CHAPTER II.

Indian Labour And the Reform Movement.

From the years 1922 to 1937 several labour laws were enacted. During this period national figures like Mahatma Gandhi took special interest not only in removing the social ills but also in forcing the government to adopt a humanitarian outlook toward the Indian labourers. Indian leaders, however, did not have sound or realistic ideas regarding labour problems, nor did they evolve a good social and economic doctrine which might be applicable to the social and labour legislation against the imperialistic designs of the British economic policy. It was in these circumstances, the Factory Act of 1922 was enacted.

This Act laid down the following provisions:

1. This Act applied to all industrial undertakings using mechanical power and employing not less than twenty persons. Local governments also being entrusted with the power to declare, by notification, that undertakings employing not less than ten persons, and working with or without mechanical power should be deemed to be factories for the purposes.

2. The hours of work of all adult workers were limited to eleven in any one day and sixty in

1. Ibid., P. 45.
one week;

3. A 'child' was now defined as a person who was under fifteen years of age, and the minimum age for the admission of children to employment was raised to twelve years, the hours of work of all children were limited to six in the day, with a rest period of half an hour for children working more than 5½ hours;

4. In addition to medical examination for age and physical fitness before admission to employment in factories, children were required to undergo re-examination for continuing work, if thought necessary by an inspection;

5. Workers were not allowed to work more than five hours continuously, and a rest period of one hour was to be given in respect of each period of six hours work done;

6. The provision for Sunday rest was amended to secure that the exceptions should not involve any person working for more than ten days with a day's holiday;

7. If the labourers were to work for overtime, they received at least one and a quarter times the normal rate of pay;
3. Young male and female workers under eighteen years of age were prohibited from employment in certain lead processes.  

The Act of 1922 marked "a substantial advance on its predecessor." This Act "appeared to face the new demands of the growing industries," in the sense that it "could be applied to any factory using power on steam and employing more than 19 persons on any day." But, in several aspects this Act did not provide adequate provisions, for example, it failed to include some of the major provisions regarding social security despite the fact that at that time England and India were historically connected with each other. The Act could not give honourable conditions to the labourers to a certain extent. Although we were under the British rule yet our Indian leaders could not evolve a sound policy with regard to labour legislation and administration; it was owing to the fact that socialism, purely a humanitarian and social concept, was mixed with the democratic ideals.

2. Industrial Labour In India: Studies And Reports Series A, No.41; (United Kingdom. P.S. King And Sons Ltd., 1938), pp. 72-3.


5. Ibid.

6. The Indian Journal of Economics; (University of Allahabad; No.96, Vol., XXV July, 1944), P. 435.
Some minor amendments to this Indian Act of 1922 were made in 1923, 1926 and 1931, but in these amendments, there was made no important changes until the Act of 1934. However, by the amendment in the aforesaid Acts certain administrative difficulties were removed and a few improvements of a minor character were introduced. It is necessary to examine these amendments of the Act of 1922 in some detail. The Act of 1922 was amended in 1923 to remove a small defect in clause concerning weekly holidays. The Local Governments were asked to give help in solving any administrative difficulties that had arisen in the enforcement of the Act. Accordingly, the Chief Inspector of almost of all the provinces met at Simla in 1924, and their proposals formed a basis for an amendment of the Act 1923. The Bill was circulated for opinion and was referred to a Select Committee of the Legislative Assembly in February 1926. It was passed into an Act in March 1926, and came into operation on June 1, 1926. The following were

7. Industrial Labour In India; Studies And Reports Series A, No.41; (United Kingdom, P.S. King & Sons Ltd;), P.73.
9. Mukhtar, Ahmad : Factory Labour In India (The Annamalai University, Madras, 1930), PP. 47-48.
12. Mukhtar, Ahmad : Factory Labour In India; (The Annamalai University, Madras, 1930), P. 49.
the main changes:—

1. The interval of rest for men working not more than 8½ hours a day was to be reduced to half an hour at the option of the labourers, and the agreement of the Local Governments,

2. It was made clear that if a parent or guardian allowed his child or children to work in two or more mills on the same day, it was an offence,

3. The Local Governments were empowered to prevent the cleaning of machinery while in motion and secure a good reporting system of accidents,

4. Amendments were made as regards the register of labourers.¹³

In the meantime, N.M. Joshi sought to reinstate Clause 5 of the original Bill. After a long discussion the following amendment was made:

"(1) In every factory a reasonable temperature shall be maintained (2) In the case of any factory in which,... the inspector may serve on the manager of the factory in order in writing specifying the measures which he considers necessary to maintain a reasonable temperature, and requiring him to carry them out before a specified date." ¹⁴

¹³. Ibid., PP. 48-9.

¹⁴. Indian Legislative Assembly Debates; Vol.VII, Part III; (Government of India Press, Delhi, 1926), P.2621.

¹⁵. Muk
In 1931, another amendment was added to the Factories Act. The aim of this amendment was relief against fire accidents.\(^{15}\)

The appointment of the Royal Commission on Indian labour problems was a good step which provided a sound basis for the future labour legislation. The Commission had been able to point out the following shortcomings of the Indian factory system:

1. The prevailing factory system had created the unjustified variation from province to province in the standard of enforcement of Factories Act;
2. In some provinces, the Act was rigorously administered while in others did not;
3. The factory inspector occasionally were unduly exposed to local influence;
4. It made it difficult for the small provinces to recruit a satisfactory staff; they could not offer scope for advancement, could not look for properly and utilize high specialist qualifications, were unable to make satisfactory arrangements for leave vacancies;
5. The Central Government was deprived of experts on factory administration.
6. Lastly, occasional or periodical conferences of inspectors could not yield the results that were gained by an inspectorate working as a
7. This report decidedly paved the way for bringing the factory legislation in India in line with that in advanced countries. So, the origin of the passing of the new Act of 1934, really lay in the recommendations of the Royal Commission on Labour in India. After a great discussion, the Bill was passed as the Factories Act of 1934 and came into force on 1st January, 1935. The following were the most important changes made by the Act:

(1) A distinction was made between non-seasonal factories and seasonal factories,
(2) The importance of the distinction between two kinds of factories was made more especially in the provinces concerning the hours of work - a fifty four hour week and a ten hour day for adult labourers in non-seasonal factories and sixty hour week and the eleven hour day were retained for seasonal factories,

18. The Council of State Debates; Vol. II; (Manager of Publications, Delhi, 1935), P. 159-60.
19. Industrial Labour in India; Studies And Reports, Series A, No.41, op. cit; P. 73.
(5) The hours of work of children between the ages 12 and 15 years were reduced from 6 to 5 a day and those of women from 11 to 10 a day, in both seasonal and non-seasonal factories. Young persons between the ages of 15 and 17 years might not be employed as adults unless they had been medically certified to be fit to work as adults;

(4) It provided that the periods of work of adult labourers must be so arranged that they did not spread over more than thirteen hours. For children the period might not be more than 7½ hours. According to the new night-work provisions, women and children could not be employed before 6 a.m. or after 7 p.m.

(5) The provisions for health and safety were amplified. The Local Governments were empowered to make rules regarding such matters;

(6) The provision was now made for enhanced penalties for the subsequent convictions in the case of offences chiefly relating to hours of work and rest, payment of over-time, the employment of children, adolescents and women.20

The Indian factories Act of 1934 was a new Consolidating Act, because under this Act the Local Governments

20. Ibid, PP. 73-5
wielded large powers, the hours of work were reduced and the working conditions were improved. It indeed opened a new era for the growth of industrial democracy along with the hazardous start of socialism in India. The importance of this Act was as great as that of the Social Security Act of 1935 of the United States. The rule-making power under the Act was reserved in cases of certain matters to the Governor-General in Council. This Act provided that a Local Government might appoint such persons as it deemed fit to be inspectors and a chief inspector. A Local Government might appoint public officers to be additional inspectors. District Magistrates were ex-officio inspectors in their own districts. Moreover, the Royal Commission on Labour made further recommendations for the improvement of factory inspection in particular by (a) the appointment of women inspectors (b) the Co-ordination of inspection services, (c) the appointment of medical inspectors.

Mining Legislation.

Mining legislation was a comparatively late development in India. A first partial step was taken in


22. Industrial Labour In India; Studies And Reports, Series A, No.41; op. cit., pp 77-9.
1883 when a mining inspector was appointed owing to the increase in the number of workers employed in an industry. This appointment was followed in 1885 by the setting up of a Mining Committee to draft rules, on the basis of its report of first Indian Mines Act was passed in 1901 and came into operation in March, 1901. This Act was limited in scope to meet the requirements of the miners. Therefore a new Act was passed in 1923 and came into force on July 1, 1924. The following were the chief provisions of the Act:

1. The definition of a mine was extended to include any excavation, regardless of the depth, for searching out and obtaining minerals,

2. The weekly hours of work were confined to fifty four underground and sixty above ground,

3. Working days were limited to six in the week.

4. The definition of 'child' was amended to mean any person under the age of thirteen years, and no child was allowed to be employed in a mine or to be present in any part of a mine which was below ground.


24. Industrial Labour In India, Studies And Reports, Series A, No.41; op. cit; P. 81.

25. Ibid.
The aforesaid Act could not place any statutory restrictions on the daily hours of work. The administrative machinery was also not made effective. Thus in March 1923, the Legislature passed an amending Act, which limited the maximum weekly hours of work for the open works as sixty and for the under-ground works as fifty four. But it did not make any improvement upon the Act of 1923. It only regularized the daily working period by fixing 12 hours as the maximum period of work. It laid down that within a period of 10 years the women labour should be extirpated altogether from the Indian mines. Of course, it was an important piece of legislation, on which alone the industrial development of India could properly be based.

The said Act was again amended in 1931 with a view to removing some deficiency of the Act of 1923 by determining the jurisdiction of the Court to try mining cases. The Royal Commission Labour again recommended the reduction of hours worked on the surface to 54 a week and the examination of the possibility of a daily limitation to 10, 9 or 8 hours. In 1931 the International Labour Conference adopted a Draft Convention limiting hours of work to 7 hours and 95 minutes.

27. Mukerjee, Pankaj Kumar: op. cit., P. 95.
a day for underground work in hand coal mines. In the light of the Draft Convention Indian Government framed a new Bill further to amend the Indian Mines Act of 1923, which was introduced into the Legislative Assembly in January 1935. The Bill was passed by the Assembly and by the Council of State on 8th and 15th April respectively. It was assented to by the Governor-General on 21st April, 1935. The important amendments made by the Act were as follows:

1. The hours of above ground were reduced for sixty in the week and twelve in the day to fifty-four in the week and ten in the day. The period of spread over for work ground was limited to 12 hours in the day including at least one hour's rest for 6 hours work. Daily hours were reduced from twelve to nine;

2. The maximum age for the admission of children in mines was raised from 13 to 15 years, and adolescents between the ages of 15 and 17 years could be employed underground only when they had been duly certified by qualified medical practitioners;

3. This Act provided that the miners should also have two elected representatives in the
Mining Boards;

(4) The Act also provided that a record of accidents involving in capacity for 34 hours or more should be entered in the prescribed register and that copies of the entry should be submitted to the Chief Inspector of Mines twice a year and Local Governments should publish the reports of Courts of enquiry into accidents. 29

Social and political pressure also at that time forced the Indian Government to adopt genuine social measures. The path for an industrial democracy had become clear by this Act. The Act of 1935 not only raised the prestige of mine labourers through their representation in the Mining Boards but also reduced the working hours. But in practice their voice was left unheard.

Strong measures to ensure safety were further taken by an amending Act of 1936. 30 Another Act to ensure safety measures was passed by both Houses of the Legislative Assembly and the Council of State in 1937. The amendment was: -

"That in clause 4 of the Bill, in the proposed

29. Industrial Labour In India; Studies And Reports, Series A, No.41; op. cit., PP. 82-4.

Clause (b) after the word 'authorities' the following be inserted:—

"which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned." 31

Regarding the improvement of the conditions of the mine labourers in future A.G. Clow remarked thus:

"As regards the actual representations, the present intention, I think, is that miners should have the same representation as the owners and the question of representation through trade unions will be considered. But I obviously cannot give any undertaking as to the final form of the regulations because these have to be published for criticism and we are bound to take into consideration all the criticisms and opinions received." 32

The most striking feature of all the said Mining Acts was that they guaranteed the conditions of the workmen with serious care and Local Governments were given the right to set up Mining Boards so as to guard the interests of the mine-workers. But still in some of the provinces like Uttar Pradesh the conditions of the mine-workers were deplorable.


on account of the undue power exercised by the Central Government. The position of Local Governments during this period with regard to their rights was weak and precarious. Local Governments were entrusted with a good deal of powers in regard to sanitation and various questions of employment, registers, notices, etc. They could also make rules for the appointment of Chairmen and members of Mining Boards and for regulating the procedure of such Boards, and for the appointment of Courts of enquiry into accidents. But afterwards these powers were passed on to the Central Government.

The functions of Mining Boards were as follows:

1. The draft of any regulation was to be referred to every Mining Board, the draft of any rule to the Mining Board of the Province concerned, and such regulations or rules could not be published unless and until such Board had a reasonable opportunity of reporting on their expediency,

2. If there was disagreement between the inspectorate and a mine owner regarding the terms of by-laws, the question was to be referred for settlement to the Mining Board,

3. It was provided that a Court of law could decide that a case brought before it by the inspectorate was to be properly investigated by a Mining Board and report the case to the
Government for reference to the Board,

4. Provision was also made for such cases to be referred to a Committee instead of to a Mining Board. Such a Committee was to consist of a chairman nominated by the Government, an expert nominated by the chairman and two persons representing the interests of the mine management and the worker respectively.33

The Workmen’s Compensation Act, 1924.

As far back as 1884, the demand for compensation was made by the workers in Bombay in a petition to the Government of India. After the First World War, the demand for compensation became more urgent due to the powerful organization of workers, the All India Trade Union Congress which was established in 1920.34 For the first time proposals for a Workmen’s Compensation Act were published by the Government of India in 1921. They met with general support. A committee including the persons representing the opinions of employers and labourers met in Simla in 1922. Consequently a bill was introduced in the Legislative Assembly in that year. It was subsequently passed with a number of minor amendments in the

33. Ibid., PP. 85-7.
spring of 1925. It came into force on 1st July 1924. The main provisions of the Act were the following:

The Act was applicable to certain railway servants and persons employed either by way of manual labour or on monthly wages not exceeding Rs.300/- on tramway services, in factories as defined in the Indian Factories Act, in mines as defined in the Indian Mines Act, on loading, unloading or coaling ships at docks, etc. The Act further applied to certain specified occupational diseases. The Governor-General in Council was empowered to extend its application to other such diseases as well as to hazardous occupation;

2. Workers coming within the scope of the Act were entitled to compensation from the employer in case of personal injury caused by accident arising out of and in the course of the employment, provided that the incapacity lasted more than ten days and that the injury was not caused by the fault of the labourers;

3. The Act made a distinction between death, permanent total disablement and temporary disablement. In the case of the death of one, his dependents, the compensation was Rs.200/- For permanent total disablement the compensation was, for an adult, Rs.3,500/- For a minor, it was a sum equal to eighty-four months' wages, whichever was less, and, compensation for permanent partial disablement was payable according to the
percentage of loss of earning capacity. Temporary disablement, total or partial, was compensated by half-monthly payments during the disablement or during a period of five years, whichever was less. And in the case of an adult, and in the case of minor, of a sum equal to one third or after he reached fifteen years of age. 35

So far as the administration of the Act was concerned, it was to be done through provincial commissioners for workmen's compensation, and was to be exercised according to the provisions of the Act and of rules made thereunder by the Governor-General in Council or by the Local Governments. The duties and responsibilities of the Commissioners were very wide. 36

An examination of these provisions reveals that the scope of the said Act was extremely limited. The Act aimed at the inclusion only of workers whose occupations were hazardous and who were in industries. However, the Act was smooth in its operation, and one of its remarkable features was the reservation of settlement of disputes to especially appointed Commissioners who were given wider powers than those granted to Civil Courts. 37 At this time India was more concerned

35. Industrial Labour In India : Studies And Reports, Series A, No.41; op. cit; PP. 104-5.
36. Ibid, P. 105.
37. Report of the Royal Commission on Labour In India; op. cit; PP. 297-98.
with the freedom from the foreign rule than with the framing of a good political doctrine. However, due to the efforts of the Indian National Congress vague policy of social welfare was brought into the notice for the common good of the working class. As the Indian political leaders were not so socially conscious, their policy of social welfare could not have the desired effect.

Further amending Acts were passed in 1926, 1929, 1931 and 1933.

In 1926 the Bill was moved by B.N. Mitra, Member for Industries and Labour, to amend further the Workmen's Compensation Act of 1923. He remarked that it was a simple Bill whose chief aim was to give effect to a Resolution that was passed by both chambers of the Indian Legislature, recommending to the Governor-General in Council the adoption of a certain Draft Convention which was passed at the 7th Session of the International Labour Conference held at Geneva in the year of 1925. In 1929, the Bill was moved by the aforesaid gentleman to amend the Act further. This Bill was limited to the furthering of the benefits of the Act to certain classes of the people in cases where such extension would not conflict with any fundamental principles and had already been decided upon by the Government of India after due enquiry. In 1931 the Act was also amended to remove some defects but no

38. Legislative Assembly Debates; (Official Report) Vol., VIII, (Government of India Press, Delhi, 1929) P. 226.
change was made in the principles. The passing of these Acts shows how ineffective were the steps which were taken and which really could not enforce the provision with regard to the compensation given to the workers.

The Act of 1933 was passed by the Legislature taking into consideration the recommendations of the Royal Commission. This Act came into operation in respect of some of its provisions on 1st January, 1934, and in respect of the remainder on July, 1934. This Act amended the Act of 1923 in the following way:

1. This Act, extended widely the scope of the original Act; now applied, as before, to railway servants and persons employed on monthly wages not exceeding Rs.300/- in connection with mechanically propelled vehicles, in factories, in mines, in the loading, unloading, fuelling, constructing, repairing, demolishing, clearing or painting of a ship, in the construction, repair or demolition of certain buildings, dams, roads, bridges, tunnels, wharfs, etc. on telegraph or


41. Industrial Labour In India; Studies and Reports, Series A, No.41, op. cit., P. 105.
telephone lines or posts, and in connection with overhead electric cables, in connection with aerial rope-ways, canals, pipelines on sewers; in blasting operation; in making excavations; on ferry-boats; on cinchona, coffee, rubber and tea estates (save as clerks); in electricity and gas works (except clerks); in light houses; in the production or exhibition of cinematograph pictures; in connection with wild animals;

2. Labourers were now entitled to compensation for injuries resulting in disablement for more than seven days instead of ten days;

3. The provision disqualified workers for compensation in respect of accidents owing to their fault was amended to exclude fatal accidents;

4. The provisions with regard to the amounts of compensation were amended both to increase the rates and to define more clearly the amounts due at different wage levels. In case of death of an adult the rate varied from a minimum of Rs.500/- to a maximum of Rs.4,000/-; compensation for death of a minor remained at Rs.200/-. For the permanent total disablement of an adult, the rates ranged between Rs.700/- and Rs.5,600/-; in
the case of a minor, the sum payable was Rs.1,200/- For temporary disablement, an adult, after a waiting period of seven days could receive compensation varying from a full wage in the lowest wage class to a maximum of Rs.30/- (half-monthly); while a minor received half his monthly wages subject to a maximum of Rs.30/-.

5. The definition of dependents was amended to include a wife, a minor legitimate son and an unmarried legitimate daughter, or a widowed mother; and if wholly or partly dependent on the earnings of a workman at the time of his death, a husband, a parent other than widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent was alive, a paternal grandfather.

The administration of the Act and the settlement of disputes thereunder were entrusted to those Commissioners who had been given wide powers. Since the passing of the Act,

42. Industrial Labour In India; Studies And Reports, Series A. No.41; op. cit., PP. 106-8.
the total amount of compensation paid amounted to over Rs.1,50 lakhs in over 230,000 cases till December 1938. The Workmen's Compensation Act of 1933 went to some extent to improve the conditions of the workers. The provisions regarding compensation were good enough but still a big vacuum existed, as no change had been made in the method of calculating compensation. The administrative machinery was weak and lethargic. It can be said that even in the most unfavourable conditions the Act did overcome the pressure of prolonged demand of compensation and political agitation.

Trade Union.

In India the labour movement might be said to have begun in 1975, when Sorabjee Shapurjee Bengali drew the attention of the Government to the miserable lot of the labourers. Although, the first significant step towards organizing labour was taken by Mr. Lohandan, so far as the agitation for the amendment of the First Factory Act was concerned. He was also responsible for laying down the foundation of the first organization of labour in 1890. The Bombay Mill Hands Association- There was a good deal of the formation of such organizations in the years that followed.

44. Shiva Ram, V., op. cit; P. 79.
The Amalgamated Society of Railway Servants of India and Burma was formed in 1897. The other organizations formed in the beginning of the present century were Printers' Union, Calcutta, 1905; Bombay Postal Union, 1907; and the Kamgar Hitwardhak Sabha in 1910.

Till the closing years of the First World War the progress of Trade Unionism in Indian was very slow. After the First World War Trade unions in India made good progress. During the period of 1919 and 1923 scores of unions came into existence. Mahatma Gandhi formed at Ahmedabad, in 1920, a Spinners' Union and a Weavers' Union and by 1921 Trade Unions had, 20,000 members with the funds amounting to Rs.75,000/-. In most of these cases unions did not pay any attention to ameliorating the conditions of the labourers. But soon a movement for co-ordination set in. The necessity of electing delegates for the annual International Labour Conference gave some impetus to this movement. The first All India Trade Union Congress, a national federation of unions, was held in 1920. After four years' efforts the Indian Trade Unions Bill was introduced by Bhupendra Nath Mitra

45. Labour In South-East Asia; Edited by Pillai, PP. PP. op. cit.; P. 33.
46. Ibid.
49. Akhtar, S.M : And others; op. cit.; P.319.
to provide for the registration of trade unions. He also remarked that something could be done by legislation to encourage the development of trade unions on right lines but like other democratic growth they could not be set up by statute. 50

In the same year the Bill was referred to a Select Committee of six members. The main changes made by the Select Committee in the original Bill was the insertion of the clause sixteen, which provided thus:—

1. This clause provided for the constitution of a separate fund to be formed from the optional contributions and to be utilised for expenditure on specified objects for the promotion of the civic and political interests of the members of a Trade Union.

2. The Select Committee considered carefully making an arrangement concerning a separate political fund.

3. It evolved a compromise that was incorporated in clause 16 of the Bill. The provisions of this clause practically followed the English law on the subject that voluntary contributions would be raised on the basis of contracting.

50. The Legislative Assembly Debates; (Official Report), Vol IV, Part I (Government of India Press, Delhi, 1925), P. 79.

51. Ibid.
4. A good deal of majority of the Committee had altered the words 'a majority' at the beginning of the clause to not less than one third.52

It was clear that in the limited sense economic democracy and the emerging out of the socialistic pattern of society in India were on the way. Further, Mr. A.H. Ley moved in the Council of State the following amendments in the said Bill:

That in Sub-Clause (1) of Clause 15 for the words beginning with "provided such" and ending with "at the time of such payment" the following be substituted, namely:

Provided that the expenditure in respect of such contributions in any financial year should not in any way, during that year be in excess of one-fourth of the combined total of the gross income which had up to that limit to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the beginning of that year; the payment of contributions to any cause intended to benefit labourers

52. The Legislative Assembly Debates: (Official Report); Vol., VII, Part 1, (Government of India Press, Delhi, 1926), PP. 1971-72.
in general. This Act was passed in 1926 and came into operation on 1st June 1927. Under this Local Governments were required to appoint a person to be the registrar of Trade Unions in the province. The registration of Unions was optional. The Act also limited and defined the purposes for which the general funds of a registered union might be spent.

The Trade Unions Act of 1926 was a Legislation of experimental character. It was the first attempt in India to legalise legitimate trade union activity and to protect trade unions. The most important thing was that trade unions were required to furnish accounts and the necessity of including in the executive a majority of actual labourers. However, the Royal Commission on Labour rightly criticised the situation and suggested remedies thus:

"Labour is weak, leaders are few,.... the movement cannot prosper if it is allowed to depend almost entirely on a stimulus from the top; there must be an internal collective will.... Efforts should be made to give as many members as possible some share in the work. Meetings should be frequent, even if they are small, regular branch meetings are of more value than the infrequent mass meetings.


54. The Council of State Debates; Vol. VII, op. cit.; P.302

55. Report of the Royal Commission on Labour In India; (Government of India, Calcutta, 1931), P.318.
meeting, which has little permanent effect."\textsuperscript{56}

In 1928 the Act was amended to facilitate the procedure of appeal against decisions of the registrar refusing to register a trade union or withdrawing a certificate of registration.\textsuperscript{57} In 1928-29 Communists and left-wing radical leaders came into power in trade unions. The influence of communism in India over the minds of labourers was entrenched deeply and owing to the subversive activities of the extremist element lawlessness continued. But the gulf was indeed bridged in the year of 1938 when Giri, Minister of Labour Madras took stern action against the deteriorating conditions in India.\textsuperscript{58} In an under-developed country like India it was imperative that discipline in every walk of life was the first requirement to achieve the high level of production and to keep the prices stable.

\textit{Trade Disputes Legislation.}

The history of industrial disputes in India might be said to be zigzag. In the early times when the industry was in its infancy, it was natural to have developed

\textsuperscript{56} Ibid. P. 327.
\textsuperscript{57} Industrial Labour In India: Studies And Reports, Series No.41; op. cit.; PP. 110-11.
\textsuperscript{58} Akhtar, S.M.: and Others; op. cit.; PP. 319-20.
a regular guild system in each craft and it was guild which controlled and regulated industry and looked after the welfare of the members. But it became obvious after the Industrial Revolution to have maintained the usual contact between the employee and the employer. The growing consciousness and the spirit of collective bargaining in the working class resulted into discontentment and industrial strife, commonly indicated as industrial disputes. As far back as to the year 1859-60 a notable scuffle arose between the European railway contractors and their Indian workers resulting into enactment of Employers and Workmen (Disputes) Act of 1860. It was not, however, until 1929 that the Act to make provision for the investigation and settlement of trade disputes for certain other purposes was passed. It was brought into force on May 7, 1929 and was to remain in force for five years. The Bill before passing into the Act was referred to a Select Committee. Bhupendra Nath Mitra, member for industries and Labour had very aptly said:

"I wish to make it clear that in this Bill I have not attempted to copy blindly from the

60. Industrial Labour in India : Studies and reports, Series A, No.41; op. cit.; P. 112.
The chief object of the Act of 1929 was to make provision for the establishment of Courts of Enquiry and Boards of Conciliation with a view to investigating and settling trade disputes respectively. The Act prohibited lock-outs without notice in public utility services. It also made any strike illegal.\(^6\)

In 1934, the Act was made permanent by Act No.XIII of 1934, but the Government of India undertook to introduce an amending Bill at a later date. In the same year an important provincial measure was passed, namely The Bombay Trade Disputes Conciliation Act, the purpose of this Act was to make further provision for the settlement of trade disputes by conciliation and for certain other purposes.\(^6\)

The promised Bill to amend the Trade Disputes Act introduced in the Central Legislature in 1936, the Bill proposed to empower the Local Governments to appoint officers, permanently or temporarily and for particular areas or industries, if necessary. The Bill proposed that a strike involving or likely to involve serious and prolonged hardship should only

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61. The Legislative Assembly Debates; (Official Report) Vol. I; (Government of India, Press Delhi, 1929), P.702.

62. Industrial Labour in India, Studies and Reports, Series A, No.41; op. cit; P. 112.

63. Ibid. PP. 112-13.
be illegal if declared illegal by the Local Government, the dispute would then have to be referred to a Court of enquiry or a board of conciliation. There was another amendment which proposed to amend the definition of public utility service to include tramways and inland steamer services.  

From 1928-29 to 1937, the number of industrial disputes was highest. The social legislation and administration provided by the Acts of 1929 and 1936 proved beneficial in mitigating the disputes between the employer and the employers and in improving industrial democracy. On the whole, the success was attained not so much by these measures because less reliance was placed on ad hoc public enquiries contemplated by the Indian Trade Disputes Act than in the efforts of Conciliation Officers.

**Payment Wages Legislation.**

The first step for legislation concerning payment of wages was made in a Private Members' Bill called by the name of the Weekly Payment Bill which was brought before the Legislative Assembly in 1925. It sought to remedy some of the evils of withholding wages, delays paying wages and making

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64. Ibid. PP. 113-14.
deductions from wages in respect of fines. This bill was withdrawn on the promise that the question was under consideration by Government. However, the Government of India revised the original Bill in the light of the opinions and criticism of Local Governments, and re-introduced it in 1935. Regarding this Bill D.G. Mitchell, member for industries, remarked:

"The Bill marks a very great advance and will unquestionably force many employers, of many vast undertakings, to read just their methods. It will certainly cause them, to begin with, very great inconvenience."

Ultimately, the Act was passed in 1936 and came into force in March 1937. The important provisions of the Act were as follows:

1. In the first instance, the Act applied to the payment of wages to the persons employed in factories and on railways, and it did not apply to wages which averaged Rs.200/- a month or more.

67. Industrial Labour In India, Studies and Reports, Series, No.41; op. cit.; P. 97.


69. Industrial Labour in India, Studies And Reports; Series A No.41; op. cit.; P. 97.
2. The periods in respect of which payments were payable must be fixed. No wage period might exceed a month, where the undertakings employ one thousand workers, then wages must be paid before the expiry of the seventh day after the period for which they were due; in other cases before the expiry of the tenth day. All payments should be made on a working day. They should be in cash.

3. Deductions from wages might be of the several kinds, viz; fines, deductions from absence from duty, deductions for damage, deduction for house accommodation, deductions for authorised amenities, deductions for recovery advances, deductions of income-tax, deduction made by a competent jurisdiction, deductions in respect of provident funds, and deductions for payments to cooperative societies or to a scheme of insurance maintained by the Indian Post Office.

4. Claims on account of either deductions or of delay were to be dealt with by a special authority.

5. Infringements of law were liable to prosecution. Such prosecutions could not be instituted so long as a successful claim was not made under the provisions. And the authority appointed under those provisions or
the appellate court considered prosecution to be warranted.  

Many difficulties of the labourers were solved by this Act regarding the payment of wages because this Act made easier payment of wages to the workmen by their employers and this Act created a sense of security in the minds of labourers so far as the payment of wages was concerned on due dates. This Act was extended only to the industrial undertakings, so agricultural labourers could not be benefited by it. This Act was extended to mines, plantations, certain categories of transport services in some states and other undertakings. More or less in all the industrial undertakings where a large number of children, men and women were employed, wages were not paid to them on the due days. They were harassed by the employers. The most notable thing was that under this Act Local Governments were granted sufficient powers in the sense that they could extend the provisions of the Act or any of them to any class of persons employed in any industrial establishment or in any class or group of industrial establishments. Still Local Governments did not enjoy the freedom which was given to them in matters of labour policy.

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70. Industrial Labour in India, Studies and reports, Series A, No. 41; op. cit.; PP. 97-9.


72. The Legislative Assembly Debates, Vol; I, No.1 (The Manager of Publications, Delhi, 1936), P. 212.
Maternity Benefit Legislation.

The attitude of the Government of India towards women labour was unsympathetic till 1937. The legislation for the protection of women in child birth had been treated as a provincial matter. However, some heed was paid by the International child birth convention of 1919 at Washington in this regard but the result was nil. Further enquiries into this were made by the Governments of Bombay and Bengal and these were followed in 1924 by an enquiry by the Government of India. Thus, the first measure of provincial legislation was the Bombay Benefit Act of 1929, this was followed by an Act in the Central Provinces in 1930. This timely recommendation of the Royal Commission on Labour proved fruitful in the sense that the commission recommended for the making of a maternity benefit scheme compulsory in regard to women permanently working in industries on full-time process. The Commission, however, recommended legislation in this regard for season and part time workers. The Commission further recommended that the maximum period for any woman entitled to the payment of maternity benefit was to be four weeks,

73. Industrial Labour in India: Studies and reports, Series A. No. 41; op. cit.; pp. 94-5.
including the day of her delivery and four weeks following that day; and the qualifying period of employment might be fixed at 12 months, but it should in no case be less than nine months. The Commission also recommended maternity benefit legislation for women on plantations. 74

The Government of Bombay passed the Bombay Maternity Benefit (Amendment) Act in 1934 so as to give effect to some of the said recommendations as well as to amend other provisions of the existing Act. A Maternity Benefit Act, based on that of Bombay, was also passed in the Madras Presidency in 1939. It came into force on April 1935. The Bombay Maternity Benefit Act of 1929 and the rules issued thereunder were extended subject to some modifications to Ajmer-Merwara in 1932. In 1937, the Chief Commissioner of Delhi brought the Bombay Act into force in the province of Delhi. The main features of these Maternity Benefit Acts were as below:

1. All of these Acts related to women working in factories;
2. In all cases the entire cost was to be borne by the employers;
3. The maximum period for which the benefit was available was eight weeks in Bombay, in the Central provinces and in Madras it was seven

weeks, being four or three weeks after the birth of the child;

4. It was provided that the women should have been in the service of the employer from whom she would claim her benefit for nine months. During this period she should not work in any other place;

5. A woman might not be discharged from her employment during the period of absence from work. 

The above observation shows that there was practically no law meant exclusively for women workers as a whole. And whatever sort of maternity benefit was provided for women, it was partial in character. On the other hand it was not the case with other countries like Great Britain, Germany, Italy and Japan. All these countries had taken full care to protect maternity interests of women workers in their respective fields. France had enacted a good number of legislations concerning the protection of women labourers. Unfortunately women workers in India were not given their due privilege. The women workers were badly treated by the employers.

Legislation In Respect Of Children.

The Central Legislature in India did not take

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75. Ibid. P. 96.
any step in connection with the employment of children on plantations. On the basis of the strong recommendation of the Royal Commission the Labour Act of 1933 was passed.\textsuperscript{76} Thus, the origin of this Act came from the investigations of the Royal Commission on Labour.\textsuperscript{77} The said Act gave a death blow to the system of pledging children by the parents to the weaver-masters or any other employers.\textsuperscript{78} This Act sought to abolish a type of child slavery, and thereby marked a new era in the life of child labour in India.

The Plantation Legislation.

In India, it was the plantation industry—the first organised industry—for which labour legislation was especially made. Between 1863 and 1901 several legislative enactments were passed. Their main aim was to provide the fixation of wage scales, the fixation of the duration of labour contracts from three to five years, the license of recruiters, and registration of emigrants. Planters were also given powers to arrest absconders without warrant.

As the restrictions, under the Act of 1901 proved insufficient, an amending Act was passed in 1908 which prohibited the conclusion of labour contracts with new recruits elsewhere in the recruiting districts, and also the entering of the new contracts by time-expired workmen. In addition to it, another step was taken in 1915 with the passing of the

\textsuperscript{76} Ibid, P.98.
\textsuperscript{77} The Council of State Debates, Vol.I - 1933; (Manager of Publications, Delhi, 1933), P.81
\textsuperscript{78} Mukherjee, Pankaj Kumar; op. cit., P. 32.
Assam Labour and Emigration Act, No. VIII of 1915. This Act
provided for the abolition of the indentured labour system
concerning the other districts of the Assam valley. It also
prohibited the recruitment by contracts. It also made pro­
vision for the establishment of an Assam Labour Board for the
supervision of recruitment by garden pardars under the local
agents.79

But the amendments of the Assam Labour and Emig­
ration Act could not result in the abolition of criminal
penalties for breach of labour contract. One of the most
notable legislation was the Workmen's Breach of Contract
Act of 1859. It was the earliest Act which provided for the
criminal penalties for the breach of contract, and it contin­
ued to be in force upto 1920. In 1923 an Act was passed
according to the recommendations of the Assam Labour Enquiry
Committee of 1921 - 1922, which laid down that penal sanctions
were an anachronism. This Act repealed the Workmen's Breach
of Contract Act, and two sections of the Indian Penal Code.
This Act came into operation in April 1926, but it was repealed
in 1927 by an Act which came into operation in 1929. In Coorg,
the Coorg Legislative Council passed the Coorg Labour Act of
1926, the principles of which were based on those of the Work­
men's Breach of Contract Act. Its scope was confined to workmen.

79. Industrial Labour In India, Studies And Reports, Series,A.
No. 41; op. cit.; PP. 63-5.
employed in the cultivation and the production of coffee, tea, rubber and other agricultural products. But due to its limited nature, it expired on April 1, 1931, and was not re-enacted. 80

The Royal Commission on Labour found the Assam Labour and Emigration Act of 1901 defective. Therefore, the Commission recommended the making of a new law with a view to securing the free movement of labour, a more stable labour force, and better administration of the law. Thus a new Act, the Tea Districts Emigrant Labour Act of 1932, was passed by the Indian Legislature. It came into force in 1933. This Act replaced the Assam Labour and Emigration Act of 1901. 81 The chief provisions of this Act were as follows:–

1. Every emigrant labourer had a right of repatriation at the expense of the employer on the expiry of three years after entry into Assam;

2. No child might be assisted to proceed to Assam to work on a tea estate unless such child was accompanied by a parent or other adult kith and kin whom the child was dependent. A married woman who was living with her husband might only be assisted to emigrate with the consent of the husband;

80. Ibid., PP. 65-6.
81. Ibid., PP. 66-7.
3. Provincial Governments were granted powers to declare any area to be a controlled emigration area;

4. Provincial Governments were also given powers to declare any controlled emigration area or part thereof to be a restricted recruiting area;

5. In place of the Assam Labour Board the appointment of a Controller of Emigrant Labour and one or more deputy controller was made;

6. Power was reserved to the Governor-General in Council to extend the application of the Act to land in Assam other than tea estates.

The provisions of the Act concerning the control of emigration and recruitment were permissive. The Act did not define the circumstances in which the Government would be justified in imposing the control of emigration or the restriction of recruiting. The main problems were still the same as before; these were the problems of recruitment, wage, hours of work, health and welfare, and therein the problem of efficient administrative machinery was also involved.

The Indian Railways Legislation.

Save in respect of railway workshops which were covered by the Indian Factories Act of 1922, the conditions

82. Ibid; PP. 67-8.
of work of the Indian railway servants were wholly determined by the administrative decision of the Railway Board. Regarding the hours of work of railway labourers, Article 10 of the Washington convention, ratified by India, was the substantive Article which laid down that:

"In British India the principle of a 60 hour week shall be adopted for all works in the industries at present covered by the Factory Act administered by the Government of India, in mines and in such branches of railway work as shall be specified for this purpose by the competent authority."  

The railways constituted a big employer of the many other classes of people for which there was no provision. So, in 1930 Indian Railways (Amendment) Act was passed which gave effect to the International Labour Conventions ratified by the Government of India. The Act of 1930 provided that the hours of work of railway servants should not be more than 60 hours a week on the average in any month. Railway servants whose work was essentially intermittent might not be employed for more than 84 hours in any week.
Provision was also made for temporary exceptions to those limitations in cases of emergency and exceptional pressure of work subject to the payment of an overtime rate one-and-a-quarter times the ordinary rate of pay. A weekly rest of a full 24 consecutive hours was prescribed, subject to temporary exemptions. The Governor-General in Council was granted power to make rules under the Act, in exercise of this power, the Railway Servants' Hours of Employment Rules of 1931 were issued. 86

This Act was not extended to all the Company-managed railways, most of these employees were working within the restricted limits laid down in the Act. 87 Still the railway labourers had to work for longer period. The tremendous strain for the continuous work with steam in a tropical country like India could not be fancied by any man. In such cases, the poor labourers lost their vitality and life in a very short period of time.

So far as the administration of the Act was concerned it empowered the Governor-General in Council to appoint supervisors of railway labour. He was to be assisted by a staff of ten inspectors. For the purpose of inspection the various branches of railway work were grouped in four parts

86. Industrial Labour in India; Studies And Reports, Series A, No.41; op. cit.; PP. 88-9.
87. Ibid; P. 89.
namely, (1) transportation establishments, (2) way and works establishments, (3) power carriage and wagon establishments, (4) miscellaneous establishments. \(^{88}\) The railway administration was cumbersome, it could not create the feeling of local self-administration.

The Indian Dock Legislation.

According to the recommendation of the Royal Commission on Labour in India, the hours of work of dock labour varied from port to port. The condition of dock labourers was most deplorable because there were no regulations to protect the bulk of workers, and there was no independent authority to ensure the safety of dock labourers. \(^{89}\)

In 1922, the Indian Legislature passed an Act by which Local-Governments were compelled to frame some rules concerning the child labour in docks. This Act prohibited the employment of any child under 12 in any work in the dock, jetty or piers of India. \(^{90}\) Another legislation known as the Indian Dock Labourers Act was passed by the Central Legislature in 1934. The origin of this Act came from the

\(^{88}\) Ibid; PP. 89-90.

\(^{89}\) Report of the Royal Commission on Labour In India; op. cit; P. 187.

\(^{90}\) Mukherjee, Pankaj Kumar; op. cit; P. 116.
Twelfth Session of the International Labour Conference held at Geneva in 1929. There was adopted a draft convention concerning the protection against accidents of labourers employed in loading or unloading ships. The Act provided that the Governor-General in Council might make regulations in regard to the following cases:

1. for the safety of working places on shore and any regular approaches over a dock;
2. prescribe the nature of the means of access to ship;
3. prescribe the measures to be taken to ensure the safe transport of workers to a ship by water;
4. prescribe the nature of the means of access from dock to the hold of a ship;
5. prescribe the measures to be taken to protect the dangerous ways;
6. provide for the efficient lighting of means of access;
7. provide for the safety of workers engaged in removing coverings and beams;
8. provide for the safety of hoisting gear;

91. The Council of State Debates: Vol. II, (Manager of Publications, Delhi, 1933), P. 120.
9. provide for fencing of machinery;
10. provide for regulating safety appliances on derricks;
11. take precautions in regard to exhaust and live steam;
12. provide for the employment of competent persons to operate lifting and transporting machinery;
13. prescribe the measures for safety in stacking and handling cargo;
14. provide for facilitating the escape of workers from the hold;
15. provide precautions for the use of stages and trucks;
16. provide precautions for the handling of goods;
17. prescribe the measures for the rendering of first aid to injured persons;
18. rescue from drowning;
19. prescribe abstracts of the Act and regulations;
20. issue notices of accidents, etc.;
21. specify the persons and authorities responsible for compliance with the regulations made under the act;
22. define exemptions;
23. define additional powers of inspectors;
provisions to safeguard the interest of the dock workers, although the Governor-General in Council was entrusted with the powers sufficiently to make rules and regulations for the safety of the dock workers. Despite all this no Governor-General in Council was able to remove the sufferings of the dock labourers. The reason was obvious. No serious interest was taken by the British rule in India in the improvement of the conditions of the dock workers and for the improvement of the administrative machinery. It was true that all the said Acts in this regard were passed merely to appease the dock labourers rather than to make a serious attempt in the field of labour legislation.

The Indian Ports Legislation.

For the first time, the Indian Ports Act was passed in 1889. This Act and subsequent amendments were consolidated by Act XV of 1908 which was further amended in 1922 and 1931. The amending Act of 1922 did not prevent the employment of children below the prescribed age in coaling ships. But this object was achieved by the amending Act of 1931. The recommendations of the Royal Commission

92. *Industrial Labour in India; Studies and Reports, Series A, No. 41*, op. cit; PP. 91-2
93. Ibid; P. 90.
on Labour in India were that the minimum age should be raised to fourteen years, and the factory inspector should secure the due observance of the law in this respect. The Commission laid down that for dock the normal daily hours should be fixed at nine, overtime should be allowed up to a maximum of three additional hours of work on any one day. To prevent an abuse of overtime, payment for each hour of over-time work should be provided for not less than 33\% over the ordinary rates. It might be essential for LocalGovernments to provide exemptions to meet exceptional circumstances. In this respect, the legislation was in a slow process. The administrative machinery was defective, so the protection of children was not yet secured.

In the foregoing pages we have seen that the history of labour legislation and administration in India from the 19th century down to 1937 shows gradual progress; each new labour law covering a larger field than the preceding one. It was true that labour Acts were enacted due to the unavoidable necessity of extending protection to the labourers, otherwise no serious attempt was made on the part of Government of India in this respect. Even the Indian leaders did not know that real economic property depend upon the workers. Moreover labourers did not even

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94. Ibid; P. 188.
know what they were doing, nor were they conscious of the ends that guided their action. It might be said that the time was not ripe for the making of good labour Acts. It affirmed that history was not controlled by economic forces; it was the time factor that controlled history.

The powers of the Indian States, particularly that of the Uttar Pradesh, in matters of labour legislation and administration were meagre. The condition of the labourers in Uttar Pradesh was more pitiable than in any other part of the country. It was owing to the serious efforts of the Royal Commission on Labour in India which opened the way for the better labour legislation in future and at last the timely recommendations of the Royal Commission and the sufferings of the labourers made the roots of socialism stronger in India. Uttar Pradesh was comparatively a backward state industrially as well as economically. Hence the volume of labour legislation was not so large as it was in states of Bombay and Madras (now known as Maharashtra and Tamil Nadu).

However, significant progress was made in labour legislation, new areas were covered, new issues were tackled and new ideas were introduced. These acts were instrumental in focusing the attention of leaders of public opinion on labour problems. Trade unionism became the cause as well as the result of labour legislation. Leaders of the socialist viewpoints jumped into the arena expedited the process of
reform. The Indian National Congress took up the cause of the factory labour and organised the labour in various provinces, particularly in those which were comparatively more industrially advanced.