CHAPTER VII

AN

ASSESSMENT OF THE

SETTLEMENT MACHINERY
There have been frequent references to the role of the State as a third party immensely interested in what goes on between Labour and Management. The Government should not remain a silent spectator when the parties to a dispute fight out their differences. The cordial relations between the twin partners of production ensure not only increasing profits to the employers and higher wages to the operatives, but also increasing production to the people. Any breach of cordial relations affects production, and disturbs the welfare of the people. "The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life."¹ In a nutshell, a state has to look to the harmonious working of the industries, when it has pledged itself to the welfare of the people by raising their standard of living. Its task is, therefore, of a varied character. Firstly it has to create the proper background of industrial peace by narrowing the grounds on which difference of opinion may arise.

¹ Directive Principles of State Policy.
This the state may do, inter alia, by regulation of wages and working conditions, and by encouraging the formation of effective organisations among workers and employers and co-operation between them at different levels. Secondly, when differences have actually arisen, it is the duty of the state to provide a machinery and a technique of resolving them. The need for some kind of state intervention - coercive - in the settlement of industrial disputes, has been felt even in countries like the U.K., where industry itself has developed to a high degree its own machinery for the voluntary settlement of disputes. The state helps the disputants to come together, facilitate conciliation and provide machinery for arbitration, and sometimes for adjudication of industrial disputes. Sometimes many disputes arise as a result of ignorance about the relevant information, viz., cost of living and level of prices. The collection and publication of such information are said to be the function of the state. State intervention is needed at least in the case of two groups of industries, viz., sweated trades and public utility services. In other industries, it may be essential for the Government to intervene to protect and safeguard the interests of operatives where they are not organised. Undoubtedly, it is always desirable that operatives and employers should develop their own machinery of negotiation and settlement of industrial disputes. But the successful functioning of the internal machinery requires an ideal state of affairs - effective and responsible unions of workers and employers, traditions of mutual negotiations, a proper atmos-
phere to settle their differences mutually. But these days in the large-scale industries there is so much friction between Labour and Management that internal machinery fails, and state intervention becomes inevitable. In our country internal machinery for settlement of industrial strife has not developed or is in its elementary form; so state intervention is all the more necessary to save the industry from trouble.

It must be emphasised clearly at the outset that stable industrial peace can be established only when state intervention is reduced to the minimum. At the best, it should be regarded as a temporary or stop-gap arrangement designed to encourage the parties to stand on their own feet and to realise their mutual responsibilities. The ideal policy for the state in this matter is one of "active neutrality", as in Great Britain.

**SETTLEMENT MACHINERY AT DIFFERENT LEVELS**

It is now proper to examine the existing machinery for settlement of industrial disputes in the country as well as at the state level. The first significant, measure, in fact a landmark, in this sphere, was the passage of the Industrial Disputes Act, 1947, by the Government of India, laying down a most comprehensive and detailed procedure for the settlement of industrial disputes. Although some states, notably Bombay, had enacted earlier certain laws for settlement of Industrial Disputes, yet the Industrial Disputes Act, 1947, passed by the Indian Government served as a model for all state legislation in this direction. Labour has
been all along a "concurrent subject", so to say, since the Government of India Act, 1919, and of course it is so now in the Indian Constitution. The need for State legislation was felt by the States to provide for special conditions prevailing therein and to prescribe suitable methods for settlement in the varying circumstances. The Central Act was meant specifically to cover undertakings carried on or by the authority of the Indian Government, or by a Railway Company or any controlled industry specified by the Central Government. It also applied to mines and oil-fields. The U.P. Industrial Disputes Act, 1947, specifically excludes the above undertakings from its operation. The Central Act enjoined upon the State Governments to adopt specified measures for settlement of industrial disputes concerning which they were the 'appropriate' government. The question of overlapping of authority or jurisdiction as between the State Government and the Indian Government need not trouble any researcher.

INDUSTRIAL RELATIONS MACHINERY UNDER THE CENTRAL ACT:

The machinery for the settlement of industrial disputes consists of (i) conciliation, (ii) arbitration and (iii) adjudication machinery viz., tribunals, industrial courts, national tribunals etc. To this list we may add collective agreements.

Collective agreements:

This item may be conveniently dealt with first. These agreements have not been very successful so far owing to the unsatisfactory condition of trade unions in our country. Since
Independence, however, the situation has improved considerably owing to better organisation of labourers. "A sample study made by the Employers' Federation of India for the year 1956-60 reveals that the number of disputes settled by collective agreements during the period in question varied between 32% and 49% in the units studied."1 These agreements are of three types: voluntary, voluntary-cum-compulsory and legal in character, being secured by registration and ratification by the competent industrial court. The record of collective agreements is not so bad as it might appear to undiscerning people. In the spheres affecting ports, banking, and L.I.C., the success achieved by collective agreements is commendable, but complacency is not to be encouraged.

Conciliation:

The aim of conciliation machinery is to effect a settlement through a third party intervention, on its own or at the request of either party. The Industrial Disputes Act provides for compulsory conciliation in all disputes in public utility services and for optional conciliation in other undertakings. The latter type of industrial establishments are also favouring progressively compulsory conciliation. The time limit of 14 days and two months have been prescribed for conciliation officers and a board of conciliation respectively, to finish the work. A settlement thus arrived at is binding for six months or as agreed upon, unless revoked by either party. Prohibition of a strike/lockout during the pendency of the proceedings before a Board and for a

week after the conclusion of the proceedings is also provided in the Industrial Disputes Act.

The working of the machinery does not appear to be unsatisfactory. Witness the following figures: During 1959-66, the Central Industrial Relations Machinery settled through conciliation between 57% and 83% disputes yearly. The performance of the conciliation machinery in the States is of a varied character. At the lowest limit is Orissa with an average of 31.6% yearly during the period 1965-67, at the highest level is Kerala with an average of 80% yearly round about the same period. In U.P. the percentage of disputes so settled was 6% during 1966.

The defects noted in the functioning of the machinery of conciliation are the following: Concentration on minor issues, delays involved, casualness in the attitude of one or the other party to the procedure and lack of necessary competence in the officer. Delays in conciliation are supposed to be due to excessive work-load on officers and to procedural defects. Adjournments of proceedings are natural, as conciliation is after all a technique of persuasion. Some agencies suggest a work-load of 25 disputes of a general nature and 50 industrial disputes in a month and 300 to 400 disputes for year for an officer. Inevitably, this proposal is linked with increasing the strength of the conciliation personnel enormously. The attitude of the parties to conciliation, however, is a different and very important matter, and efforts should be made to improve matters by impressing upon them the
intrinsic value of conciliation as distinct from merely a hurdle to be crossed. The representatives of both sides should be endowed with powers to take decisions and to make commitments. As regards the last point relating to the competence of officers, the National Commission on Labour (1969) has suggested the following measures: (i) prescribing proper qualifications and arranging for proper selection and training, (ii) improving their status as presiding officers. The Commission has also recommended the appointment of an Industrial Relations Commission to deal, inter alia, with matters relating to conciliation machinery.

**Voluntary Arbitration**: 

Voluntary arbitration as a method of resolving industrial disputes came into prominence when Mahatma Gandhi applied it in the textile industry in Ahmedabad. The Industrial Disputes Act also recognised its importance by providing for it in an amendment of the original Act. In spite of Governmental efforts resistance to voluntary arbitration continued, more particularly on the side of the employers during the period 1951-1961. The Indian Labour Conference, 1962, and the Third Plan also recommended voluntary arbitration in preference to adjudication, on the failure of conciliation. Certain items were also regarded as more amenable to arbitration, viz., matters pertaining to dismissal, discharge, victimisation and retrenchment of individual workmen, not settled mutually. Another step in this direction was the setting up of a National Arbitration promotion Board with a tri-
partite composition, by the Government. The functions of the Board are to review the position, examine the retarding factors, suggest measures to make it more popular, to evolve norms for the guidance of arbitrators and parties, and to look into the causes of delay with a view to expediting the proceedings.

The slow progress of arbitration is due, inter alia, to the following factors, as mentioned in the Report of the National Commission on Labour, 1969:

(i) Easy availability of adjudication;
(ii) Lack of arbitrators commanding confidence of both parties;
(iii) Absence of recognised unions able to enforce common agreements on the workers;
(iv) Legal obstacles;
(v) The legal finality of arbitrator's award;
(vi) Absence of a simplified procedure, and
(vii) Cost to the parties particularly operatives.

Adjudication:

Adjudication by the appropriate Government is the ultimate legal remedy for the settlement of an unresolved dispute. The Industrial Disputes Act, 1947, empowers the constitution by the appropriate Government of a labour court, industrial tribunal or national tribunal to adjudicate in a dispute. For expert advice tribunals were permitted to have the help of assessors. Broadly,
the following matters may be referred to a labour court: the propriety and legality of an order of an employer, application and interpretation of the standing orders, the legality or otherwise of a strike or a lockout, and discharge/dismissals including re-instatement. Labour courts in the states, too, deal with similar issues. Legal practitioners are permitted with the consent of the other party and with the permission of the court or tribunal. Under the Industrial Disputes Act, 1947 an order of the labour court is unappealable. The Central Government has the authority to constitute an industrial tribunal or national tribunal, and the state governments have power to appoint industrial tribunals to adjudicate within the state. Under state legislation, the industrial court has, besides adjudication functions, the power to entertain appeals against the decisions of the Registrar/Labour Commissioner/Labour Court/Wage Board constituted under the respective Acts.

TRIBUNALS AND NATIONAL TRIBUNALS:

An industrial tribunal may be set up by the appropriate government on a temporary or permanent basis for a specified dispute or for industry as a whole. The tribunal comprises one person only. The qualifications for appointment as Chairman of an industrial tribunal are that the candidate should have been or is a judge of a High Court or has held the post of Chairman of Labour Appellate Tribunal for not less than two years.
When the industrial disputes, in the opinion of the Central Government, involve questions of national importance, or of such a nature that industrial undertakings situated in more than one state are likely to be interested in, or affected by such disputes, the Central Government may set up a National Tribunal. It will also be a one-man tribunal, and the post is to be held by a person with qualifications similar to those specified in the case of the industrial tribunal. The presiding officer's of industrial tribunals or national tribunals should be independent persons below the age of 65 and with no interests in the industry whose dispute they hear.

The function of the tribunal is to adjudicate on matters referred to it by the Government. Such matters are listed in the schedule III of the Act, which includes:

1. Wages, including the period and mode of payment, compensatory and other allowances.
2. Hours of work and rest intervals.
3. Leave with wages and holidays.
4. Bonus, profit sharing, provident fund and gratuity.
5. Shift working otherwise than in accordance with standing orders.
6. Classification of grades.
8. Rationalisation.
10. Any other matter that may be prescribed.
Undoubtedly, adjudication has been an instrument for improvement of wages and working conditions and for securing allowances, for maintaining real wages, for standardisation of wages, bonus and introducing uniformity in benefits and amenities. It has also helped to avert strikes and lockouts and to protect the interests of the weaker and ill-organised sections of the workers. The defects pointed out in this system are that it is time-consuming, costly and even discriminatory as the power of reference vests with the appropriate Government. It has also been objected against adjudication that it has failed to achieve industrial peace, and that it has checked the growth of unions and has prevented voluntary settlement of disputes and growth of collective bargaining. Thus we see that much might be said on both sides, i.e., for and against adjudication. There is, however, a clear indication that collective bargaining is gaining popularity as a method of settling disputes. The desire to stop work stoppages and other disturbances in the industrial field is hampering the speed of the progress of collective bargaining.

The advocates on both sides are equally enthusiastic about the efficacy of their respective systems. Those who favour collective bargaining emphasise that as long as reliance on a third party is available, collective bargaining as an instrument of industrial peace cannot make much head-way. In the beginning collective bargaining may cause much industrial unrest but in the long run it will bring about peace in the industry. On the other hand, the protagonists of adjudication support its continuance on
the following grounds:—

(i) Industrial climate and circumstances have not changed since 1947 when compulsory adjudication was provided by law;

(ii) The parties, specially unions, are still incapable of shouldering full responsibility of collective bargaining;

(iii) Sudden withdrawal of adjudication by Government intervention may bring about chaos in the industry; and

(iv) The interests of the community as represented by the state must be safeguarded by compelling the parties to submit to the decision of an adjudicator.

SETTLEMENT MACHINERY IN U.P.: 

Various methods of resolution of industrial disputes have been provided in the U.P. Industrial Disputes Act, 1947, as amended in 1950, 1957 and 1966. Broadly these methods may be classified as (i) mutual negotiations, (ii) voluntary arbitration, (iii) conciliation and (iv) adjudication. Conciliation, i.e., (iii) may be further divided into conciliation before a conciliation officer through his mediation and conciliation before a Conciliation Board. The fourth each item, viz., adjudication, may be either through a Labour Court, or through a Labour Tribunal or through a Special Labour Tribunal. Thus there are seven methods of settlement of industrial disputes in U.P. The Act has provided elaborate conditions regarding the composition and functioning of the various types of settlement machinery. Every settlement or resolution must be recognised and registered by the Government.
before it can be operative. We shall now proceed to mention first the composition and then the procedure and powers of the various components of the settlement machinery, not necessarily in the order followed above.

Composition of the settlement machinery:

1. Conciliation Officers: They are appointed by the State Government by notification in the official gazette, for specified area or areas and charged with the duty of mediating in and promoting the settlement of industrial disputes, either of their own accord or when requested by one or both parties to the dispute to do so. They shall be deemed to be public servants within the meaning of Section 21 of I.P.C., like the Presiding Officer of a Labour Court or an Industrial Tribunal and the Chairman or a member of a Conciliation Board, they are also charged with other duties and responsibilities concerning settlement proceedings. Their powers and procedures to be adopted by them will be taken up later.

2. Conciliation Boards: The State Government may provide for the constitution and functioning of conciliation boards for settlement of industrial disputes by general or special order, in the manner specified in the order. Nothing more than this is provided in the Act for the constitution of such boards. Obviously this is to be governed by the order of the State Government, which may be of a general or special character. There shall be a chairman of the Board and other members. Members have a right to submit

2. Sec. 3(d), U.P. Industrial Disputes Act, 1947.
a dissenting report. The public sector undertakings are also
governed by the U.P. Industrial Disputes Act, 1947, but the State
Government has set up a permanent conciliation board at Lucknow
to regulate industrial peace in the public sector.

3. Labour Courts: The State Government may by notifi-
cation in the official gazette constitute one or more labour
courts for adjudication of industrial disputes mentioned in the
first schedule, viz., those concerning the legality of an order of
the employer under the standing orders, interpretation of standing
orders, dismissal or discharge of workers, withdrawal of any
customary privilege, the illegality or legality of a strike or
lockout and all matters other than those figuring in the second
schedule, provided that the Government may refer to a Labour Court
any dispute included in the second schedule if it is not likely
to affect more than 100 workers. A labour court shall consist of
one person only to be appointed by the State Government such
person must be a District or an Additional Judge of not less than
three years' standing, or must have held certain judicial or other
competent offices for several years, as specified in the U.P.
Industrial Disputes Act, and his name must have been included in
the list, prepared under the orders of the State Government by a
committee consisting of a High Court judge as Chairman and chief
Secretary to Government, Secretary to Government in the Labour
Department, the Legal Remembrancer, and member of a Public Service
Commission, provided further that he should be an independent
person and below 65 (Section 4-A).
4. **Industrial Tribunals**: There may be one or more such tribunals each consisting of one person only who has been or is a judge of a High Court or a District Judge or an Additional Judge of not less than 3 years' standing or has been the Chairman or a member of the Labour Appellate Tribunal for not less than 2 years or a member of any industrial tribunal for not less than 5 years, and his name must be included in the list prepared under Government orders by a Committee similar to the one prescribed in the case of labour courts. Further the person should be an independent person of not less than 65 years. Matters within the jurisdiction of industrial tribunals are those mentioned in the second schedule, viz., wages, allowances, periods of work and rest, leave, holidays, bonus, Provident fund, gratuity, shift, grades, discipline, rationalisation and retrenchment and all matters mentioned in the first schedule as well. (Sec. 4B).

5. **Special Composition of Tribunals**: Where the State Government considers it necessary to appoint a special tribunal, having regard to the magnitude or importance of the dispute, it may do so by appointing 2 persons as members and one person as Chairman of the tribunal. All other conditions regarding industrial tribunals will apply to the Special Tribunals (Sec. 5-A).

6. **Arbitration**: Employers and workers may refer the dispute to voluntary arbitration in the manner prescribed by the Government before it has been referred to a labour court or Tribunal for adjudication. Prior to arbitration proceedings there must be an
arbitration agreement between the parties to the dispute and copies of it shall be forwarded to the State Government, the conciliation officer, and Labour Commissioner within 14 days of the date of receipt of such copy by the Government and such an agreement shall be published by the Government in the official gazette. The Chairman of a Labour Court or of an industrial tribunal may be an arbitrator if so desired by the parties. The arbitrator or arbitrators will follow such procedure as they may think fit. Nothing in the Arbitration Act, 1940 shall apply to arbitration under the U.P. Industrial Disputes Act, 1947. Upto 2 assessors may be appointed by the Government, but their advice will not be binding. (Sec. 5-B).

7. Mutual agreement: A settlement arrived at by agreement between the parties otherwise than in the course of conciliation proceedings is permissible and binding on the parties, under the Act. Obviously the procedure for settlement in such cases is not the concern of legislation for the settlement is to be arrived at by the free will of the parties by negotiations. Other details about it may be briefly mentioned here. If the period for such settlement is not laid down in such settlement itself, it shall remain in force for one year from the date of registration. As soon as a settlement is arrived at by the parties or any one of them may apply to the conciliation officer in the manner prescribed, for registration of the settlement. Thereafter the conciliation officer or any other authority notified by the State Government shall register the settlement in the manner prescribed or refuse to do so, if he considers it inexpedient on public grounds affect-
ing social justice or if the settlement has been brought about as a result of collusion, fraud or misrepresentation. A settlement of which registration has been refused will not be binding on the parties. (Sec. 6-B).

PROCEDURE AND POWERS ETC. PRESCRIBED FOR SETTLEMENT:

1. Conciliation Officer:

   (i) On receipt of information of an existing or apprehended dispute, he shall forthwith arrange to interview, if necessary, both the parties at such place, at such time and in such manner as he may deem fit, with a view to bringing about a settlement (Rule 4).

   (ii) He may call for and inspect any document relevant to the dispute and its implementation or for carrying out any duty imposed on him under the Act and he shall have necessary powers under the C.P.C. and otherwise (Sec. 5-D).

   (iii) The memorandum of settlement shall be signed by the authorised representatives of both the parties and by the conciliation officer concerned, who shall send a report thereof to the Government and a copy to the Labour Commissioner (Rule 5).

   (iv) He shall file in a register all settlements arrived at before him either in the course of settlement proceedings or otherwise (Rule 5-A(5)).

   (v) He shall receive applications for registration of settlement by one or both parties, and shall register the same or refuse to do so. In the latter case he shall inform the parties, giving the grounds of refusal (Rules 26 & 27).

   (vi) He shall register or refuse to register a settlement arrived at between the parties outside conciliation proceedings (Sec. 6-B).
(vii) A copy of the Arbitration Agreement shall be forwarded to the Conciliation Officer (Sec. 5-B(3)).

2. Conciliation Boards:

(i) A Board shall follow such procedure as it thinks fit, subject to any general or special instructions of the Government (Rule 5-B).

(ii) Every Board shall have the powers of a Civil Court under C.P.C. (Sec.5-C(3)).

(iii) No party to any proceeding before a Board shall be represented by a legal practitioner (Sec. 6-I).

(iv) If the Board succeeds in effecting a settlement, it shall prepare a memorandum in the prescribed form, and the Chairman shall send copies of it to the Secretary to Government, Labour Department, the Labour Commissioner and the parties concerned within 7 days of the close of the proceedings. If the Board fails to effect a settlement, the Chairman shall send a full report to the authorities mentioned above within 30 days of the date of reference of the dispute to the Board. The memorandum of settlement shall be signed by the authorised representatives of the parties and by the Chairman and such members as may be present. The period during which the settlement would remain operative may be declared by the Government (Rule 5-A).

3. Labour Courts and Industrial Courts (including Special Industrial Courts):

(i) They may follow such procedure as they may deem fit. They will be invested with the powers of a Civil Court under C.P.C. (Sec. 6-I(1)).

(ii) No party to the dispute shall be represented by a legal practitioner without the consent of the other party or parties and the permission of the Presiding Officer of the Labour Court or Industrial Tribunal (Sec. 6-I(2)).
(iii) Award of costs shall be in the discretion of the Labour Court or Industrial Tribunal, subject to any rules made under the Act. The Government shall recover such cost and pay it the party concerned, as arrears of land revenue (Sec. 5-E).

(iv) The award shall be signed by the Presiding Officer and the Government shall publish it within 30 days from the date of its receipt, in the manner it thinks fit. It shall be final and shall not be called in question in any court in any manner whatsoever (Sec. 6).

(v) Up to 2 assessors may be appointed by the Government to advise a Labour Court or the Industrial Tribunal, but their advice will not be binding (Rule 20).

Arbitration:
This item has already been dealt with earlier.

Mutual negotiations:
This too has been dealt with earlier.

The State Government has reserved to itself plenary powers in several matters concerning the settlement proceedings, e.g., the power to modify or reject a settlement or award, or modify it or alter the date of its commencement or its duration etc. etc.

**Working of the Settlement Machinery**:

We have discussed earlier various methods for the resolution of strikes and lockouts. Now we propose to examine the working of the machinery for settlement of strikes and lockouts in the industries of Kanpur. Our study for the resolution of
strikes and lockouts has revealed the following trends:

**Table No. 7.1**

**DISTRIBUTION OF TERMINATED STRIKES AND LOCKOUTS**

**BY MODES OF SETTLEMENT IN KANPUR.**

<table>
<thead>
<tr>
<th>Year</th>
<th>Conciliation and mediation</th>
<th>Mutual settlement and direct negotiations</th>
<th>Arbitration</th>
<th>Unconditional resumption of work</th>
<th>Adjudication</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>1961</td>
<td>6</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>1962</td>
<td>4</td>
<td>4</td>
<td>-</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>1963</td>
<td>18</td>
<td>4</td>
<td>-</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>1964</td>
<td>22</td>
<td>19</td>
<td>5</td>
<td>-</td>
<td>-</td>
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<td>4</td>
<td>-</td>
</tr>
<tr>
<td>1966</td>
<td>15</td>
<td>14</td>
<td>2</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>1967</td>
<td>19</td>
<td>15</td>
<td>5</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1968</td>
<td>22</td>
<td>6</td>
<td>-</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td>1969</td>
<td>30</td>
<td>13</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1970</td>
<td>6</td>
<td>43</td>
<td>2</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>1971</td>
<td>-</td>
<td>59</td>
<td>1</td>
<td>4</td>
<td>-</td>
</tr>
</tbody>
</table>

**Total:** 163  195  12  32  -  

**Percentage:** 40.5  48.5  3  8  -

Source: Compiled and calculated from the records of Labour Department, U.P.

The largest number of cases of strikes/lockouts settled was by means of mutual settlement and direct negotiations. Credit goes next to the machinery of Conciliation and mediation. The respective percentages were 48.5 and 40.5 during the entire period 1960-1971. In 8 per cent of cases there was unconditional resumption of work. 3 per cent of the cases were resolved by arbitration.
This analysis shows the relative ineffectiveness of the machinery of settlement, as far as the settlement of strikes/lockouts is concerned. It proves abundantly the correctness of the view that bipartism in one form or other is the only method of settlement of strikes/lockouts, as in fact of all industrial disputes. In a seminar organised by the State's Labour Department at Gorakhpur on January 21, 1973, the very same view was expressed by Mr. M.K. Garg, Head of the Personnel Department of Gorakhpur Unit of the Fertilizer Corporation of India. He said that "collective bargaining was the fundamental basis for sound industrial relations which grew only in an atmosphere of bipartism."

From the previous discussion it is clear that strikes/lockouts are mostly settled by conciliation and mediation, mutual settlement and direct negotiations.

Now we propose to examine the settlement of industrial disputes other than strikes/lockouts. The figures for Kanpur are not available separately in the records of Labour Department, U.P. The number of industrial disputes in U.P. other than strikes and lockouts ranges between 2000 and 5800 yearly during the period 1961-71. The number of such cases reported is obviously much larger. In the absence of necessary data for Kanpur, it is not possible to compile the figures for Kanpur separately out of the huge numbers recorded. In the case of strikes and lockouts it was possible to make necessary compilation from the records available. Their number was very small indeed, as compared with the huge
number of cases of disputes other than strikes and lockouts. However, for the sake of studying the trends in Kanpur, the figures for U.P. as a whole will not be amiss, as Kanpur contains about 50% of the industrial activity of U.P. as a whole. We, therefore, content ourselves with studying the relevant records of U.P. as a whole, in regard to conciliation, voluntary arbitration, working of Labour Courts and Industrial Tribunals.

Table No. 7.2
WORKING OF CONCILIATION BOARDS IN U.P.
(Industrial Disputes other than strikes and lockouts)

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases disposed of</th>
<th>Agreements reached</th>
<th>Percentage of cases in which agreements reached</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951</td>
<td>1950</td>
<td>503</td>
<td>25.8</td>
</tr>
<tr>
<td>1952</td>
<td>3318</td>
<td>859</td>
<td>25.9</td>
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<tr>
<td>1953</td>
<td>5416</td>
<td>1620</td>
<td>29.9</td>
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<td>1954</td>
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<td>1955</td>
<td>3171</td>
<td>847</td>
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<td>1957</td>
<td>3553</td>
<td>636</td>
<td>19.3</td>
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<tr>
<td>1958</td>
<td>3647</td>
<td>833</td>
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<tr>
<td>1959</td>
<td>3342</td>
<td>688</td>
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<td>30.7</td>
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<td>32.3</td>
</tr>
<tr>
<td>1965</td>
<td>4489</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>1966</td>
<td>2749</td>
<td>921</td>
<td>33.5</td>
</tr>
<tr>
<td>1967</td>
<td>4510</td>
<td>761</td>
<td>16.9</td>
</tr>
<tr>
<td>1968</td>
<td>5145</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>1969</td>
<td>4764</td>
<td>940</td>
<td>19.7</td>
</tr>
<tr>
<td>1970</td>
<td>4932</td>
<td>900</td>
<td>18.2</td>
</tr>
<tr>
<td>1971</td>
<td>5141</td>
<td>829</td>
<td>16.1</td>
</tr>
</tbody>
</table>

Source: Annual Review of Activities, Department of Labour, U.P.
The table shows the trend in the working of Conciliation Boards in U.P. during 1951-71. In spite of the best efforts of the Conciliation Officers, agreed settlements could be reached in a small percentage of cases. The percentage of success ranges between 16.1 to 34.9.

Voluntary arbitration as a method of resolving industrial disputes, is not very popular in U.P. The table given below will show the trend in disposing of the industrial dispute by arbitrations:

Table No. 7.3

CASES REFERRED TO VOLUNTARY ARBITRATIONS
IN U.P.

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of cases before Arbitrators</th>
<th>No. of cases decided by Arbitrators</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>90</td>
<td>29</td>
</tr>
<tr>
<td>1961</td>
<td>150</td>
<td>60</td>
</tr>
<tr>
<td>1962</td>
<td>130</td>
<td>48</td>
</tr>
<tr>
<td>1963</td>
<td>163</td>
<td>52</td>
</tr>
<tr>
<td>1964</td>
<td>195</td>
<td>61</td>
</tr>
<tr>
<td>1965</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>1966</td>
<td>195</td>
<td>n.a.</td>
</tr>
<tr>
<td>1967</td>
<td>145</td>
<td>64</td>
</tr>
<tr>
<td>1968</td>
<td>n.a.</td>
<td>46</td>
</tr>
<tr>
<td>1969</td>
<td>121</td>
<td>34</td>
</tr>
<tr>
<td>1970</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>1971</td>
<td>120</td>
<td>30</td>
</tr>
</tbody>
</table>

Source: Annual Review of Activities, Department of Labour, U.P.

The table given above shows the trend expected. Only a limited number of cases has been referred to voluntary arbi-
trations and the percentage of disposals too is very small. Moreover, there is no time limit prescribed for the arbitrators to give their award.

The working of the adjudication machinery too has not been satisfactory in U.P. The reference of disputes to Labour Courts and Industrial Tribunals is increasing year after year. It is true that reference of these disputes to these courts and tribunals is at the discretion of the officers authorised by the Government in this behalf, yet they do not exercise their discretion properly, and they refer the disputes recklessly. The table given below bears out of this statement:

**Table No. 7.4**

**WORKING OF LABOUR COURTS AND INDUSTRIAL TRIBUNALS IN U.P.**

<table>
<thead>
<tr>
<th>Year</th>
<th>Labour Courts</th>
<th></th>
<th>Industrial Tribunals</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cases to be disposed</td>
<td>Cases disposed</td>
<td>Cases to be disposed</td>
<td>Cases disposed</td>
</tr>
<tr>
<td>1957</td>
<td>272</td>
<td>146</td>
<td>142</td>
<td>77</td>
</tr>
<tr>
<td>1958</td>
<td>574</td>
<td>353</td>
<td>210</td>
<td>166</td>
</tr>
<tr>
<td>1959</td>
<td>721</td>
<td>555</td>
<td>240</td>
<td>178</td>
</tr>
<tr>
<td>1960</td>
<td>683</td>
<td>473</td>
<td>243</td>
<td>183</td>
</tr>
<tr>
<td>1961</td>
<td>771</td>
<td>547</td>
<td>251</td>
<td>156</td>
</tr>
<tr>
<td>1962</td>
<td>935</td>
<td>519</td>
<td>364</td>
<td>230</td>
</tr>
<tr>
<td>1963</td>
<td>965</td>
<td>555</td>
<td>342</td>
<td>221</td>
</tr>
<tr>
<td>1964</td>
<td>985</td>
<td>602</td>
<td>383</td>
<td>230</td>
</tr>
<tr>
<td>1965</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>1966</td>
<td>1312</td>
<td>636</td>
<td>519</td>
<td>272</td>
</tr>
<tr>
<td>1967</td>
<td>1402</td>
<td>1080</td>
<td>491</td>
<td>316</td>
</tr>
<tr>
<td>1968</td>
<td>1946</td>
<td>1199</td>
<td>506</td>
<td>182</td>
</tr>
<tr>
<td>1969</td>
<td>2344</td>
<td>1256</td>
<td>591</td>
<td>300</td>
</tr>
<tr>
<td>1970</td>
<td>2509</td>
<td>1355</td>
<td>642</td>
<td>327</td>
</tr>
</tbody>
</table>

Source: Annual Review of Activities, Department of Labour, U.P.
The figures of disposals in both types of courts show a variable trend, but undoubtedly the number of cases to be disposed of continues mounting from year to year. This is quite in keeping with the record of civil courts, and it constitutes a serious objection against the working of adjudication machinery. It is dilatory and time-consuming, here as elsewhere.

**ASSESSMENT:**

The methods of resolution of disputes in U.P. cannot be regarded as satisfactory. The observation made by the National Commission on Labour, regarding conciliation machinery applies generally to other modes of settlement as well. "Both employers and workers have expressed dis-satisfaction over certain specific aspects of its functioning, such as delays involved, the casual attitude of one or the other party to the procedure, and lack of adequate background in the case of officer himself for understanding major issues."¹ Whatever little success in conciliation has been achieved in U.P. is due to the settlement of minor issues, mainly. In spite of Governmental efforts, even voluntary arbitration for the settlement of industrial disputes is not popular. Although, "it cannot be denied that during the last twenty years the adjudication machinery has exercised considerable influence on several aspects of conditions of work and labour management relations,"² yet on the procedural front, it is expensive and even discriminatory, as the power of reference vests with the appropriate authority.

¹ National Commission on Labour, p. 322.
² Ibid. p. 322.
NEED FOR AN EFFECTIVE MACHINERY:

There is a need for the adoption of collective bargaining to settle disputes, because other methods of resolution of industrial disputes are not effective. In the presence of a strong trade unionism, the employers will themselves like to settle the disputes through collective bargaining. However, in order to prevent the unions from taking resort to strikes, and the employers to lockouts, the law must compel the parties to settle their disputes through collective bargaining. It has, therefore, been "my firm conviction all these years that internal settlement of disputes is eminently to be preferred to compulsion from outside, and that collective bargaining and voluntary arbitration should be encouraged in preference to compulsory arbitration and adjudication."¹

¹. Shri V.V. Giri, quoted by Subramanian, K.N., Labour Management Relations in India, p. 558.