprise should be treated on equal basis. I, therefore, feel that the definition of "establishment" should be limited to any unit of employment in any trade, business, manufacture, industry, industrial service or other commercial activity employing not less than hundred persons unless the unit is a factory or mine covered by the Indian Factories Act or the Indian Mines Act.

Regarding works committee I do not think that works committees are necessary for any establishment other than industrial establishment, factory, etc. Therefore, if a second proviso is added to clause 5 to the effect that constitution of works committee under this clause will be optional in the case of commercial establishments, that might obviate the difficulty of works committee being formed in such establishments.

In clause 100 there should be no bar to "punishment by dismissal or otherwise of an employee for misconduct which is not connected with any dispute" that might be pending before any court or tribunal and, therefore, the first proviso to that section might be suitably amended to exclude from the necessity of permission being sought if the case is for misconduct not connected with the dispute.

Clauses 115 to 120 should be deleted and should not find place in this Bill. In legislation dealing with labour relations there is no place for a provision for Government to take action for securing the public safety or the maintenance of public order or for maintaining supplies. These are exceptional circumstances and can be only carried through in any emergency by emergency legislation such as an Ordinance etc. They cannot form part of the normal legislation of the country. If it is claimed that the whole purpose of clauses 115 to 120 is to enable Government to run undertakings which fail to comply with orders of Industrial Tribunals, the answer is that there are already in existence suitable safeguards in the Bill for enforcing awards against employers who fail to carry them out.

It should be noted that the present Bill provides for recovery of any money due from an employer under any settlement or collective agreement or order of a court or award as arrears of land revenue or as a public demand *vide* clause 111 and, therefore, these provisions are absolutely unnecessary and uncalled for. These extremely severe provisions now proposed will militate against the establishment of new industries and are likely to impede the growth and development of industries in the country and appear to be wholly unjustified.

Some special provision should have been made in the Bill in respect to banks and insurance companies. After all, in banks and insurance companies the assets belong mostly to others and unless we treat the banks and insurance companies as credit institutions and save them from unnecessary interference, it might act as a damper and also stand in the way of development of these institutions which will react very adversely on all financial matters.

B. L. SONDHI.

NEW DELHI;
The 1st December, 1950.

VII

I regret I do not agree with the majority with regard to some of the provisions. It should be borne in mind that undue extension of the provisions of the Labour Relations Bill to various calling professions and occupations other than connected with trade, business, manufacture and industry may lead to very undesirable consequences and a lot of administrative difficulties. But in any case if it is proposed that the Bill should cover the various clauses of establishments, then establishments owned or managed by the Government or by private enterprise should be treated on equal basis. I, therefore, feel that the definition of establishment should be limited to any unit of employment in any trade, business, manufacture, industry, industrial service or other commercial activity employing not less than hundred persons unless the unit is a factory or mine covered by the Indian Factories Act or the Indian Mines Act.

Clause 2(15) (d) also extends the scope of "employer" very wide and in case of contractor, the contractor should be held the "employer".

In clause 2(26) we should include "concerted slow-down or other concerted interruption of operations by employees". This is a method which is very frequently adopted and should be included in the term "strike".

Regarding works committee, I do not think that works committees are necessary for any establishment other than industrial establishment, factory, etc. Therefore, if a second proviso is added to clause 5 to the effect that constitution of works committees under this clause will be optional in the case of commercial establishments, that might obviate the difficulty of works committees being formed in such establishments.

I think that inclusion of other establishments in a reference to a Tribunal as provided under clause 49 is likely to create a lot of complications and, therefore, the power to include other establishments in a reference by the Government "of its own motion" should be deleted.

As regards clause 77, in my view the proviso thereto unnecessarily fetters the discretion of the Appellate Tribunal which will consist of, in most cases, retired High Court Judges and there is no reason why they should not be trusted to exercise their discretion properly. The conditions laid down by the proviso are very restrictive and they have been so interpreted in certain cases.

As regards clause 98.—Representation of parties.—the provisions as in the original Bill were quite proper. There is no reason why in a labour dispute there should be any bar to a party to appear by a person of his choice before a commission, Labour Court Tribunal or Appellate Tribunal. The clause as now proposed by the majority is very restrictive. The employers feel that unnecessary impediments are being put in their way of proper representation before the Labour Tribunals and, therefore, all words after the words "legal practitioner" in sub-clause (4) of clause 98 should be deleted. If it is thought necessary to restrict the right to appear of legal practitioner before Labour

Court Tribunal or the Appellate Tribunal, this may be made subject to the consent or permission of the court concerned. But it should not be made dependent on the consent of the other party.

In clause 100 there should be no bar to "punishment by dismissal or otherwise of an employee for misconduct which is not connected with any dispute" that might be pending before any court or tribunal and, therefore, the first proviso to that section might be suitably amended to exclude from the necessity of permission being sought if the case is for misconduct not connected with the dispute.

Clauses 115 to 120 should be deleted and should not find place in this Bill. In legislation dealing with labour relations there is no place for a provision for Government to take action for securing the public safety or the maintenance of public order or for maintaining supplies. These are exceptional circumstances and can be only carried through in an emergency by emergency legislation such as an Ordinance etc. They cannot form part of the normal legislation of the country. If it is claimed that the whole purpose of clauses 115 to 120 is to enable Government to run undertakings which fail to comply with orders of Industrial Tribunals, the answer is that there are already in existence suitable safeguards in the Bill for enforcing awards against employers who fail to carry them out.

It should be noted that the present Bill provides for recovery of any money due from an employer under any settlement or collective agreement or order of a court or an award as arrears of land revenue or as a public demand (*vide* clause 111) and, therefore, these provisions are absolutely unnecessary and uncalled for. These extremely severe provisions now proposed will militate against the establishment of new industries and are likely to impede the growth and development of industries in the country and appear to be wholly unjustified.

Some special provision should have been made in the Bill in respect to banks and insurance companies. After all, in banks and insurance companies the assets belong mostly to others and unless we treat the banks and insurance companies as credit institutions and save them from unnecessary interference, it might act as a damper and also stand in the way of development of these institutions which will react very adversely on all financial matters.

P. D. HIMATSINGKA.

NEW DELHI;

The 1st December, 1950.

THE LABOUR RELATIONS BILL, 1950

(AS AMENDED BY THE SELECT COMMITTEE)

(Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

to provide for the regulation of the relationship between employers and employees, for the prevention, investigation and settlement of labour disputes and for certain matters incidental thereto.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Labour Relations Act, 1950.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) This section shall come into force at once; the remaining provisions of this Act shall come into force on such date or dates, not later than one year from the coming into force of this section, as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different States:

Provided that in issuing such a notification with respect to any State, the Central Government may direct that such provisions shall apply to such class or classes of establishments only within that State as may be specified in the notification.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*1*) "Appellate Tribunal" means the Labour Appellate Tribunal constituted by the Central Government under section 12;

(*2*) "appropriate Government" means—

(*a*) the Central Government, in relation to any labour dispute, or any matter regulating the relationship between employers and employees in any of the following establishments, namely:—

(*i*) railways,

(*ii*) major ports,

(*iii*) any form of inland or coastal transport which maintains establishments and connected services in more than one State,

(*iv*) mines,

(*v*) oilfields,

(*vi*) industries, the control of which by the Union has been declared by Parliament by law to be expedient in the public interest and which are notified in this behalf by the Central Government in the Official Gazette,

(*vii*) banking companies having branches in more than one State,

(*viii*) insurance companies having branches in more than one State,

(*ix*) such corporations established by the authority of the Central Government as are notified in this behalf by that Government in the Official Gazette,

(*x*) establishments carried on by or under the authority of the Central Government or in which not less than fifty per cent. of the total capital is provided by that Government,

(*xi*) any other establishment or class of establishments, the objects or activities of which are not confined to one State and which, in consultation with the State Governments concerned, is notified in this behalf by the Central Government in the Official Gazette, and

(*b*) the State Government, in relation to any labour dispute, or any matter regulating the relationship between employers and employees in any other establishment;

(*3*) "average pay" means the average of the wages paid or payable to an employee—

(*a*) in the case of monthly paid employees, in the three complete calendar months,

(*b*) in the case of weekly paid employees, in the four complete weeks,

(*c*) in the case of daily paid employees, in the twelve full working days,

preceding the date on which the average pay becomes payable if the employee had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, average pay shall be calculated as the average of the wages paid or payable to an employee during the period he actually worked;

* * * * * *

(*4*) "award" means any interim or final determination by a Tribunal of any labour dispute or of any question relating thereto;

(*5*) "bargaining agent" means * * * a registered trade union or the representatives of employees chosen in the prescribed manner who may act on behalf of the employees in collective bargaining;

(*6*) "Board" means a Board of Conciliation constituted by the appropriate Government under section 7;

(*7*) "certified bargaining agent" means a bargaining agent certified under this Act, such certification not having been revoked;

(*8*) (*a*) "civil servant" means a person who is a member of a civil service of the Union or an All-India service or a civil service of a State or holds any civil post under the Union or a State:

Provided that such a person shall not be deemed to be a civil servant if he—

(*i*) is paid from contingencies, or

(*ii*) is employed either as a gazetted servant drawing a basic pay (excluding allowances) of not less than two hundred rupees per mensem or as a non-gazetted servant in any of the following establishments owned or managed by or under the Central or a State Government, namely:—

I. railways and other forms of transport;

II. ports, docks, wharves or jetties;

III. telegraph, telephone, wireless telegraph or broadcasting establishments;

IV. mints;

V. printing presses;

VI. ordnance factories, depots or other installations;

VII. public works establishments, in so far as they relate to work charged staff;

VIII. irrigation and electric power establishments;

IX. plantations;

X. mines as defined in clause (*f*) of section 3 of the Indian Mines Act, 1923 (IV of 1923);

XI. factories, as defined in clause (*m*) of section 2 of the Factories Act, 1948 (LXIII of 1948);

Explanation.—Notwithstanding anything contained in the proviso, a person shall not be deemed to be excluded from being a civil servant within the meaning of this clause if such person is employed—

(*i*) in the offices of the Railway Board, or of the general managers of railways and other forms of transport, or

(*ii*) in the offices of the Director-General of Posts and Telegraphs and any postmaster-general or the Director-General of Broadcasting, or

(*iii*) in the offices of the Director-General of Ordnance Factories, or

(*iv*) in the offices of any chief engineer or superintending engineer or any public works establishment notified in this behalf by the appropriate Government, or

(*v*) as a telegraphist, telephone or wireless operator;

(*b*) the appropriate Government may, if it is satisfied that the public interest so requires, by notification in the Official Gazette, amend the entries specified in clause (*a*) so as to include in, or exclude from, the definition of "civil servant" any person or class of persons employed in any office or in any establishment or class of establishments:

Provided that no such notification shall be issued so as to include any class of persons within the definition of "civil servant" unless the appropriate Government is satisfied that the conditions of service applicable to such class of persons are not less satisfactory than those applicable to civil servants of a similar class:

Provided further that every such notification shall, on the first available opportunity, be laid by the appropriate Government before Parliament or, as the case may be, before the Legislature of the State;

(*9*) "collective agreement" means an agreement in writing between an employer on the one hand and a certified bargaining agent on the other containing terms and conditions of employment or non-employment of an employee or the privileges, rights, liabilities or duties of the employer or employees, or the terms and conditions of the settlement of any labour dispute;

(*10*) "collective bargaining" means negotiations between an employer on the one hand and a certified bargaining agent on the other with a view to the settlement of any labour dispute or to the conclusion of a collective agreement and includes the renewal, modification or revision of any collective agreement; and the expression "bargain collectively" shall be construed accordingly;

(*11*) "Commission" means a commission of inquiry constituted by the appropriate Government under section 9;

(*12*) "Conciliation Officer" means a Conciliation Officer appointed under this Act and includes the Chief Conciliation Commissioner, any Additional Chief Conciliation Commissioner, Regional Conciliation Commissioner and Chief Conciliation Officer;

(*13*) "conciliation proceeding" means any proceeding held by a Conciliation Officer, a Board or Standing Board under this Act;

(*14*) "employee" means any person employed in any establishment to do any work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in relation to a labour dispute, includes any person who has been dismissed or discharged in connection with, or as a consequence of, that dispute, or from whose dismissal or discharge that dispute has arisen, but does not include—

(*a*) any civil servant; or

(*b*) any member of the armed forces or police forces; or

(*c*) any person employed in any establishment—

(*i*) primarily in a managerial or other administrative capacity drawing a basic pay (excluding allowances) of not less than three hundred and fifty rupees per mensem; or

(*ii*) as an apprentice; or

(*d*) any domestic servant who is directly in the pay of the person under whom he is employed;

(*15*) "employer", in relation to any establishment, means a person who engages the services of another person to do any work for hire or reward in that establishment, and includes—

(*a*) any person who has the ultimate control of such establishment;

(*b*) in relation to any establishment carried on by or under the authority of any department of the Government, the authority prescribed in this behalf, or, where no authority is so prescribed, the head of the department;

(*c*) in relation to any establishment carried on by a local authority, the chief executive officer of that authority;

(*d*) in relation to any person employed in any establishment through any contractor or agent for the execution on the premises of the establishment concerned by or under such contractor or agent of the whole or any part of any work which is ordinarily part of the trade, business, manufacture or industry of the establishment, the person engaging the services of the contractor or agent;

(*16*) "establishment" means any unit of employment in any trade, business, manufacture, industry, service, calling, profession or other occupation or avocation, and includes any unit of employment under the authority of the Government or a local authority or an association of persons, whether incorporated or not, but does not include any unit of employment in which not more than ten persons are employed:

Provided that the appropriate Government may, by notification in the Official Gazette, declare any unit of employment employing not more than ten persons to be an establishment;

Explanation.—For the purposes of this clause, the Central Government or a State Government may, by notification in the Official Gazette, specify the units of employment under the authority of such Government;

(*17*) "independent person" for the purpose of appointment as Chairman or other member of any of the authorities under this Act, means a person who is not connected with, or interested in,—

(*a*) the labour dispute referred to, or pending before, such authority; or

(*b*) any establishment directly affected by such dispute;

(*18*) "Labour Court" means a Labour Court constituted by the appropriate Government under section 10;

(*19*) "labour dispute" means any dispute or difference * * * between an employer on the one hand and one or more of his employees, or a certified bargaining agent on the other, or between employees and employees, concerning—

(*a*) the employment or non-employment of any employee or class of employees; or

(*b*) the terms or conditions of employment of any employee or employees generally or any class of them; or

(*c*) the privileges, rights, duties or liabilities of the employer or of any employee or the employees generally or any class of them, whether or not there is a subsisting agreement between the employer and the employee or employees regarding all or any such matters;

and includes any dispute or difference which may arise on the dismissal of an employee or which relates to the reinstatement of such employee;

(*20*) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ any group of his employees, where such closing, suspension, or refusal by an employer occurs in consequence of a labour dispute and is intended for the purpose of compelling his employees, or of aiding another employer to compel his employees, to accept terms or conditions of, or affecting, employment;

(*21*) "prescribed" means prescribed by rules made under this Act;

(*22*) "public utility service" means—

(*a*) any railway service or any other transport service operated by power for the carriage of passengers or goods by land, water or air;

(*b*) any section of an establishment (including the watch and ward staff) on the working of which depends the safety of that establishment or of the employees employed therein:

Provided that, if any question arises as to whether such safety depends on any section of the establishment, the decision thereon of the chief inspector of mines in respect of mines and of the chief adviser of factories, in respect of other establishments in relation to which the Central Government is the appropriate Government, and of the chief inspector of factories, in any other case, shall be final;

(*c*) any postal, telegraph or telephone service;

(*d*) any establishment which supplies power, light or water to the public;

(*e*) any system of public conservancy or sanitation;

(*f*) any hospital, nursing home, maternity home or fire-fighting service owned or managed by the Government or any local authority or managed under a trust created for public purposes of a charitable nature;

(*g*) any service in, or connected with, ports, docks, wharves or jetties which the Central Government may, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act;

(*h*) any mint or security press;

(*i*) any establishment or class of establishments which the Central Government may, if satisfied that it is essential for the defence or internal security of India, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act;

(*j*) any establishment or class of establishments which the appropriate Government may, if satisfied that public interest or emergency so requires, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months, but may, by a like notification, be extended from time to time by any period not exceeding six months at any one time, if in the opinion of the appropriate Government public interest or emergency requires such extension;

(*23*) "settlement" means a settlement arrived at in the course of negotiations or conciliation proceedings;

(*24*) "Standing Board" means a Standing Conciliation Board constituted by the appropriate Government under section 8;

(*25*) "standing orders" means orders relating to such of the matters set out in the First Schedule as may be applicable in each case;

(*26*) "strike" means a total or partial cessation of work by employees acting in combination, or a concerted refusal or a refusal under a common understanding, of any group of employees to continue to work * * * where such cessation or refusal by the employees occurs in consequence of a labour dispute and is intended for the purpose of compelling their employer, or of aiding the employees of any other establishment to compel their employer to accept terms or conditions of, or affecting, employment;

(*27*) "Tribunal" means a Labour Tribunal constituted by the appropriate Government under section 11;

(*28*) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment, and includes—

(*i*) such allowances (including dearness allowance) as the employee is for the time being entitled to;

(*ii*) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

(*iii*) any travelling concession;

but does not include—

(*i*) any bonus or payment due under any scheme of profit-sharing payable periodically and not forming part of the remuneration payable under the terms of employment;

(*ii*) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employees under any law for the time being in force;

(*iii*) any gratuity payable to an employee on the termination of his service;

(*29*) the expressions "trade union", "registered trade union" and "recognised trade union" have the meanings respectively assigned to them in the Trade Unions Act, 1950;

(*30*) any reference to an enactment not in force in any Part B State shall, in relation to that State, be construed as a reference to the corresponding law in force in that State.

CHAPTER II

AUTHORITIES UNDER THE ACT

3. Authorities under the Act.—For the purpose of giving effect to the provisions of this Act, the following authorities may be appointed or constituted in the manner hereinafter provided, namely:—

(*1*) Registering Officers,

(*2*) Works Committees,

(*3*) Conciliation Officers,

(*4*) Boards of Conciliation,

(*5*) Standing Conciliation Boards,

(*6*) Commissions of Inquiry,

(*7*) Labour Courts,

(*8*) Labour Tribunals,

(*9*) The Appellate Tribunal.

4. Registering Officers.—The appropriate Government may, by notification in the Official Gazette, appoint as many Registering Officers as may be necessary for the purpose of registering standing orders, and every Registering Officer shall exercise his functions in such area or areas as may be specified in the notification.

5. Works Committees.—(*1*) The appropriate Government may, by general or special order, require the employer of any establishment to constitute in the prescribed manner a Works Committee for the whole of the establishment or any such part thereof as may be specified in the order, and every such Works Committee shall consist of the representatives of the employer and the employees employed in that establishment or part of that establishment, as the case may be:

Provided that in no such Works Committee, the number of representatives of the employees shall be less than the number of representatives of the employer.

(2) The representatives of the employees on the Works Committee shall be chosen in the prescribed manner, in consultation with the certified bargaining agent, if any, or, if there is no such bargaining agent, with the recognised trade union, if any, or, if there is no such recognised trade union, with such trade unions, if any, as consist wholly or partly of the employees who are to be represented on the Works Committee.

(3) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and employees, for increasing production, and for promoting the settlement of any labour dispute that may be voluntarily placed before such Committee by all the parties to the dispute.

6. Conciliation Officers.—(1) The Central Government may, in respect of establishments in relation to which it is the appropriate Government, appoint a Chief Conciliation Commissioner having jurisdiction over all such establishments and as many Additional Chief Conciliation Commissioners, Regional Conciliation Commissioners and Conciliation Officers as may be necessary and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.

(2) A State Government may, in respect of establishments in relation to which it is the appropriate Government, appoint a Chief Conciliation Officer for the State having jurisdiction over all such establishments within the State and as many Conciliation Officers as may be necessary and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.

(3) Any reference in this Act to the Chief Conciliation Officer shall, in respect of establishments in relation to which the Central Government is the appropriate Government, be construed as including a reference to the Chief Conciliation Commissioner and Additional Chief Conciliation Commissioners.

(4) A Conciliation Officer may be appointed for any specified area or for a specified class of establishments or for one or more specified labour disputes and shall discharge the duties imposed on him under this Act under the general superintendence and control of the Chief Conciliation Officer.

(5) It shall be the duty of Conciliation Officers to mediate in, and promote the settlement of, labour disputes.

7. Boards of Conciliation.—(1) The appropriate Government may, by notification in the Official Gazette, constitute a Board of Conciliation for promoting the settlement of any labour dispute referred to it:

Provided that where a Conciliation Officer has taken any steps to promote the settlement of such dispute, no such Board shall be constituted except with the consent of all the parties to the dispute.

(2) A Board shall consist of a Chairman and either two or four other members as the appropriate Government may think fit to appoint.

(3) The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers, on the recommendation of the parties to the dispute, to represent those parties:

Provided that no Board shall be constituted if any party fails to make such recommendation within the prescribed time.

(4) A Board shall not act in the absence of the Chairman or of all the members representing either the employers or the employees.

(5) Subject to the provisions of sub-section (4), a Board may act, notwithstanding the absence of any member or any vacancy therein, if it has the prescribed quorum:

Provided that where the appropriate Government requires the Board not to act on account of any vacancy therein, the Board shall not act until a new member is appointed to fill the vacancy.

8. Standing Conciliation Boards.—(1) The appropriate Government may, by notification in the Official Gazette, constitute for any area or for any class of establishments specified in the notification, a Standing Conciliation Board for promoting the settlement of any labour dispute that may arise in such area or such establishments.

(2) A Standing Board shall consist of a Chairman and such number of other members as the appropriate Government may think fit to appoint.

(3) The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the interests of the employers and employees.

(4) A Standing Board shall not act in the absence of the Chairman or of all the members representing either the employers or the employees.

(5) Subject to the provisions of sub-section (4), a Standing Board may act, notwithstanding the absence of any member or any vacancy therein, if it has the prescribed quorum:

Provided that where the appropriate Government requires the Standing Board not to act on account of any vacancy therein, the Standing Board shall not act until a new member is appointed to fill the vacancy.

(6) Where any Standing Board is constituted under this section, no Board shall be constituted under section 7 for promoting the settlement of any labour dispute arising within the jurisdiction of the Standing Board.

(7) Notwithstanding the constitution of a Standing Board under this section, where any labour dispute arising within its jurisdiction * * * is referred by the appropriate Government to a * Tribunal under section 47, or where in respect of that dispute, an application is presented under section 61 to a Labour Court, the Standing Board, on such reference or on the presentation of such an application, as the case may be, shall cease to have jurisdiction over that dispute.

9. Commission of Inquiry.—(1) The appropriate Government may, by notification in the Official Gazette, constitute a Commission of Inquiry for inquiring into any matter referred to it whether or not such matter is connected with, or relevant to, a labour dispute.

(2) A Commission may consist of one independent person or of such an odd number of independent persons as members as the appropriate Government may think fit to appoint and, where a Commission consists of more than one member, one of them shall be appointed as the Chairman thereof.

(3) Where a Commission consists of more than one member, the Commission may act, notwithstanding the absence of the Chairman or of any other member or any vacancy therein, if it has the prescribed quorum:

Provided that where the appropriate Government requires the Commission not to act on account of any vacancy therein, the Commission shall not act until a new Chairman or member, as the case may be, is appointed to fill the vacancy.

10. Labour Courts.—(*1*) The appropriate Government may, by notification in the Official Gazette, constitute as many Labour Courts as it deems necessary for the adjudication of labour disputes relating to any matter which is not specified in the Second Schedule and for discharging such other functions as may be assigned to them under this Act.

(*2*) A Labour Court shall be presided over by a person, appointed by the appropriate Government, who—

(*a*) is or has been a member of the judicial * * service in a State, or

(*b*) is or has been a member of an executive service in a State having not less than two years' experience in dealing with matters regulating the relationship between employers and employees, or

(*c*) is qualified for appointment as a member of the judicial service in a State:

Provided that the maximum age limit, if any, applicable to the appointment of a member of such service shall not apply to any appointment under this section:

Provided further that no appointment under this section shall be made except with the approval of the High Court of the State in which the Labour Court has, or is intended to have, its usual seat.

11. Labour Tribunals.—(*1*) The appropriate Government may, by notification in the Official Gazette, constitute as many Labour Tribunals as it deems necessary for discharging the functions assigned to them under this Act.

(*2*) A Tribunal shall consist of such number of members as the appropriate Government may think fit to appoint, and where the Tribunal consists of two or more members, one of them shall be appointed as the Chairman thereof:

Provided that where the labour dispute affecting any banking or insurance company is referred to a Tribunal, a person having special knowledge of, and experience in, banking or insurance, as the case may be, shall be appointed as a member of the Tribunal.

(*3*) Where the Tribunal consists of only one member, that member, and where it consists of two or more members, the Chairman of the Tribunal, shall be a person who—

(*a*) is or has been a Judge of a High Court, or * * *

(*b*) is or has been a district judge, or

(*c*) has been the presiding officer of a Labour Court for not less than three years, or

(*d*) is qualified for appointment as a Judge of a High Court, or

(*e*) has special knowledge of, and experience in, banking or insurance:

Provided that no appointment under this section to a Tribunal shall be made of any person not qualified under clause (*a*) or clause (*e*) except with the approval of the High Court of the State in which the Tribunal has, or is intended to have, its usual seat.

(*4*)All members of the Tribunal shall be independent persons and every member thereof, other than those referred to in sub-section (*3*), shall possess such qualifications as may be prescribed.

(*5*) A Tribunal, where it consists of two or more members, may act notwithstanding the absence of any member or any vacancy therein.

12. Appellate Tribunal.—(*1*) The Central Government may, by notification in the Official Gazette, constitute an Appellate Tribunal for hearing appeals from the awards of Tribunals in accordance with the provisions of this Act.

(*2*) The Appellate Tribunal shall consist of a Chairman and such number of other members as the Central Government may think fit to appoint.

(*3*) Every member of the Appellate Tribunal shall be an independent person who—

(*a*) is or has been a Judge of a High Court, or

(*b*) is qualified for appointment as a Judge of a High Court, or

(*c*) has been a member of a Tribunal for not less than two years, or

(*d*) has special knowledge of, and experience in, banking or insurance:

Provided that no appointment under this section to the Appellate Tribunal shall be made of any person not qualified under clause (*a*) or clause (*d*) except with the approval of the Supreme Court.

(*4*) A member shall, unless otherwise specified in the order of appointment, hold office for a term of five years from the date on which he enters upon his office and shall, on the expiry of the term of his office, be eligible for reappointment:

Provided that no member shall hold office after he has attained the age of sixty-five years.

(*5*) A member shall be entitled to such salary and allowances and to such rights in respect of leave and pensions as may be prescribed:

Provided that the salary of a member shall not be varied to his disadvantage after his appointment.

13. Filling of vacancies.—(*1*) If for any reason the services of the Chairman or any other member of a Board or Standing Board cease to be available at any time, the appropriate Government shall appoint another person in accordance with the provisions of section 7 or section 8, as the case may be, to fill the vacancy and the proceedings may be continued before the Board or Standing Board so reconstituted from the stage at which the vacancy occurred.

(*2*) If for any reason the services of the Chairman or any other member of a Commission, Tribunal or the Appellate Tribunal cease to be available, the appropriate Government or, as the case may be, the Central Government shall, in the case of a Chairman, and may, in the case of any other member, appoint another person in accordance with the provisions of section 9 or section 11 or section 12, as the case may be, to fill the vacancy and the proceedings may be continued before the Commission, Tribunal or Appellate Tribunal so reconstituted from the stage at which the vacancy occurred.

* * * * *

(*3*) If for any reason the services of the presiding officer of any Labour Court cease to be available, the appropriate Government may appoint another person in accordance with the provisions of section 10 to fill the vacancy and the proceedings may be continued before the person so appointed from the stage at which the vacancy occurred.

14. Finality of orders constituting Board, Commission, etc.—No order of the appropriate Government appointing any person as a Chairman or a member of a Board, Standing Board, Commission, Labour Court or Tribunal or of the Central Government appointing any person as a Chairman or other member of the Appellate Tribunal shall be called in question in any manner,

CHAPTER III

STANDING ORDERS AND REGISTERING OFFICERS

15. Scope of application of standing orders.—The provisions of this Chapter shall apply to every establishment in which not less than one hundred persons are employed on any day in any work which is ordinarily part of the trade, business, manufacture or industry of the establishment and may be applied by the appropriate Government, by notification in the Official Gazette, to any other establishment or class of establishments in which less than one hundred persons are so employed, and shall, on the commencement of this Act, * apply to all establishments in which not less than one hundred persons were so employed on any day in the twelve months preceding the date of such commencement.

16. Submission of draft of standing orders.—(*1*) Within six months from the date on which this Chapter becomes applicable to any establishment, the employer of such establishment shall submit to the Registering Officer concerned five copies of the draft of the standing orders proposed by him for adoption in his establishment.

(*2*) Such draft shall provide for all matters specified in the First Schedule in so far as they are applicable to that establishment, and where model standing orders have been prescribed, such draft shall, as far as may be, conform to such model.

(*3*) The draft standing orders submitted under sub-section (*1*) shall be accompanied by a statement giving the prescribed particulars of the employees employed in the establishment.

(*4*) Subject to such conditions as may be prescribed, a group of employers in similar establishments may submit a joint draft of standing orders under this section.

(*5*) Notwithstanding anything contained in sub-section (*1*), where standing orders are in force in any establishment on the date on which this Chapter becomes applicable to that establishment, and such standing orders are not in conformity with the provisions of this Act, the employer shall, within the period referred to in sub-section (*1*), apply to have the standing orders amended to bring them in conformity with the provisions of this Act and such application shall be accompanied by five copies of the standing orders together with the amendments proposed to be made, and the provisions of the Chapter shall apply in relation to an application under this sub-section as they apply in relation to draft standing orders submitted under sub-section (*1*).

17. Conditions for registration of standing orders.—Standing orders in respect of any establishment shall be registrable under this Act if—

(*a*) provision is made therein for every matter specified in the First Schedule which is applicable to that establishment, and

(*b*) the standing orders are otherwise in conformity with the provisions of this Act.

18. Registration of standing orders.—(*1*) On receipt of the draft standing orders under section 16, the Registering Officer shall forward a copy thereof to the employees, in such manner as may be prescribed, together with a notice in the prescribed form requiring the employees to submit objections, if any, within fifteen days from the date of the receipt of such notice.

(2) After giving the employer and the employees an opportunity of being heard, the Registering Officer shall, within two months from the date of the receipt of the standing orders, by order in writing, either confirm or amend the draft standing orders; and the draft standing orders as confirmed or amended shall be registered.

(3) The Registering Officer shall, within seven days from the date of registration under sub-section (2), send copies of the registered standing orders authenticated in the prescribed manner to the employer and the employees.

19. Appeal.—(1) Any person aggrieved by an order of the Registering Officer under sub-section (2) of section 18 may, within twenty-one days from the date on which the authenticated copies are sent under sub-section (3) of that section, prefer an appeal to a Tribunal designated for the purpose and the Tribunal shall, after giving the parties an opportunity of being heard, by order in writing, either confirm or amend the registered standing orders.

(2) The Tribunal shall, within seven days of the order passed under sub-section (1), send a copy of such order authenticated in the prescribed manner to the employer, the employees and the Registering Officer concerned; and the standing orders registered under this Act shall be modified accordingly.

20. Commencement of operation of standing orders.—(1) Standing orders registered under this Act shall, unless an appeal is preferred under section 19, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 18, or where an appeal as aforesaid is preferred, on the expiry of thirty days from the date on which copies of the order of the Tribunal are sent under sub-section (2) of section 19.

(2) Where standing orders are in force in any establishment on the date on which this Chapter becomes applicable to that establishment, such standing orders shall continue to be in force in that establishment until they are modified and registered in accordance with the provisions of this Act.

(3) Where model standing orders have been prescribed by the appropriate Government in respect of any establishment or class of establishments in which there are no standing orders in force, such model standing orders shall be deemed to be in operation in that establishment or class of establishments until they are amended in the manner provided in section 21.

21. Special provision relating to model standing orders.—(1) Where model standing orders have been prescribed by the appropriate Government in respect of any establishment or class of establishments and an employer proposes to adopt in his establishment such model standing orders without any amendment, he may, in lieu of submitting draft standing orders under section 16, post, within the period referred to in sub-section (1) of the said section, a copy of the model standing orders in the manner provided for in section 23 with a certificate that he has adopted them without amendment, and send a report to the Registering Officer, and the model standing orders shall be registered accordingly.

(2) Where an employer proposes to amend model standing orders before adopting them, he may, either submit draft standing orders under section 16 or apply to have the model standing orders amended, and the application shall be accompanied by five copies of the amendments proposed to be made and the provisions of this Chapter shall apply in relation to such application as they apply to draft standing orders submitted under section 16.

(3) Any person aggrieved by the adoption of the model standing orders under sub-section (1) may, within twenty-one days from the date on which they are posted under section 23, prefer an appeal to a Tribunal as provided in section 19.

22. Register of standing orders.—The Registering Officer shall maintain a register in the prescribed form for filing copies of the standing orders registered under this Act.

23. Posting of standing orders.—The text of the standing orders registered under this Act shall be prominently posted by the employer in English or Hindi and in a language understood by the majority of his employees on special notice boards to be maintained for the purpose at or near the entrance through which the majority of the employees enter the establishment and in all departments thereof. * * *

24. Amendment of standing orders.—(1) Standing orders registered under this Act shall not be amended until the expiry of one year from the date on which the said standing orders or the latest amendments thereof came into operation:

Provided that such amendment may be made at any time by agreement between the employer and the employees.

(2) Subject to the provisions of sub-section (1), an employer or employee may apply to the Registering Officer to have the standing orders amended, and such application shall be accompanied by five copies of the standing orders together with the amendments proposed to be made, and where such amendments are proposed to be made by agreement between the employer and the employees, a certified copy of that agreement shall be filed along with the application.

(3) The provisions of this Chapter shall, as far as may be, apply in relation to an application under sub-section (2) as they apply in relation to the draft standing orders submitted under section 16.

25. Exclusion of evidence of oral agreement.—No evidence of any oral agreement or statement shall be admitted by any authority under this Act for the purposes of contradicting, varying, adding to, or subtracting from, the terms of the standing orders registered under this Act.

26. Power to exempt.—The appropriate Government may, by notification in the Official Gazette, exempt, subject to such conditions, if any, as may be specified in the notification, any establishment or class of establishments from the operation of all or any of the provisions of this Chapter.

CHAPTER IV

Settlement of Disputes by Negotiation and Conciliation Officers

27. Notice of labour disputes.—(1) Where for any reason a labour dispute has arisen or is likely to arise between an employer and an employee, the employee or, as the case may be, the employer may send a notice, in the prescribed manner, to the other party setting out the nature of the dispute and the demands that the other party is required to accept and requiring the other party to enter into negotiations, within seven days of the date of the receipt of the notice, with a view to the settlement of the labour dispute:

Provided that where an employer proposes to alter the conditions of service of any employee in respect of any of the matters specified in the Third Schedule, such notice shall be sent.

(2) Copies of the notice under sub-section (1) shall be sent by registered post to the appropriate Government, the Chief Conciliation Officer and the Conciliation Officer having jurisdiction over the dispute.

28. Commencement of negotiations.—Within seven days of the date of the receipt of the notice under section 27, the employer or, as the case may be, the employee shall—* * *

(*a*) furnish to the other party a written statement specifying the demands which are acceptable to him and the demands which are not so acceptable with the reasons for such non-acceptance, and

(*b*) enter into negotiations with the other party in the prescribed manner with a view to settle the labour dispute.

29. Period within which negotiations to be concluded.—All negotiations commenced under section 28 shall be concluded * * within fourteen days * * * of the date of commencement of such negotiations:

Provided that such period may be extended by agreement between the parties.

30. Proceedings before Conciliation Officer.—(*1*) On receipt of a notice under section 27, the Conciliation Officer shall, in the case of a dispute concerning public utility service, and may, in any other case, hold conciliation proceedings in the prescribed manner.

(*2*) The Conciliation Officer shall, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to an amicable settlement of the dispute.

(*3*) The Conciliation Officer shall, after concluding his investigation, submit his report as early as possible and in any case within thirty days of the receipt of the notice under section 27 or such longer time as may be agreed upon by both the parties.

31. Registration of settlement.—Where a settlement of the dispute or of any of the matters in dispute is arrived at in the course of negotiations under section 29 or conciliation proceedings under section 30, the party which served the notice under section 27 or, where conciliation proceedings have been held, the Conciliation Officer shall, within seven days of the conclusion of negotiations, send a report thereof together with a memorandum of the settlement signed by the parties to the dispute to the Chief Conciliation Officer and the appropriate Government; and the Chief Conciliation Officer shall register the settlement in such manner as may be prescribed.

32. Report of failure of conciliation.—Where conciliation proceedings have been held but no settlement is arrived at, the Conciliation Officer shall submit to the Chief Conciliation Officer and the appropriate Government, as soon as * practicable after the close of the conciliation proceedings and in any case, within the period referred to in sub-section (*3*) of section 30, a full report setting forth the steps taken by him for bringing about a settlement of the labour dispute together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, a settlement could not be arrived at, and copies of the report shall be simultaneously sent to the parties to the dispute.

CHAPTER V

Collective Bargaining and Conciliation Officers

33. Scope of collective bargaining.—(*1*) The appropriate Government may, by notification in the Official Gazette, declare any establishment or class of establishments in any local area to be appropriate for collective bargaining.

(2) Where in respect of any establishment or class of establishments declared under sub-section (1) to be appropriate for collective bargaining, a bargaining agent has been certified under this Act, the provisions of this Chapter shall, and the provisions of Chapter IV shall not, apply in relation **to that establishment or class of establishments.**

34. Application for certification as bargaining agent.—(1) For the purpose of being certified as a bargaining agent in respect of any establishment or class of establishments in any local area, an application may, in the prescribed manner, be made to a Labour Court by—

(a) a representative trade union, or

(b) the representatives of employees of that establishment or class of establishments in that area elected in the prescribed manner.

(2) A representative trade union, in relation to all the employees employed in any class of establishments in any local area, means a registered trade union having a membership in good standing of not less than—

(a) twenty-five per cent. of the total number of employees employed in that class of establishments in that area; and

(b) seven and half per cent. of the total number of employees employed in each of not less than seventy-five per cent. of the establishments included in that class.

(3) A representative trade union, in relation to any particular class or classes of skilled or other distinctive type of employees, means a registered trade union which consists wholly of such employees and which has a membership in good standing—

(a) in cases where the trade union is to represent a class of establishments in any local area, of not less than—

(i) fifty per cent. of the total number of such employees employed in that class of establishments in that area; and

(ii) fifteen per cent. of the total number of such employees employed in each of not less than seventy-five per cent. of the establishments included in that class; and

(b) in cases where the trade union is to represent a particular establishment only, of not less than fifty per cent. of the total number of such employees employed in that establishment.

(4) A representative trade union, in relation to all the employees employed in any particular establishment, means a registered trade union having a membership in good standing of not less than fifty per cent. of the total number of employees in that establishment.

Explanation.—For the purposes of this section, a membership of a trade union shall be deemed to be in good standing if the member is not in arrears of his subscription for any period exceeding three calendar months.

35. Certification by Court.—(1) A Labour Court may, on application received in this behalf, certify a representative trade union as—

(a) a general bargaining agent, if it is a representative trade union within the meaning of sub-section (2) of section 34;

(b) a special bargaining agent, if it is a representative trade union within the meaning of sub-section (3) of section 34;

(c) a local bargaining agent, if it is a representative trade union within the meaning of sub-section (4) of section 34.

(2) Where there is no such representative trade union, the elected representatives of the employees may be certified as a general, special or local bargaining agent in relation to all the employees or any particular class of employees

employed in any establishment or class of establishments according as such representatives are elected by all the employees or the particular class of employees employed in that establishment or class of establishments.

(3) For the purpose of certifying a bargaining agent, a Labour Court may take such evidence and make such inquiries and examine such records as it deems necessary and it shall consider if the following conditions have been complied with, namely:—

(a) that there shall not, at any time, be more than one general bargaining agent, in respect of the same class of establishments situated within the same local area;

(b) that there shall not, at any time, be more than one special bargaining agent, in respect of the same class of employees in any establishment or class of establishments in the same local area:

Provided that where there is a special bargaining agent in respect of a class of establishments, no special bargaining agent in respect of any particular establishment included in that class shall be certified;

(c) that there shall not, at any time, be more than one local bargaining agent, in respect of the same establishment;

(d) that the trade union applying for certification fulfils the conditions laid down in section 84;

(e) that where more than one registered trade union fulfils such conditions, the trade union having the largest membership in good standing shall have preference to others:

Provided that a trade union applying for being certified as a special bargaining agent in respect of a class of establishments shall have preference to any trade union applying for being certified as a special bargaining agent in respect of any particular establishment included in that class.

36. Effect of certification.—(1) Where there is a certified general bargaining agent only (there being no special or local bargaining agent) in respect of any establishment or class of establishments or a certified local bargaining agent only (there being no general or special bargaining agent) in respect of any establishment, such certified bargaining agent shall immediately replace all other agents of the employees to enter into negotiations with the employer and, so long as the certification is not revoked, shall have authority to bargain collectively on behalf of all the employees in that establishment or class of establishments, as the case may be, and to bind them by a collective agreement:

Provided that where in addition to a general bargaining agent a local bargaining agent is certified in respect of any establishment, the local bargaining agent shall have authority to enter into negotiations with the employer and bargain collectively on behalf of all the employees employed in that establishment in respect of any matter which is of exclusive concern to the employees of that establishment:

Provided further that where a special bargaining agent is certified in respect of any establishment or class of establishments (whether or not there is a general or local bargaining agent), the special bargaining agent shall have authority to enter into negotiations with the employer and bargain collectively on behalf of the particular class or classes of employees it represents in respect of any matter which is of exclusive concern to such class or classes of employees employed in that establishment or class of establishments.

(2) Where any bargaining agent has been certified in relation to the employees or any class of employees in any establishment or class of establishments and another bargaining agent had previously been certified in relation to the same employees or class of employees, the previous certification shall be deemed to have been revoked in respect of such employees or class of employees:

Provided that where a special bargaining agent in respect of a class of establishments is certified and a special bargaining agent in respect of a particular establishment included in that class had been previously certified, the previous certification of the special bargaining agent in respect of that particular establishment shall be deemed to have been revoked.

(*3*) Where, at the time of certification of a bargaining agent, a collective agreement is in force, the new bargaining agent shall be substituted as a party to the agreement.

(*4*) If any dispute arises under this section in respect of the jurisdiction of a general bargaining agent, special bargaining agent or local bargaining agent, any party to the dispute may apply to a Labour Court for adjudication of such dispute and the order of the Labour Court shall, subject to the provision for appeal, be final and binding on the parties.

37. Revocation of certification.—The Labour Court may revoke the certification of a bargaining agent—

(*a*) where the Court is satisfied that the certified bargaining agent has, for not less than three consecutive months, ceased to fulfil the conditions which entitled such bargaining agent to be certified; or

(*b*) where the certified bargaining agent refuses or fails to give effect to any term of collective agreement; or

(*c*) where the certified bargaining agent resorts to any unfair practice under the Trade Unions Act, 1950.

38. Subsequent application for certification as bargaining agent.—Where there is a certified bargaining agent in relation to the employees of any establishment or class of establishments, no fresh application for certification as bargaining agent for the same employees to replace the former bargaining agent shall be entertained by the Labour Court—

(*a*) in cases where there is no collective agreement in force, until the expiry of one year from the date of certification of the former bargaining agent; or

(*b*) in cases where there is a collective agreement in force, until the expiry of ten months from the date of the conclusion of that agreement:

Provided that such application may be made before the expiry of the aforesaid periods with the previous permission of the Labour Court.

39. Notice to negotiate.—(*1*) The certified bargaining agent on behalf of the employees or, as the case may be, the employer may send a notice, in the prescribed manner, to the other party setting out the * demands that the other party is required to accept and requiring the other party to commence collective bargaining within seven days of the date of the receipt of the notice, with a view to the conclusion of a collective agreement:

Provided that where an employer proposed to alter the conditions of service of an employee in respect of any of the matters specified in the Third Schedule, such notice shall be sent:

Provided further that where a collective agreement is in force between the employer and the employees of any establishment or class of establishments, such notice shall not be sent, in respect of any matter covered by that agreement, before the period of two months next preceding the date of the expiry of the term of, or preceding the termination of, the agreement, with a view to the renewal or revision of the agreement or conclusion of a new collective agreement.

(*2*) Copies of the notice under sub-section (*1*) shall be sent by registered post to the appropriate Government, the Chief Conciliation Officer and the Conciliа-

tion Officer having jurisdiction over such establishment or class of establishments.

40. Commencement of collective bargaining.—Within seven days of the date of the receipt of notice under section 39 or such further time as may be agreed upon between the parties, the employer or, as the case may be, the certified bargaining agent shall—

(*a*) furnish to the other party a written statement specifying the demands which are acceptable to him and the demands which are not so acceptable with the reasons for such non-acceptance; and

(*b*) enter into collective bargaining with the other party in the prescribed manner with a view to the conclusion of a collective agreement.

41. Period within which collective bargaining is to be concluded.—Any collective bargaining commenced under section 40 shall be concluded within fourteen days of the date of such commencement:

Provided that such period may be extended by agreement between the parties.

42. Provision for final settlement without stoppage of work.—(*1*) Every collective agreement shall contain a provision for final settlement, without stoppage of work, by adjudication or otherwise, of all differences between the persons bound by the agreement and arising out of the interpretation of, or breach of, the terms of the agreement.

(*2*) Where a collective agreement does not contain a provision as required by sub-section (*1*), the Labour Court shall, on an application of either party to the agreement, by order, prescribe a provision for such purpose and the provision so prescribed shall be deemed to be a term of the collective agreement and binding on all persons bound by that agreement.

43. Special provision relating to persons on whom collective agreement is binding.—A collective agreement between an employer and a certified bargaining agent shall be binding upon—

(*a*) that employer, and

(*b*) that bargaining agent and all the employees * * * in relation to whom the bargaining agent has been certified.

44. Proceedings before Conciliation Officer.—(*1*) On receipt of a notice under section 39, the Conciliation Officer shall, in the case of a public utility service, and may, in any other case, hold conciliation proceedings in the prescribed manner.

(*2*) The Conciliation Officer shall, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of assisting the parties engaged in the collective bargaining to conclude a collective agreement.

(*3*) The Conciliation Officer shall, after concluding his investigation, submit his report as early as possible and in any case, within thirty days of the receipt of the notice under section 39 or such longer time as may be agreed upon by both the parties.

45. Registration of collective agreements.—Where a collective agreement has been concluded, the party which served the notice under section 39 or, where conciliation proceedings have been held, the Conciliation Officer shall, within seven days of the conclusion of collective bargaining, send a copy of the collective agreement signed by both the parties to the Chief Conciliation Officer and the appropriate Government; and the Chief Conciliation Officer shall register the collective agreement in such manner as may be prescribed.

46. Report of failure of conciliation.—Where conciliation proceedings have been held but no collective agreement is concluded, the Conciliation Officer shall submit to the Chief Conciliation Officer and the appropriate Government, as soon as practicable and in any case, within the period referred to in sub-section (*3*) of section 44, a full report setting forth the steps taken by him for bringing about an agreement between the parties together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, the agreement could not be concluded, and copies of the report shall be simultaneously sent to the parties to the dispute.

CHAPTER VI

REFERENCES OF DISPUTES AND OTHER MATTERS TO BOARDS, TRIBUNALS AND COMMISSIONS BY APPROPRIATE GOVERNMENT

47. Reference of disputes to Boards or Tribunals.—(*1*) Where the appropriate Government is of opinion that any labour dispute exists or is apprehended, it may at any time, by order in writing, refer the dispute or any matter appearing to it to be connected with, or relevant to, such dispute—

(*a*) to a Board for promoting the settlement thereof; or

(*b*) to a Tribunal for adjudication:

Provided that where a Conciliation Officer has taken any steps to promote the settlement of a dispute, no reference shall be made to a Board of that dispute except with the consent of all the parties thereto:

Provided further that where Labour Courts have been constituted under section 10, no reference shall be made to a Tribunal unless the dispute relates to any matter specified in the Second Schedule:

Provided also that where the dispute relates to a public utility service and a notice of strike under section 104 has been given, the appropriate Government shall, unless for reasons to be recorded, it considers that the notice has been frivolously or vexatiously given or that it is inexpedient so to do, refer the dispute or announce its intention to refer the dispute under this sub-section before the date of strike specified in the said notice.

(*2*) Where the parties to a labour dispute apply, in the prescribed manner for a reference of the dispute to a Board or Tribunal, the appropriate Government shall, if it is of opinion that the persons applying represent the majority of each party, refer the dispute accordingly.

Explanation.—For the purposes of this sub-section, a certified bargaining agent * * * shall be deemed to represent the majority of the employees for whom it has been so certified.

48. Specification of points of dispute in certain cases.—Where any dispute is referred under section 47 to a Tribunal for adjudication, the appropriate Government may specify the points of dispute between the parties, and in such a case, the Tribunal shall not adjudicate upon any matter not comprised in the points so specified.

49. Inclusion of other establishments in a reference to a Tribunal.—Where a dispute concerning any establishment or establishments is referred to a Tribunal under section 47 and the appropriate Government is of opinion either of its own motion or on an application received in this behalf, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter, but before the pronouncement of the award, by order in writing,

include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion, any dispute exists or is apprehended, in that establishment, group or class of establishments.

50. Reference to Commission.—(*1*) The appropriate Government may, by order in writing, refer any matter to the Commission for inquiry whether or not such matter is connected with, or relevant to, a labour dispute.

(*2*) Where the employer and the employees of any establishment or class of establishments apply in the prescribed manner, for the reference of any matter to a Commission, the appropriate Government shall, if it is of opinion that the persons applying represent the majority of each party, refer the matter accordingly.

Explanation.—For the purposes of this sub-section, a certified bargaining agent * * * shall be deemed to represent the majority of the employees for whom it has been so certified.

51. Power to refer additional disputes or matters.—Where any dispute or matter is pending before a Board, Commission or Tribunal, the appropriate Government may, by order in writing, refer any other labour dispute or matter that may arise between the same parties to the same Board, Commission or Tribunal for settlement, inquiry or adjudication as the case may be.

52. Power to * * transfer cases.—The appropriate Government may, by order in writing and for reasons to be stated therein, at any stage * * * transfer any case pending before a Labour Court or Tribunal to another Labour Court or Tribunal for adjudication or for the hearing of the appeal, as the case may be, and the Court or Tribunal to which the case is so transferred may, subject to any special directions in the order of transfer, proceed either *de novo* or from the stage at which it was transferred.

CHAPTER VII

Commissions of Inquiry and Conciliation Boards

53. Duties of Commission of Inquiry.—A Commission of Inquiry shall inquire into the matters referred to it and report thereon to the appropriate Government within a period of six months from the date on which the reference was made to it:

Provided that the appropriate Government may extend or reduce such period. * * * * *

54. Duties of Boards of Conciliation.—(*1*) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to an amicable settlement of the dispute.

(*2*) Where a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute and the settlement shall be registered in such manner as may be prescribed.

(*3*) Where no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by it for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circum-

stances and the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) Where the dispute concerns a public utility service, the appropriate Government may, on receipt of the report under sub-section (3), refer that dispute to a Tribunal for adjudication if such dispute may be so referred under section 47, and where no such reference is made, the appropriate Government shall record its reasons therefor and communicate them to the parties concerned.

(5) The Board shall submit its report under this section within one month of the date on which the reference was made to it and simultaneously forward copies thereof to the parties concerned:

Provided that the time for submission of the report may be extended by the appropriate Government from time to time by any period not exceeding two months in the aggregate:

Provided further that such time may be extended by such periods as may be agreed upon in writing by all the parties to the dispute.

STANDING CONCILIATION BOARDS

55. Jurisdiction of Standing Conciliation Boards.—A Standing Conciliation Board shall have jurisdiction for promoting the settlement of all labour disputes arising in such area or in such class of establishments as may be specified in this behalf by the appropriate Government by notification in the Official Gazette.

56. Application for settlement of labour disputes.—An application for the settlement of a labour dispute may be made to the Standing Board by any party to the dispute in such form and in such manner as may be prescribed.

57. Duties of Standing Conciliation Boards.—(1) On receipt of an application under section 56, it shall be the duty of the Standing Board to endeavour to bring about a settlement of the dispute and for this purpose the Standing Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to an amicable settlement of the dispute.

(2) Where a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Standing Board shall send a report thereof to the appropriate Government and the Chief Conciliation Officer together with a memorandum of the settlement signed by the parties to the dispute and the settlement shall be registered in such manner as may be prescribed.

(3) Where no such settlement is arrived at, the Standing Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government and the Chief Conciliation Officer a full report setting forth the steps taken by it for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances on account of which, in its opinion, a settlement could not be arrived at, and its recommendations for the determination of the dispute.

(4) Where the dispute concerns a public utility service, the appropriate Government may, on receipt of a report under sub-section (3), refer that dispute to a Tribunal for adjudication if such dispute may be so referred

under section 47, and where no such reference is made, the appropriate Government shall record its reasons therefor and communicate them to the parties concerned.

(5) The Standing Board shall submit its report within one month of the date of the receipt of an application under section 56 and simultaneously forward copies thereof to the parties concerned:

Provided that the time for submission of the report may be extended by such periods as may be agreed upon in writing by all the parties to the dispute.

58. Form of report.—(1) The report of a Commission or Board or Standing Board shall be in writing and signed by all the members of the Commission, Board or Standing Board, as the case may be:

Provided that such report shall not be invalid merely because it has not been signed by any member of a Board or Standing Board or where the Commission consists of more than one member, by any member thereof.

(2) Nothing in sub-section (1) shall be deemed to prevent a member from recording a minute of dissent from the report or from any recommendation made therein.

59. Publication of report.—The report of a Commission, Board or Standing Board, together with any minute of dissent recorded therewith, shall, within a period of one month from the date of its receipt by the appropriate Government, be published in such manner as it thinks fit.

CHAPTER VIII

Labour Courts and Labour Tribunals

Labour Courts

60. Jurisdiction of Labour Courts.—A Labour Court shall have jurisdiction to adjudicate upon all labour disputes arising in such area or in such class of establishments as may be specified in this behalf by the appropriate Government by notification in the Official Gazette and for discharging such other functions as may be assigned to them under this Act.

Explanation.—For the purposes of this section "labour dispute" means any labour dispute relating to any matter which is not specified in the Second Schedule. * * *

61. Application for adjudication of labour disputes.—(1) An application to the Labour Court for adjudication of a labour dispute may be made by any party to that dispute within three months from the date on which notice of such dispute is served under section 27 or section 39, as the case may be.

Explanation.—For the purposes of this sub-section, in computing the period of three months, the time by which the period of negotiation, collective bargaining or conciliation proceeding has been extended by agreement between the parties under section 29 or section 41 or section 54 or section 57, as the case may be, shall be excluded.

(2) An application under sub-section (1) shall be made in such form and in such manner as may be prescribed.

62. Proceedings before the Court.—(1) On receipt of an application under section 61, the Labour Court shall, after giving the parties interested in the application an opportunity of being heard, hear the dispute as expeditiously as possible.

(2) The Labour Court shall, subject to the rules made under this Act, maintain a record of the proceedings before it including the statements of parties and witnesses and relevant documents.

(3) The Labour Court shall, after hearing the dispute, pronounce its order in open court either at once or on some future date to which the case is adjourned for that purpose.

(4) The order of the Labour Court shall be in writing and signed by the presiding officer.

(5) The order of the Labour Court shall come into operation with effect from such date as may be specified therein, and where no such date is so specified, it shall come into operation on the date of the order.

(6) The order of a Labour Court shall be published within fifteen days of its pronouncement in such manner as may be prescribed.

Labour Tribunals

63. Jurisdiction of Tribunals.—A Tribunal shall have jurisdiction—

(a) to adjudicate upon all labour disputes referred to it under section 47;

(b) to hear all appeals under section 19, and where Labour Courts have been constituted under section 10, to hear all appeals from the orders of such courts; and

(c) to hear all applications made to it under section 70.

Adjudication by Tribunals

64. Proceedings before Tribunals.—(1) Where a labour dispute has been referred to a Tribunal for adjudication, it shall, after giving the parties concerned an opportunity of being heard, hold its proceedings as expeditiously as possible.

(2) The Tribunal shall, subject to the rules made under this Act, maintain a record of the proceedings before it including the statements of parties and witnesses and relevant documents.

(3) The Tribunal shall, after hearing the dispute, pronounce its award in open court either at once or on some future date to which the case is adjourned for that purpose.

(4) The award shall be in writing and signed by the members of the Tribunal.

* * * * *

(5) In the event of any difference of opinion among the members of the Tribunal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairman shall prevail.

(6) The award shall come into operation with effect from such date as may be specified therein, and where no such date is so specified, it shall come into operation on the date on which the award becomes executable under section 66.

65. Publication of award.—The award of a Tribunal shall be published within fifteen days of its pronouncement in such manner as may be prescribed.

* * * * *

66. Award when executable.—The award shall be executable on the expiry of thirty days from the date of its pronouncement:

Provided that where the appropriate Government is a party to the dispute and is of opinion that it would be inexpedient on public grounds to give effect to the whole or any part of the award, it may, by notification in the Official Gazette, within the said period of thirty days, declare the award or any part thereof not to be so executable, and shall, on the first available opportunity, lay the award, together with a statement of its reasons for making a declaration as aforesaid, before the Legislature of the State or, where the appropriate Government is the Central Government, before Parliament, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award; and the Legislature of the State or, as the case may be, Parliament may, by a resolution, confirm, modify or reject the award.

* * * * *

Appellate Proceedings before Tribunals

67. Presentation of appeal.—(*1*) Subject to the provisions of this section any person aggrieved by an order of a Labour Court may, within thirty days from the date of such order, prefer an appeal to the Tribunal authorised to hear appeals from such Court:

Provided that no such appeal shall lie unless the appeal involves any substantial question of law:

Provided further that such appeal against an order of the Labour Court under Chapter V may lie on any question of fact or law:

Provided also that the Tribunal may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) No appeal shall lie from any order of a Labour Court made with the consent of parties.

68. Stay of the order of the Labour Court by the Tribunal.—Where an appeal is preferred against an order of a Labour Court, the Tribunal may, after giving the parties an opportunity of being heard, stay, for reasons to be recorded, the execution of that order or any part thereof for such period and on such conditions as it thinks fit:

Provided that no such order for stay of the execution shall be made unless the Tribunal is satisfied—

(*a*) that its decision shall be infructuous or that irreparable loss may result to the party applying for stay of the execution, unless the order for stay is made; or

(*b*) that the execution of the order of the Labour Court may have serious repercussions on the industry concerned or other industries or on the employees employed in such industry or industries.

69. Determination of appeal.—(*1*) The Tribunal may, after giving the appellant an opportunity of being heard, dismiss the appeal if, in its judgment, there is no sufficient ground for proceeding with it and in such a case, the Tribunal shall briefly record its reasons for so doing.

(*2*) Where the appeal is not dismissed under sub-section (*1*), the Tribunal shall, after hearing the appeal, pronounce its decision either at once or on some future date to which the appeal is adjourned for that purpose.

(*3*) In the event of any difference of opinion among the members of the Tribunal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairman shall prevail.

(*4*) The decision of the Tribunal shall be in writing and signed by the members of the Tribunal.

(5) The Tribunal may confirm, vary or reverse the order appealed from and may pass such orders as it may deem fit, and where the order is reversed or varied, the decision of the Tribunal shall state the reliefs to which the appellant is entitled.

(6) A copy of the decision of the Tribunal shall be sent to the Labour Court concerned.

Proceedings before Tribunals in relation to Applications

70. Presentation of application.—An application to a Tribunal authorised in this behalf may be made in the prescribed manner by—

(*i*) an employee for decision, whether or not the employer has contravened the provisions of section 100; * * * * * * * * * * ;

(*ii*) an employee whose services have been terminated by the employer, for decision whether or not such termination is in accordance with section 88 or section 89;

(*iii*) an employer or employee, for decision of any question that may arise under section 108;

(*iv*) an employer or employee, for decision whether or not an employee, a trade union or a certified bargaining agent has failed to comply with the terms of any settlement or collective agreement or order of a Labour Court or award, as the case may be;

(*v*) any party to the dispute or the appropriate Government, for decision whether or not a strike or lock-out is illegal.

71. Adjudication of applications.—On receipt of an application under section 70, the Tribunal shall adjudicate upon the application as if it were a dispute which has been referred to the Tribunal for adjudication by the appropriate Government under section 47 and the provisions of this Act shall apply accordingly.

CHAPTER IX

APPELLATE TRIBUNALS

72. Jurisdiction of the Appellate Tribunal.—(*1*) Subject to the provisions of this section, the Appellate Tribunal shall have jurisdiction to hear appeals from every award if—

(*a*) the appeal involves any substantial question of law, or

(*b*) the award is in respect of any of the following matters, namely:—

(*i*) wages;

(*ii*) bonus or any payment due under any scheme of profit-sharing payable periodically and not forming part of the remuneration payable under the terms of employment;

(*iii*) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employees under any law for the time being in force;

(*iv*) any sum paid or payable to, or on behalf of, an employee to defray special expenses entailed on him by the nature of his employment;

(*v*) gratuity payable to an employee on the termination of his service;

(*vi*) classification by grades;

(*vii*) any decision on an application under section 70;

(*viii*) retrenchment resulting from any scheme of rationalisation, standardisation or improvement of plant or technique;

(*ix*) any other matter which may be prescribed.

(*2*) No appeal shall lie from an award made with the consent of parties.

(*3*) No appeal shall lie from any decision of a Tribunal passed in appeal under section 69:

Provided that the Appellate Tribunal may send for the records of any case and may, if it so thinks fit, after hearing the parties and the appropriate Government, pass such orders as it deems proper.

73. Seat of the Appellate Tribunal.—The Appellate Tribunal shall have its principal seat at such place as the Central Government may, by notification in the Official Gazette, appoint.

74. Constitution of Benches of the Appellate Tribunal.—(*1*) The Chairman may constitute as many Benches as may be deemed necessary and the powers and functions of the Appellate Tribunal may be exercised and discharged by the Benches so constituted.

(*2*) A Bench shall consist of not less than two members of the Appellate Tribunal, of whom one may be appointed the President of the Bench:

Provided that where any appeal involves any labour dispute affecting any banking or insurance company, the Bench shall include a person having special knowledge of, and experience in, banking or insurance, as the case may be:

Provided further that for hearing an application for stay of award under section 77, the Bench may consist of one member only.

(*3*) A Bench shall sit at such place or places as may be specified by the Chairman by notification in the Official Gazette:

Provided that the Bench may, if it is satisfied that it will tend to the general convenience of the parties or witnesses in any particular case, sit at any other place.

(*4*) A Bench may act notwithstanding the absence of any member or any vacancy therein.

(*5*) The Chairman may, from time to time, allot any case or any specified class of cases to any Bench and may also, from time to time, transfer any case or any specified class of cases from one Bench to another.

75. Presentation of appeal.—Any person aggrieved by an award may, within thirty days from the date of such award, prefer an appeal to the Appellate Tribunal:

Provided that the Appellate Tribunal may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

76. Form of appeal.—An appeal to the Appellate Tribunal shall be presented in the form of a memorandum setting forth, concisely and under distinct heads, the grounds of objection to the award appealed from.

77. Stay of award by the Appellate Tribunal.—Where an appeal is preferred, the Appellate Tribunal may, after giving the parties an opportunity of being heard, stay, for reasons to be recorded, the execution of the award or any part thereof for such period and on such conditions as it thinks fit:

Provided that no such order for stay of the execution shall be made unless the Appellate Tribunal is satisfied—

(*a*) that its decision shall be infructuous or that irreparable loss may result to the party applying for stay of the execution, unless the order for stay is made; or

(*b*) that the execution of the award may have serious repercussions on the industry concerned or other industries or on the employees employed in such industry or industries.

78. Proceedings before the Appellate Tribunal.—* * * * (*1*) The Appellate Tribunal may, after giving the appellant an opportunity of being heard, dismiss the appeal if, in its judgment, there is no sufficient ground for proceeding with it and in such a case, the Appellate Tribunal shall briefly record its reasons for so doing.

(*2*) The Appellate Tribunal shall, after hearing the appeal, pronounce its decision either at once or at some future date to which the appeal is adjourned for that purpose.

(*3*) The decision shall be in writing and signed by the members of the Appellate Tribunal hearing the appeal.

(*4*) The Appellate Tribunal may confirm, vary or reverse the award appealed from, and may pass such orders as it may deem fit, and where the award is reversed or varied, the decision of the Appellate Tribunal shall state the reliefs to which the appellant is entitled.

(*5*) In the event of any difference of opinion among the members of a Bench, the opinion of the majority shall prevail, but where there is no such majority, the President of the Bench shall refer to the Chairman of the Appellate Tribunal either the whole appeal or the particular point or points on which there has been difference of opinion among the members of the Bench and on such reference, the Chairman shall either hear the matter himself or transfer it to any other member and the decision thereon of the Chairman or the other member, as the case may be, shall prevail.

(*6*) The Bench hearing an appeal may refer any question of law to the Chairman of the Appellate Tribunal with a recommendation to constitute a full Bench to decide the question.

(*7*) The Chairman of the Appellate Tribunal may, in such cases as he deems fit, and shall, on a reference received under sub-section (*6*), constitute a full Bench of three or five members of the Appellate Tribunal either to hear an appeal or to give an opinion on a point of law referred under sub-section (*6*), and the opinion of the full Bench on a point of law referred to it shall be binding on the Bench which made the reference.

(*8*) The Appellate Tribunal shall send a copy of the decision to the Tribunal concerned and to the appropriate Government, as soon as practicable, within one week from the date of the decision.

79. Decision when executable.—The decision of the Appellate Tribunal shall be executable on the expiry of thirty days from the date of its pronouncement:

Provided that where the appropriate Government is a party to the dispute and is of opinion that it would be inexpedient on public grounds to give effect to the whole or any part of the decision, it may, by notification in the Official Gazette, within the said period of thirty days, declare the decision or any part thereof not to be so executable, and shall, on the first available opportunity,

lay the decision, together with a statement of its reasons for making a declaration as aforesaid, before the Legislature of the State or, where the appropriate Government is the Central Government, before Parliament, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the decision; and the Legislature of the State or, as the case may be, Parliament may, by a resolution, confirm, modify or reject the decision.

80. Appellate Tribunal to exercise superintendence over Labour Courts and Tribunals.—(*1*) The Appellate Tribunal shall exercise superintendence over all Labour Courts and Tribunals * and may—

(*a*) call for returns;

(*b*) make and issue general rules and prescribe forms for regulating the practice and procedure of such Courts and Tribunals in matters not expressly provided for by or under this Act and, in particular, for securing the expeditious disposal of cases;

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of such Courts and Tribunals;

(*d*) settle a table of fees payable for processes issued by a Labour Court or Tribunal.

(*2*) Nothing in sub-section (*1*) shall be construed as giving to the Appellate Tribunal any jurisdiction to question any order of a Labour Court or any award which is not otherwise subject to appeal or revision.

81. Powers of the Appellate Tribunal in relation to contempts.—(*1*) If any person—

(*a*) when ordered by a Labour Court or Tribunal or the Appellate Tribunal to produce or deliver up any document being legally bound intentionally omits to do so, or

(*b*) when required by a Labour Court, Tribunal or the Appellate Tribunal to bind himself by an oath or affirmation to state the truth, refuses to do so, or

(*c*) being legally bound to state the truth on any subject to a Labour Court, Tribunal or the Appellate Tribunal, refuses to answer any question put to him touching such subject by such Court, Tribunal or the Appellate Tribunal, or

(*d*) refuses to sign any statement made by him when required to do so by a Labour Court, Tribunal or the Appellate Tribunal, or

(*e*) intentionally offers any insult or causes any interruption to a Labour Court, Tribunal, or Appellate Tribunal at any stage of its judicial proceeding,

he shall be deemed to be guilty of contempt of such Court, Tribunal or the Appellate Tribunal, as the case may be.

(*2*) If any person commits any act or publishes any writing, which is calculated to improperly influence a Labour Court, Tribunal or the Appellate Tribunal or to bring such Court, Tribunal, or the Appellate Tribunal or the presiding officer of a Labour Court or a member of a Tribunal or the Appellate Tribunal into disrepute or contempt, or to lower its or his authority or to interfere with the lawful process of any such Court, Tribunal or the Appellate Tribunal, such person shall be deemed to be guilty of contempt of such Court, Tribunal or the Appellate Tribunal, as the case may be.

(*3*) The Appellate Tribunal shall have and exercise the same jurisdiction, power and authority, in accordance with the same procedure and practice, in respect of contempts of itself and all the Labour Courts and Tribunals as the High Courts have and exercise in respect of themselves and courts subordinate to them under the Contempt of Courts Act, 1926 (XII of 1926).

CHAPTER X

DISMISSAL AND RETRENCHMENT

82. Definition.—For the purposes of this Chapter, "appropriate Government" means the Central Government in relation to such producers of iron and steel as may be notified in this behalf by the Central Government in the Official Gazette.

83. Procedure for dismissal of an employee.—No employee who has been in continuous employment under an employer for not less than six months shall be dismissed from service by that employer for any misconduct until such employee has been given, in the prescribed manner, reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

84. Special provision for adjudication of disputes arising out of dismissal.—Where a labour dispute arising out of the dismissal of an employee from service is referred to a Tribunal for adjudication, the Tribunal shall determine whether the employee has been dismissed for proper and sufficient cause and in accordance with the provisions of this Act, and where it comes to a decision that an employee has been wrongfully dismissed from service by an employer, the Tribunal may, notwithstanding anything contained in any other law, direct either reinstatement of that employee or, in lieu of such reinstatement, payment of such compensation to that employee as it may deem fit:

Provided that where such wrongful dismissal is found to be due to any legitimate trade union activity on the part of the employee, the Tribunal shall direct reinstatement of that employee:

Provided further that where an employee is wrongfully dismissed by any banking company, the Tribunal shall not direct reinstatement of that employee except with the consent of the employer.

85. Application for reference of retrenchment cases to Tribunals.—(*1*) An employer shall, where he proposes to introduce in his establishment any scheme of rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of some employees employed in that establishment, and may, in any other case of retrenchment, apply, in the prescribed manner, to the appropriate Government for a reference of the matter relating to retrenchment to a Tribunal.

(*2*) An application under sub-section (*1*) shall furnish full details of the scheme, if any, and shall, as far as practicable, specify—

(*a*) the number of employees likely to be retrenched;

(*b*) the classes of employees from which such retrenchment is to be made;

(*c*) the reasons for retrenchment of employees;

(*d*) the date on which such retrenchment is likely to be made; and

(*e*) any other particulars which may be prescribed.

(*3*) Where any retrenchment of employees is likely to be made on account of the introduction of any scheme referred to in sub-section (*1*), an employee may also apply to the appropriate Government for a reference of the matter relating to retrenchment to a Tribunal.

(*4*) No application for reference of any matter relating to retrenchment of employees, whether by an employer or an employee, shall be made except under this section.

86. Reference of retrenchment cases to Tribunals.—On receipt of an application under section 85, the appropriate Government may, within thirty days from the date of the receipt of such application, refer the matter relating to retrenchment, or announce its intention to refer that matter, to a Tribunal for adjudication.

87. Adjudication of retrenchment cases by Tribunals.—Where any matter relating to retrenchment of employees is referred to a Tribunal, the Tribunal shall take into consideration all the circumstances of the case and determine the number of employees to be retrenched and the class or classes of employees from which such retrenchment is to be made and make such award as it thinks fit as if the reference had been made under section 47 and the provisions of this Act shall apply accordingly:

Provided that nothing in this section shall be construed as giving to the Tribunal any jurisdiction to question the desirability or necessity of any scheme of rationalisation, standardisation or improvement of plant or technique.

88. Conditions precedent to retrenchment of employees.—No employee who has been in continuous employment for not less than one year under an employer shall be retrenched by that employer until—

(*a*) the employee has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the employee has been paid, in lieu of such notice, wages for the period of that notice;

(*b*) the employee has been paid, at the time of retrenchment, gratuity calculated at the rate of not less than fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and

(*c*) in the case of any retrenchment where no application is made under section 85, a notice in the prescribed manner is served on the appropriate Government.

89. Restrictions on retrenchment of employees resulting from rationalisation, etc.—No retrenchment of any employee which results from the introduction of any scheme of rationalisation, standardisation or improvement of plant or technique shall be made unless—

(*a*) an application has been made in this behalf under section 85 and—

(*i*) where the matter has been referred to a Tribunal, except in accordance with the award of the Tribunal, or

(*ii*) where the matter has not been so referred, or the intention to refer the matter has not been announced under section 86, until the expiry of thirty days from the date on which the application was received by the appropriate Government; and

(*b*) the conditions specified in clauses (*a*) and (*b*) of section 88 have been complied with.

90. Procedure for retrenchment and re-employment of employees.—(*1*) Where any retrenchment of employees is to be made, the employer shall follow such procedure as may be prescribed and shall, as among the citizens of India and the employees of any class from which such retrenchment is to be made, retrench the employee who was the last person to be employed in that class, unless, for reasons to be stated in writing, the employer retrenches any other employee.

(*2*) Where, after the commencement of this Act, any retrenchment of employees is made and the employer proposes to employ some persons, he shall, under such circumstances and in such manner as may be prescribed, give an opportunity to the retrenched employees to offer themselves for re-employment and the retrenched employees who offer themselves for re-employment shall have preference to other persons.

91. Effect of provisions of this Chapter on contract, etc.—Where an employee acquires any right relating to any of the matters referred to in this Chapter under any award or any contract or agreement with the employer, the provisions of this Chapter shall not have effect in derogation of such right:

CHAPTER X

DISMISSAL AND RETRENCHMENT

82. Definition.—For the purposes of this Chapter, "appropriate Government" means the Central Government in relation to such producers of iron and steel as may be notified in this behalf by the Central Government in the Official Gazette.

83. Procedure for dismissal of an employee.—No employee who has been in continuous employment under an employer for not less than six months shall be dismissed from service by that employer for any misconduct until such employee has been given, in the prescribed manner, reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

84. Special provision for adjudication of disputes arising out of dismissal.—Where a labour dispute arising out of the dismissal of an employee from service is referred to a Tribunal for adjudication, the Tribunal shall determine whether the employee has been dismissed for proper and sufficient cause and in accordance with the provisions of this Act, and where it comes to a decision that an employee has been wrongfully dismissed from service by an employer, the Tribunal may, notwithstanding anything contained in any other law, direct either reinstatement of that employee or, in lieu of such reinstatement, payment of such compensation to that employee as it may deem fit:

Provided that where such wrongful dismissal is found to be due to any legitimate trade union activity on the part of the employee, the Tribunal shall direct reinstatement of that employee:

Provided further that where an employee is wrongfully dismissed by any banking company, the Tribunal shall not direct reinstatement of that employee except with the consent of the employer.

85. Application for reference of retrenchment cases to Tribunals.—(*1*) An employer shall, where he proposes to introduce in his establishment any scheme of rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of some employees employed in that establishment, and may, in any other case of retrenchment, apply, in the prescribed manner, to the appropriate Government for a reference of the matter relating to retrenchment to a Tribunal.

(*2*) An application under sub-section (*1*) shall furnish full details of the scheme, if any, and shall, as far as practicable, specify—

(*a*) the number of employees likely to be retrenched;

(*b*) the classes of employees from which such retrenchment is to be made;

(*c*) the reasons for retrenchment of employees;

(*d*) the date on which such retrenchment is likely to be made; and

(*e*) any other particulars which may be prescribed.

(*3*) Where any retrenchment of employees is likely to be made on account of the introduction of any scheme referred to in sub-section (*1*), an employee may also apply to the appropriate Government for a reference of the matter relating to retrenchment to a Tribunal.

(*4*) No application for reference of any matter relating to retrenchment of employees, whether by an employer or an employee, shall be made except under this section.

86. Reference of retrenchment cases to Tribunals.—On receipt of an application under section 85, the appropriate Government may, within thirty days from the date of the receipt of such application, refer the matter relating to retrenchment, or announce its intention to refer that matter, to a Tribunal for adjudication.

87. Adjudication of retrenchment cases by Tribunals.—Where any matter relating to retrenchment of employees is referred to a Tribunal, the Tribunal shall take into consideration all the circumstances of the case and determine the number of employees to be retrenched and the class or classes of employees from which such retrenchment is to be made and make such award as it thinks fit as if the reference had been made under section 47 and the provisions of this Act shall apply accordingly:

Provided that nothing in this section shall be construed as giving to the Tribunal any jurisdiction to question the desirability or necessity of any scheme of rationalisation, standardisation or improvement of plant or technique.

88. Conditions precedent to retrenchment of employees.—No employee who has been in continuous employment for not less than one year under an employer shall be retrenched by that employer until—

(*a*) the employee has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the employee has been paid, in lieu of such notice, wages for the period of that notice;

(*b*) the employee has been paid, at the time of retrenchment, gratuity calculated at the rate of not less than fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and

(*c*) in the case of any retrenchment where no application is made under section 85, a notice in the prescribed manner is served on the appropriate Government.

89. Restrictions on retrenchment of employees resulting from rationalisation, etc.—No retrenchment of any employee which results from the introduction of any scheme of rationalisation, standardisation or improvement of plant or technique shall be made unless—

(*a*) an application has been made in this behalf under section 85 and—

(*i*) where the matter has been referred to a Tribunal, except in accordance with the award of the Tribunal, or

(*ii*) where the matter has not been so referred, or the intention to refer the matter has not been announced under section 86, until the expiry of thirty days from the date on which the application was received by the appropriate Government; and

(*b*) the conditions specified in clauses (*a*) and (*b*) of section 88 have been complied with.

90. Procedure for retrenchment and re-employment of employees.—(*1*) Where any retrenchment of employees is to be made, the employer shall follow such procedure as may be prescribed and shall, as among the citizens of India and the employees of any class from which such retrenchment is to be made, retrench the employee who was the last person to be employed in that class, unless, for reasons to be stated in writing, the employer retrenches any other employee.

(*2*) Where, after the commencement of this Act, any retrenchment of employees is made and the employer proposes to employ some persons, he shall, under such circumstances and in such manner as may be prescribed, give an opportunity to the retrenched employees to offer themselves for re-employment and the retrenched employees who offer themselves for re-employment shall have preference to other persons.

91. Effect of provisions of this Chapter on contract, etc.—Where an employee acquires any right relating to any of the matters referred to in this Chapter under any award or any contract or agreement with the employer, the provisions of this Chapter shall not have effect in derogation of such right:

Provided that such employee shall elect either to have all the rights acquired under such award, contract or agreement or to have all the rights to which he would be entitled under this Chapter.

CHAPTER XI

CERTAIN GENERAL PROVISIONS RELATING TO AUTHORITIES UNDER THE ACT

92. Certain powers of the authorities under the Act.—(*1*) A Registering Officer, Conciliation Officer, Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents and material objects;

(*c*) issuing commissions for the examination of witnesses;

(*d*) any other matter which may be prescribed.

(*2*) The Appellate Tribunal or the Tribunal exercising appellate jurisdiction shall, subject to the provisions of this Act, have such further powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), when hearing an appeal.

(*3*) A Commission, Labour Court, Tribunal or the Appellate Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in any proceeding before it.

(*4*) A Labour Court or Tribunal or the Appellate Tribunal shall take into account the possible financial consequences of a proposed order, award or decision on the establishment to which it relates and may, for that purpose, take such expert evidence or assistance as it may deem necessary.

(*5*) A Conciliation Officer, a presiding officer of a Labour Court or a member of a Board, Standing Board, Commission, Tribunal or the Appellate Tribunal may, for the purpose of inquiring into any labour dispute, enter after giving a reasonable notice, into the premises occupied by any establishment to which the dispute relates.

(*6*) A Registering Officer, Conciliation Officer, Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Criminal Procedure Code, 1898 (Act V of 1898); and any proceeding before such Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

93. Procedure before the authorities under the Act.—A Registering Officer, Conciliation Officer, Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal shall follow such procedure as may be prescribed, and subject thereto, the Appellate Tribunal may, by order, regulate the practice and procedure of the aforesaid authorities and where no provision or insufficient provision is made in respect of any matter by such rules and orders, the aforesaid authorities may follow such procedure as they think fit.

94. Period of operation of settlements and collective agreements.—(*1*) Where a collective agreement is concluded or a settlement is arrived at, such agreement or settlement shall come into operation with effect from such date as is agreed upon by the parties to the dispute, and if no date is so agreed upon, on the date on which the collective agreement or the memorandum of the settlement, as the case may be, is signed by the parties to the dispute.

(2) Such agreement or settlement shall remain in operation for such period, not exceeding three years, as is agreed upon by the parties, and if no such period is so agreed upon, for a period of one year, and shall continue to be binding on the parties after the expiry of the period aforesaid, until a period of two months has elapsed from the date on which a notice in writing of an intention to terminate the settlement or agreement is given by one of the parties to the other party or parties to the settlement or agreement.

95. Period of operation of orders and awards.—(1) An order of a Labour Court shall, subject to the provisions of this section, remain in operation for such period, not exceeding three years and not less than one year, as may be specified in the order.

(2) An interim award shall remain in operation until the final award becomes executable. * * * * * * *

(3) A final award shall, subject to the provisions of this section, remain in operation for such period, not exceeding three years, as may be specified in the award, and if no such period is so specified, for a period of one year.

(4) Notwithstanding the expiry of the period of operation of an order or award under sub-section (1) or sub-section (3), the order or award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the order or award to the other party or parties intimating its intention to terminate the order or award.

(5) Nothing contained in sub-section (1) or sub-section (3) shall apply to any order of a Labour Court or award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by that order or award.

(6) Where the appropriate Government, whether of its own motion or on the application of any party bound by the order of a Labour Court or an award, considers that since it was made there has been a material change in the circumstances on which the order or award was based, it may refer the order or award or a part of it to a Labour Court or Tribunal for decision whether the period of operation should not, by reason of such change, be shortened, and the decision of the Labour Court or Tribunal on such reference shall, subject to the provision for appeal, if any, be final.

(7) In the computation of the period of operation of any order of a Labour Court under sub-section (1) or any award under * * sub-section (3), the period during which the implementation of the order or award is stayed by the Tribunal or, as the case may be, the Appellate Tribunal, shall be excluded.

96. Persons on whom collective agreements, settlements, orders and awards are binding.—A settlement or an order of a Labour Court or an award or, subject to the provisions of section 42, a collective agreement, shall be binding on—

(a) all parties to the labour dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, Standing Board, Labour Court or Tribunal, as the case may be, records the opinion that they were summoned without proper cause;

(c) where the party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns or the official assignee or liquidator in respect of the establishment to which the dispute relates;

(d) where the party referred to in clause (a) or clause (b) is composed of employees all persons who were employed in the establishment or part

of the establishment, as the case may be, to which the dispute relates on the date of dispute and all persons who subsequently become employed in that establishment or that part of the establishment.

97. Right of appropriate Government to appear in any proceeding.—The appropriate Government may, whether or not it is party to a dispute, appear in any proceeding before a Labour Court, Tribunal or the Appellate Tribunal and thereupon shall have the right to be heard as if it were a party to such proceeding.

98. Representation of parties.—(*1*) For the purpose of negotiations under Chapter IV or in any conciliation proceeding or in any proceeding in relation to standing orders or in any proceeding before a Labour Court, Tribunal or the Appellate Tribunal or for any other purposes of the Act, an employee may be represented in such negotiations or proceedings under this Act—

(*a*) by the employee himself; or

(*b*) where there is a certified bargaining agent, by such bargaining agent; or

(*c*) where there is no certified bargaining agent but there is a registered trade union of the employees—

(*i*) by an officer or another member of the registered trade union of which he is a member;

(*ii*) by an officer of a federation of trade unions to which the trade union referred to in clause (*i*) is affiliated;

* * * * * *

(*d*) where the employee is not a member of any trade union, by an officer of any trade union connected with, or by another employee of, the establishment in which the employee is employed and authorised in such manner as may be prescribed.

(*2*) For the purpose of negotiations under Chapter IV or collective bargaining under Chapter V or in any conciliation proceeding or in any proceeding in relation to standing orders or in any proceeding before a Labour Court, Tribunal or the Appellate Tribunal, an employer may be represented in such negotiations or collective bargaining or proceedings under this Act,—

(*a*) by the employer himself or any whole time officer of such employer or

(*b*) by an officer or another member of an association of employers of which he is a member;

(*c*) by an officer of a federation of associations of employers to which the association referred to in clause (*b*) is affiliated;

* * * * * *

(*d*) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the class of establishments in which the employer is engaged and authorised in such manner as may be prescribed.

(*3*) No party to a labour dispute shall be entitled to be represented by a legal practitioner in any conciliation proceeding under this Act.

(*4*) A party to a proceeding before a Commission, Labour Court, Tribunal or the Appellate Tribunal shall not be represented by a legal practitioner save with the consent of the other parties to the proceeding and with the leave of the Commission, Labour Court, Tribunal or the Appellate Tribunal as the case may be:

Provided that nothing in this sub-section shall be deemed to debar an officer of any trade union or association of employers or any whole time officer of an employer entitled to represent a party under this section from representing that party merely because such officer is also a legal practitioner.

99. Commencement and conclusion of proceedings.—(*1*) A conciliation proceeding shall be deemed to have commenced on the date on which the Conciliation Officer, on receipt of a notice under section 27 or section 39, as the case may be, takes any steps to promote the settlement of the labour dispute or on the date on which the order referring the dispute to a Board is made or on the date on which the application to the Standing Board is presented, as the case may be.

(*2*) A conciliation proceeding shall be deemed to have concluded—

(*a*) where a settlement is arrived at, on the date on which the memorandum of the settlement is signed by the parties to the dispute; or

(*b*) where no settlement is arrived at, on the date on which the report of the Conciliation Officer is submitted to the appropriate Government or, as the case may be, on the date on which the report of the Board or Standing Board is published under section 59; or

(*c*) where, before a settlement is arrived at, a reference is made to a Tribunal under section 47, on the date on which such reference is made.

* * * * * *

(*3*) Any proceeding before a Commission shall be deemed to have commenced on the date on which the order referring the matter to the Commission is made and shall be deemed to have concluded on the date on which the report of the Commission is published under section 59.

(*4*) Any proceeding before a Labour Court shall be deemed to have commenced on the date of the filing of an application under section 61 and shall be deemed to have concluded on the date on which the Labour Court pronounces its order.

(*5*) Any proceeding before a Tribunal—

(*a*) in relation to adjudication of disputes referred to it, shall be deemed to have commenced on the date on which the order referring the dispute under section 47 is made and shall be deemed to have concluded on the date on which the award becomes executable under section 66;

(*b*) in relation to an appeal, shall be deemed to have commenced on the date on which the appeal is presented under section 67 and shall be deemed to have concluded on the date on which the decision is pronounced;

(*c*) in relation to an application, shall be deemed to have commenced on the date on which the application under section 70 is presented and shall be deemed to have concluded on the date on which the award becomes executable under section 66.

(*6*) Any proceeding before the Appellate Tribunal shall be deemed to have commenced on the date on which the appeal is presented under section 75 and shall be deemed to have concluded on the date on which the decision of the Appellate Tribunal becomes executable under section 79.

100. Conditions of service, etc. to remain unchanged under certain circumstances.—(*1*) No employer shall, within thirty days from the date of the service of any notice of a labour dispute under the proviso to section 27 or the proviso to section 39, as the case may be, in respect of any matter specified in the Third Schedule, alter to the prejudice of the employees concerned in such dispute the conditions of service applicable to them immediately before the service of such notice.

(2) During the pendency of any conciliation proceeding or proceeding before a Labour Court, Tribunal or the Appellate Tribunal in respect of any labour dispute, no employer shall—

(a) alter, to the prejudice of the employees concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding, or

(b) discharge or punish, whether * * by dismissal or otherwise, any employee concerned in such dispute,

save with the express permission in writing of the Conciliation Officer or the Board or the Standing Board or the Labour Court or the Tribunal or the Appellate Tribunal, as the case may be:

Provided that no such permission shall be necessary for suspending an employee for misconduct not connected with the dispute, if the employee is paid full wages during the pendency of such proceeding:

Provided further that no such permission shall be necessary for retrenching an employee in accordance with the provisions of Chapter X.

101. Special provision for decision as to whether conditions of service, etc., changed during pendency of proceedings.—Where an employer contravenes the provisions of section 100 during the pendency of proceedings before a Labour Court, Tribunal or the Appellate Tribunal, any employee, aggrieved by such contravention, may make a complaint in writing, in the prescribed manner, to such Court, Tribunal or Appellate Tribunal and on receipt of such complaint, that Court, Tribunal or Appellate Tribunal shall adjudicate upon the complaint as if it were a labour dispute referred to, or pending before, it in accordance with the provisions of this Act and shall make or pass an order, award or decision, as the case may be, and the provisions of this Act shall apply accordingly.

102. Certain matters to be kept confidential.—There shall not be included in any report or order or award or decision under this Act any information obtained by a Conciliation Officer, Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such Officer, Board, Standing Board, Commission, Court, Tribunal or the Appellate Tribunal, if the trade union, person, firm or company in question has made a request in writing that such information shall be treated as confidential, nor shall any of the aforesaid authorities or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any information for the purpose of a prosecution under section 193 of the Indian Penal Code (Act XLV of 1860).

103. Interpretation of orders, awards and decisions.—(1) If the appropriate Government is of opinion that doubts have arisen as to the interpretation of any order of a Labour Court or any award or any decision of the Tribunal or the Appellate Tribunal, made or passed under this Act, it may refer the question to the Court, Tribunal or the Appellate Tribunal which made or passed the order, award or decision, or if the appropriate Government so thinks fit, it may refer the question to the Appellate Tribunal.

(2) The Labour Court, Tribunal or the Appellate Tribunal to which a question is so referred shall give its decision thereon after giving an opportunity to the parties concerned of being heard and such decision shall be final and binding on the parties.

CHAPTER XII

STRIKES AND LOCK-OUTS

104. Conditions precedent to strikes and lock-outs.—(*1*) No employee shall go on strike until—

(*a*) the employee or, where there is a certified bargaining agent on behalf of the employee, such bargaining agent has entered into negotiations or collective bargaining with the employer as provided for in Chapter IV and Chapter V, respectively, and the negotiation or collective bargaining, as the case may be, has failed, and

(*b*) where the employee is employed in a public utility service, a notice of strike, as hereinafter provided, has, on the failure of the negotiation or the collective bargaining, as the case may be, been given to the employer.

(*2*) No employer shall declare a lock-out to any of his employees until—

(*a*) the employer has entered into negotiations or collective bargaining with the employee or, where there is a certified bargaining agent on behalf of the employee, with such bargaining agent, as provided for in Chapter IV and Chapter V, respectively, and the negotiation or the collective bargaining, as the case may be, has failed; and

(*b*) where the employer carries on a public utility service, a notice of lock-out, as hereinafter provided, has, on the failure of the negotiation or the collective bargaining, been given to the employees or the certified bargaining agent, as the case may be.

Explanation.—For the purposes of sub-sections (*1*) and (*2*), a negotiation or collective bargaining shall be deemed to have failed, if the negotiation or collective bargaining, as the case may be, is not commenced within the prescribed period or, where such negotiation or collective bargaining has commenced, if there is no settlement or collective agreement, within the period prescribed for the conclusion of negotiations or collective bargaining, as the case may be.

(*3*) Where a notice of strike or lock-out has been given under clause (*b*) of sub-section (*1*) or clause (*b*) of sub-section (*2*), no employee shall go on strike and no employer shall declare a lock-out—

(*a*) within fourteen days of giving such notice, or

(*b*) before the expiry of the date of strike or lock-out specified in such notice, or

(*c*) after the expiry of six weeks from the date of giving such notice.

(*4*) A notice of strike referred to in sub-section (*1*) shall be given to the employer, the Conciliation Officer and the appropriate Government, in such manner as may be prescribed, by—

(*a*) where there is a certified bargaining agent on behalf of the employees, such bargaining agent, or

(*b*) where there is no such certified bargaining agent, such person or persons as may be prescribed.

(*5*) A notice of lock-out referred to in sub-section (*2*) shall be given by the employer in such manner as may be prescribed to the Conciliation Officer the appropriate Government, and—

(*a*) where there is a certified bargaining agent on behalf of the employees, to such bargaining agent, or

(*b*) where there is no such certified bargaining agent, to such person or persons as may be prescribed.

105. Restrictions of strikes and lock-outs.—(*1*) No employee shall give any notice of strike or go on strike and no employer shall give any notice of lock-out or declare a lock-out in pursuance of any labour dispute—

(*a*) which is pending before a Conciliation Officer, Board or Standing Board, during the pendency of such conciliation proceeding and during a period of fourteen days after the conclusion of such proceeding; or

(*b*) which is pending before a Tribunal, during the pendency of such proceeding or during a period of eight months from the date on which the proceeding before the Tribunal commenced, whichever is shorter; or

(*c*) which is pending before the Appellate Tribunal, during the pendency of such proceeding or during a period of eight months from the date on which the proceeding before the Labour Tribunal commenced, whichever is shorter; or

(*d*) in respect of which any settlement or collective agreement or award is in operation.

(*2*) Where Labour Courts have been constituted under section 10, no employee shall go on strike and no employer shall declare a lock-out in pursuance of any labour dispute relating to any matter which is not specified in the Second Schedule.

(*3*) Where a strike or lock-out in pursuance of a labour dispute has already commenced and is in existence at the time of the reference of the dispute to a Board or Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal if such strike or lock-out was not, at its commencement, illegal:

Provided that the appropriate Government may, by order, prohibit the continuance of any such strike or lock-out.

106. Power to prohibit strikes and lock-outs in emergencies.—(*1*) The appropriate Government may, if satisfied that it is necessary or expedient so to do for securing the public safety or the maintenance of public order or for maintaining supplies and services essential to the life of the community, by notification in the Official Gazette, prohibit strikes or lock-outs in any public utility service specified in the notification within such area and for such period, not exceeding six months, as may be so specified.

(*2*) The appropriate Government shall, on the first available opportunity, place the notification under sub-section (*1*), together with its reasons for issuing such notification, before the Legislative Assembly of the State or, where the appropriate Government is the Central Government, before Parliament.

107. Illegal strikes and lock-outs.—(*1*) A strike or lock-out shall be illegal, if—

(*a*) it is commenced, declared or continued in contravention of section 104 or section 105 or section 106; or

(*b*) it is continued in contravention of an order made under the proviso to sub-section (*3*) of section 105; or

(*c*) it is commenced before the expiry of fourteen days from the date on which the appropriate Government announced its intention to make a reference under the proviso to sub-section (*1*) of section 47; or

(*d*) it has any object other than, or in addition to, the settlement of the labour dispute which has arisen either in the establishment or establishments in which the employees going on strike are employed or the employers locking-out are engaged, or in any other establishment within the same class, and it has the object of inflicting severe and general hardship upon the community; or

(*e*) it is commenced or declared in an establishment within a particular class in sympathy with a strike or lock-out in any other establishment within a different class.

(*2*) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

* * * * * *

108. Consequences of illegal strikes and lock-outs.—(*1*) Any employee who commences, continues, or otherwise acts in furtherance of, a strike which is illegal under this Act shall forfeit his claim to wages, leave, bonus, if any, the contribution payable by the employer to the provident fund, if any, and any other concession for the period of such a strike.

Explanation.—For the purposes of calculation of a claim to bonus under this sub-section, any part of a quarter of a year shall be taken to be a quarter of a year.

(*2*) Any employer who commences, continues, or otherwise acts in furtherance of, a lock-out which is illegal under this Act shall, for the period of such lock-out, pay to the employees wages at the rate of one and one-half times their average pay, bonus, if any, the contribution payable by the employer to the provident fund, if any, and grant to the employees leave or any other concession, as if the employees had been on duty during the period of such lock-out.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) and other provisions of this Act, where any illegal strike or lock-out, other than an illegal strike or lock-out under clause (d) or clause (e) of section 107, is called off within forty-eight hours of its commencement, an employee shall forfeit his claim to wages only for the period of such strike or, as the case may be, the employer shall be liable to pay to the employees their average pay and all other contributions or concessions as if the employees had been on duty during the period of such lock-out, and the employee or employer, as the case may be, shall not be liable to any other penalty under this Act:

Provided that the provisions of this sub-section shall not apply to any illegal strike or lock-out in any establishment, if it is declared or commenced within six months from the date of the declaration or commencement of another illegal strike or lock-out in the same establishment.

109. Decision as to legality of strike to be final.—Where a Tribunal authorised under section 70 decides whether or not a strike or lock-out is illegal under this Act, such decision shall, subject to the provision for appeal, be final and shall not be questioned in any other proceeding under this Act or in any proceeding under any other law for the time being in force.

110. Allowance payable during strike period in certain cases.—Where, in pursuance of a labour dispute, an employee goes on strike which is not illegal under this Act, and such dispute is referred to a Tribunal for adjudication, that Tribunal may direct the payment of such allowance to that employee in lieu of wages for the period of strike as it thinks fit, not exceeding three-fourths of the average pay of the employee, and in determining the rate of allowance, the Tribunal shall have regard to the measure of success of the employee in respect of his demands for adjudication by the Tribunal.

CHAPTER XIII

Enforcement of Settlements, Collective Agreements, Orders and Awards

111. Recovery of money due from an employer under settlements, etc.—(*1*) Any money due from an employer under any settlement or collective agree-

ment or order of a Labour Court or award may be recovered as arrears of land revenue or as public demand by the appropriate Government on the application made to it by the persons entitled to the money under that settlement or agreement or order or award, as the case may be.

(2) Where an employee is entitled to receive from the employer any benefit under any settlement, collective agreement, order of a Labour Court or award which has not been received by him and, which is capable of being computed in terms of money, the amount at which such benefit should be computed may be determined—

(a) where the benefit is to be received under an order of a Labour Court or award of a Tribunal, by that Court or Tribunal; and

(b) in any other case, by such authority as may be prescribed;

and the amount so determined may be recovered in the manner provided for in sub-section (1).

(3) Where any amount recoverable under sub-section (1) is not an ascertained sum of money, that amount may be calculated and ascertained by such authority and in such manner as may be prescribed.

112. Liability of contractors or agents to employers.—Where an employer engaging the services of any contractor or agent is liable to pay to an employee under section 111 any amount which the employee could have recovered from the contractor or agent, the employer shall be entitled to be indemnified by the contractor or agent and all questions as to the right to, and the amount of, any such indemnity shall be settled by such authority as may be prescribed.

113. Liability of employee on failure to comply with terms of settlement, etc.—Where an employee refuses or fails to comply with any term of any settlement or collective agreement or order of a Labour Court or award, such employee shall be liable to forfeit his claim to bonus, if any, and the contribution payable by the employer to the provident fund, if any, for the period of such non-compliance and shall also be liable to be dismissed from service.

Explanation.—For the purposes of calculation of claim to bonus under this section, any part of a quarter of a year shall be taken to be a quarter of a year.

114. Liability of trade unions or certified bargaining agents on failure to comply with terms of settlement, etc.—(1) Where a trade union or certified bargaining agent refuses or fails to comply with any term of an order of a Labour Court or award, or where a trade union refuses or fails to comply with any term of any settlement, or where a certified bargaining agent refuses or fails to comply with any term of any collective agreement,—

(a) such trade union shall forfeit its right to be recognised by the employer and shall be liable to have its registration cancelled; or

(b) such certified bargaining agent shall be liable to have its certification revoked.

Explanation.—For the purposes of this sub-section, a trade union shall not be deemed to have refused or failed to comply with any term of any settlement, collective agreement, order of a Labour Court or award, if the trade union removes from its membership, within two months from the date on which such settlement, agreement, order or award becomes enforceable, all the members who refuse or fail to comply with such a term.

(2) Where the recognition of a trade union is withdrawn or the registration of a trade union is cancelled or the certification of a bargaining agent is revoked under sub-section (1) for having refused or failed to comply with the terms of

any settlement, collective agreement, award or order of a Labour Court, as the case may be, and the competent authority is satisfied that the trade union or bargaining agent has complied with all the terms which it refused or failed to fulfil, the competent authority shall, by order, set aside such withdrawal of recognition, cancellation of registration or the revocation of certification, as the case may be, and the trade union or the bargaining agent shall continue to have all the rights of a registered trade union or a recognised trade union or a certified bargaining agent, as the case may be.

Explanation.—For the purposes of this section, "competent authority" means any person, officer, court or other authority who is competent to withdraw the recognition of a trade union, cancel the registration of a trade union or revoke the certification of a bargaining agent.

115. Special provisions for exercising control by the appropriate Government with regard to certain undertakings.—(*1*) The appropriate Government may, if satisfied that it is necessary or expedient so to do for securing the public safety or the maintenance of public order or for maintaining supplies and services essential to the life of the community, by notification in the Official Gazette, declare any factory, as defined in the Factories Act, 1948 (LXIII of 1948), or any establishment or class of establishments as may be specified in the notification to be a controlled undertaking (hereinafter referred to as the controlled undertaking).

(*2*) Where the employer of a controlled undertaking refuses or fails to comply with any term of any settlement or collective agreement or order of a Labour Court or award, the appropriate Government may, by order, require such employer to comply, within two months from the date of the receipt of the order, with the terms of such settlement or agreement or order or award, as the case may be.

(*3*) Where the appropriate Government is satisfied that the employer has failed to comply with the terms as required by sub-section (*2*) within the prescribed period, the appropriate Government may appoint a committee to examine and report as to whether the Government should give direction to, or exercise control over, the undertaking in question.

(*4*) A committee under sub-section (*3*) shall consist of a chairman, who shall be an independent person, and two other members, one representing the employer of the controlled undertaking and the other representing the employees thereof, and the committee shall, after making such inquiry as it deems fit with the assistance of experts, if necessary, submit its report to the appropriate Government within one month from the date of the constitution of the Committee or such further time as may be allowed by the appropriate Government.

(*5*) The appropriate Government may, on consideration of the report of the committee, if any, submitted under sub-section (*4*) and, if it is satisfied that it is necessary so to do in the public interest, by order appoint a controller authorising him to give directions to, or to exercise functions of control over, the controlled undertaking or part thereof subject to such conditions, if any, as may be provided by the order. * * * * *

(*6*) The controller may give such directions to, or exercise such functions in respect of, the controlled undertaking as may be deemed necessary so, however, that the directions issued or the exercise of functions shall not be inconsistent with the provisions of any Act or other instrument determining the functions of the person or authority carrying on the controlled undertaking except in so far as may be specifically provided by the order under sub-section (*5*), and any person having any functions of management in relation to such undertaking or part thereof shall comply with the directions or orders given by the controller.

(7) The controlled undertaking shall be under the control of the appropriate Government for such period as the appropriate Governments may by order, determine, and the appropriate Government may, from time to time, extend the period of operation of control so, however, that such period does not, in any case, exceed three years in the aggregate.

116. Periodical review of controlled undertakings and revision of settlement, etc.—Where an undertaking is under the control of the appropriate Government under section 115, the affairs of such undertaking and in particular the financial aspects thereof shall be examined once in every six months in such manner as may be prescribed by the appropriate Government and if it be found that the undertaking continues to work at a loss over any two consecutive half-yearly periods, the appropriate Government shall refer the settlement, collective agreement, order of a Labour Court or award, as the case may be, with a statement of the financial position of the undertaking to the Appellate Tribunal for decision whether such settlement, agreement, order or award should be revised in view of the financial position of the undertaking and the decision of the Appellate Tribunal, on such reference, shall be final.

117. Release of undertaking from the control of the appropriate Government.—(1) Where any settlement, collective agreement, order of a Labour Court or award in respect of a controlled undertaking is modified by the Appellate Tribunal under section 116, that undertaking may, within fifteen days of the date of the decision of the Appellate Tribunal, be released from the control of the appropriate Government and restored to the employer if such employer gives a guarantee, in the prescribed manner, to the satisfaction of the appropriate Government to comply with the terms of the settlement, agreement, order or award, as the case may be, as modified by the decision of the Appellate Tribunal.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, at any time, on an application made to it by the employer of a controlled undertaking, release the undertaking from its control and restore the same to that employer on such terms and conditions as it thinks fit:

Provided that such employer agrees to comply with the terms of settlement or collective agreement or order of a Labour Court or award, as the case may be:

Provided further that the appropriate Government may, if satisfied that the employer has not complied with such terms and conditions, by order, resume control over that undertaking and appoint a controller authorising him to exercise functions of control over the undertaking or part thereof subject to such conditions as may be specified by the order.

118. Continuance of control and closing down an undertaking in certain cases.—Where any settlement, collective agreement, order of a Labour Court or award in respect of a controlled undertaking is not modified by the Appellate Tribunal under scetion 116, or where any employer refuses or is unwilling to give a guarantee under section 117, or where any employer having given the guarantee refuses or fails to comply with it, the appropriate Government may—

(a) either continue to exercise functions of control over that undertaking; or

(b) close down that undertaking.

119. Profit and loss of the undertaking during the period of control.—Any profit made or loss incurred in any controlled undertaking during the period of control of the appropriate Government under this Chapter shall be credited or debited to the assets of that undertaking and the appropriate Government shall not be held liable for any loss incurred in the undertaking during the period of such control.

120. Protection of appropriate Government and controller.—No suit for damages shall lie against the appropriate Government or the controller appointed under this Chapter for any action which is in good faith taken in relation to any controlled undertaking by such Government or controller during the period of control and no injunction in respect of any action taken or to be taken by such Government or controller in relation to such undertaking shall be granted by any civil court or other authority.

CHAPTER XIV

PENALTIES

121. Penalty for illegal strikes and lock-outs.—(*1*) Any employee who commences, continues, or otherwise acts in furtherance of, a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(*2*) Any employer who commences, continues, or otherwise acts in furtherance of, a lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

122. Penalty for instigation, etc.—Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

123. Penalty for giving financial aid to illegal strikes and lock-outs.—Any person who knowingly expends or applies any money in furtherance or support of any strike or lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

124. Penalty for breach of settlement, etc.—Any person who commits a breach of any term of any settlement or collective agreement or order of a Labour Court or award which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation to any person who, in its opinion, has been injured by such breach.

125. Penalty for disclosing confidential information.—Any person who wilfully discloses any such information as is referred to in section 102 in contravention of the provisions of that section shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

126. Penalty for altering conditions of service, etc.—Any employer who contravenes the provisions of section 100 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

127. Penalty for contravention of standing orders.—(*1*) Any employer who fails to submit draft standing orders as required by section 16 or who modifies his standing orders otherwise than in accordance with the provisions of section 24 shall be punishable with fine which may extend to five hundred rupees.

(*2*) Any employer who does any act in contravention of the standing orders registered under Chapter III shall be punishable with fine which may extend to one thousand rupees.

128. Penalty for retrenchment of employees in certain cases.—Any employer who retrenches an employee in contravention of the provisions of section 88 or section 89 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such contravention.

129. Penalty for other offences.—Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

130. Offences by corporations.—(*1*) Where a person committing an offence under this Act is a company or other body corporate, every person who, during the relevant period, was in charge of, and was responsible to, the company or other body corporate for the conduct of the business of the establishment in relation to which the offence was committed, as well as the company or other body corporate, shall be deemed to be guilty of such offence and shall be liable to be proceeded against accordingly:

Provided that nothing contained in this sub-section shall render any person so in charge or responsible liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company or other body corporate and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company or other body corporate, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER XV

MISCELLANEOUS

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131. Certain persons to be public servants.—Every registering officer, Conciliation Officer, presiding officer of a Labour Court and every member of a Board, Standing Board, Commission, Tribunal or the Appellate Tribunal and every controller appointed under Chapter XIII shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

132. Cognizance of offences by courts.—(*1*) No court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by any person aggrieved or by or under the authority of the appropriate Government or by an officer empowered in this behalf by such Government, by a general or special order.

(*2*) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

133. Offence to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under section 122 shall be cognizable.

134. Protection of persons.—(*1*) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(*2*) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right of exemption secured by this section, and in any such proceeding the civil court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that court thinks just.

135. Protection of action taken under the Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

136. Delegation of power.—The appropriate Government may, by general or special order, direct that the powers exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by an officer subordinate to that Government.

137. Power to give directions.—The Central Government may give directions to the State Governments as to carrying into execution the provisions of this Act.

138. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which representatives of employers and employees may be chosen in Works Committee, Board or Standing Board and the time within which a party to a dispute may make its recommendation for the representation of that party to a Board;

(*b*) quorum for the functioning of Boards, Standing Boards, Commissions and Tribunals;

(*c*) qualifications for appointment as a member of a Tribunal or the Appellate Tribunal;

(*d*) the particulars to be stated in standing orders;

(*e*) conditions under which a group of employers may submit joint standing orders;

(*f*) model standing orders;

(*g*) form of notice, manner of service of notice or summons by the authorities under this Act; manner of sending documents required to be sent under this Act to employers and employees; and giving of notice required to be given under this Act by one party to another;

(*h*) the manner in which negotiations and collective bargaining may be held and the manner of registration of settlements and collective agreements;

(*i*) the manner of holding conciliation proceedings;

(*j*) the manner in which application may be made by employers and employees to the appropriate Government for reference of any dispute or matter to a Board, Tribunal or Commission;

(*k*) the form and manner in which application may be made to Standing Boards, Labour Courts, Tribunals and the Appellate Tribunal; the jurisdiction of Labour Courts and Tribunals to hear applications;

(*l*) the form and manner in which appeals may be presented to Tribunals and the Appellate Tribunal; the jurisdiction of Tribunals to hear appeals from orders of Labour Courts;

(*m*) the manner in which the report of a Commission, Board or Tribunal shall be published;

(*n*) the procedure to be followed by authorities under this Act in respect of proceedings before them;

(*o*) the forms to be used and the registers to be maintained under this Act;

(*p*) the manner in which employers and employees may authorise other persons to represent them in negotiations or collective bargaining and in any proceeding under this Act;

(*q*) the form in which notice of strike or lock-out may be given and the manner of service of such notice;

(*r*) the authority to calculate and determine the amount of money recoverable under section 111 and section 112;

(*s*) the powers, duties and functions of controllers appointed under Chapter XIII.

(*t*) the manner in which guarantee may be given by employers to the appropriate Government for release of a controlled undertaking;

(*u*) the levy and collection of court-fees in respect of an application or appeal made to any of the authorities under this Act, the levy and collection of process fees in respect of service of summons and notices and the levy and collection of fees in respect of supply of certified or other copy of any notice, settlement, collective agreement, order of a Labour Court, award of a Tribunal or decision of the Tribunal or Appellate Tribunal;

(*v*) the manner in which disciplinary action may be taken by an employer against his employees;

(*w*) meaning of continuous employment for the purposes of sections 83 and 88;

(*x*) the manner in which applications for retrenchment may be made, and the particulars which such applications may contain;

(*y*) the procedure to be followed in effecting retrenchment of employees and in re-employing such retrenched employees;

(*z*) any other matter which has to be, or may be, prescribed under this Act.

139. Power to make regulations.—(*1*) A State Government may, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters specified in sub-section (*2*) of section 138 other than any matter relating to the Appellate Tribunal.

(*3*) If any regulation made under this section is repugnant to any rule made under section 138, the rule made, whether before or after the making of the regulation, shall prevail, and the regulation shall, to the extent of the repugnancy, be inoperative.

140. Repeals and savings.—(*1*) On the coming ino force of the provisions of this Act (other than those of section (*1*))in any State or in respect of the specified class or classes of establishments in any State, the following Acts, namely:—

(*a*) The Industrial Employment (Standing Orders) Act, 1946 (XX of 1946),

(*b*) The Industrial Disputes Act, 1947 (XIV of 1947),

(*c*) The Industrial Disputes (Banking and Insurance Companies) Act, 1949 (LIV of 1949),

(*d*) The Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950).

(*e*) The Bombay Industrial Relations Act, 1947 (Bom. Act XI of 1947).

(*f*) The United Provinces Industrial Disputes Act, 1947 (U.P. Act XXVIII of 1947),

(*g*) The Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (C.P. and Berar Act XXIII of 1947), and

(*h*) The Industrial Disputes (Madras Amendment) Act, 1949 (Mad. Act XII of 1949),

shall stand repealed in relation to that State or, as the case may be, in respect of the specified class or classes of establishments within that State.

(*2*) On the coming into force of the provisions of this Act (other than those of section (*1*)) in any of the Part B States or in respect of the specified class or classes of establishments in any of the Part B States, if immediately before such commencement there is in force in that State any law relating to the adjudication of labour disputes other than those referred to in sub-section (*1*), that law shall stand repealed in relation to that State or, as the case may be, in respect of the specified class or classes of establishments within that State.

(*3*) Notwithstanding any such repeal, any proceeding commenced or penalty incurred under any of the Acts mentioned in sub-section (*1*) or any law referred to in sub-section (*2*) shall be continued or enforced as if this Act had not been passed, and subject thereto, anything done or any action taken, including any appointment made, order, notification, rules or bye-laws made or issued under any of the aforesaid Acts or laws and in force immediately before the commencement of this Act shall be deemed to have been done, taken, made or issued under the corresponding provisions of this Act as if this Act were in force on the day on which such thing was done or action was taken or appointment, order, notification, rules or bye-laws were made or issued.

THE FIRST SCHEDULE

[*See* section 2 (25)]

(1) Classification of employees, *e.g.*, whether permanent, temporary, apprentices, probationers, or *badlis*.

(2) Manner of intimating to employees periods and hours of work, holidays, pay-days and wage rates.

(3) Shift working.

(4) Attendance and late coming.

(5) Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.

(6) Requirement to enter premises by certain gates, and liability to search.

(7) Closing and reopening of sections of the establishment, and temporary stoppages of work and the rights and liabilities of the employer and employees arising therefrom.

(8) Termination of employment, and the notice thereof to be given by employer and employees.

(9) Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct; and, in particular, subject to rules made under this Act, procedure for taking disciplinary action against employees.

(10) Means of redress for employees against unfair treatment or wrongful exactions by the employer or his agents or servants

(11) Any other matter which may be prescribed.

THE SECOND SCHEDULE

(*See* sections 10 and 47)

1. Wages.

2. Bonus or payment under any scheme of profit-sharing.

3. Contribution paid or payable by the employer to any provident fund or pension fund or for the benefit of the employees under any law for the time being in force.

4. Compensatory and other allowances.

5. Hours of work.

6. Leave with pay.

7. Working in * * shifts.

8. Classification by grades.

9. Rationalisation of labour and plant.

10. Whether an employee has been wrongfully dismissed; reinstatement of, or damages to, a person wrongfully dismissed.

11. Retrenchment of employees.

12. Whether procedure for retrenchment has been followed; gratuity payable to an employee on retrenchment.

13. Whether an employer or employee or a trade union or a certified bargaining agent has failed to comply with terms of any settlement or collective agreement or order of a Labour Court or award, as the case may be.

14. Whether a strike or lock-out is illegal.

15. Any other matter which may be prescribed.

THE THIRD SCHEDULE

(*See* the provisos to sections 27 and 39.)

1. Wages, including the period and mode of payment.

2. Contribution paid or payable by the employer to any provident fund or pension fund or for the benefit of the employees under any law for the time being in force.

3. Compensatory and other allowances.

4. Hours of work.

5. Leave with pay.

6. Starting, alteration or discontinuance of shift working other than in accordance with standing orders.

7. Classification by grades.

8. Withdrawal of any customary concession or privilege, or change in usage.

9. Introduction of new rules of discipline, or alteration of existing rules except in so far as they are provided in standing orders.

PARLIAMENT OF INDIA

Report of the Select Committee on the Bill to provide for the regulation of the relationship between employers and employees, for the prevention, investigation and settlement of labour disputes and for certain matters incidental thereto.

(As amended by the Select Committee)

GIPD—LAD—558 P S—9-12-50—1,000